

Washington State Register

June 7, 2000

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ISSUE 00-11



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This issue contains documents officially
filed not later than May 24, 2000

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 June 2000 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.

John G. Schultz
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following 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].

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 -					
99 - 13	May 26, 99	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 27, 99	Aug 24, 99
99 - 14	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 10, 99	Sep 8, 99
99 - 15	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 24, 99	Sep 21, 99
99 - 16	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 7, 99	Oct 5, 99
99 - 17	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 21, 99	Oct 19, 99
99 - 18	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 15, 99	Oct 5, 99	Nov 2, 99
99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 23, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 7, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 21, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 4, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 19, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Feb 1, 00
00 - 01	Nov 24, 99	Dec 8, 99	Dec 22, 99	Jan 5, 00	Jan 25, 00	Feb 23, 00
00 - 02	Dec 8, 99	Dec 22, 99	Jan 5, 00	Jan 19, 00	Feb 8, 00	Mar 7, 00
00 - 03	Dec 22, 99	Jan 5, 00	Jan 19, 00	Feb 2, 00	Feb 22, 00	Mar 21, 00
00 - 04	Jan 5, 00	Jan 19, 00	Feb 2, 00	Feb 16, 00	Mar 7, 00	Apr 4, 00
00 - 05	Jan 19, 00	Feb 2, 00	Feb 16, 00	Mar 1, 00	Mar 21, 00	Apr 18, 00
00 - 06	Feb 2, 00	Feb 16, 00	Mar 1, 00	Mar 15, 00	Apr 4, 00	May 2, 00
00 - 07	Feb 23, 00	Mar 8, 00	Mar 22, 00	Apr 5, 00	Apr 25, 00	May 23, 00
00 - 08	Mar 8, 00	Mar 22, 00	Apr 5, 00	Apr 19, 00	May 9, 00	Jun 6, 00
00 - 09	Mar 22, 00	Apr 5, 00	Apr 19, 00	May 3, 00	May 23, 00	Jun 20, 00
00 - 10	Apr 5, 00	Apr 19, 00	May 3, 00	May 17, 00	Jun 6, 00	Jul 5, 00
00 - 11	Apr 26, 00	May 10, 00	May 24, 00	Jun 7, 00	Jun 27, 00	Jul 25, 00
00 - 12	May 10, 00	May 24, 00	Jun 7, 00	Jun 21, 00	Jul 11, 00	Aug 8, 00
00 - 13	May 24, 00	Jun 7, 00	Jun 21, 00	Jul 5, 00	Jul 25, 00	Aug 22, 00
00 - 14	Jun 7, 00	Jun 21, 00	Jul 5, 00	Jul 19, 00	Aug 8, 00	Sep 6, 00
00 - 15	Jun 21, 00	Jul 5, 00	Jul 19, 00	Aug 2, 00	Aug 22, 00	Sep 19, 00
00 - 16	Jul 5, 00	Jul 19, 00	Aug 2, 00	Aug 16, 00	Sep 5, 00	Oct 3, 00
00 - 17	Jul 26, 00	Aug 9, 00	Aug 23, 00	Sep 6, 00	Sep 26, 00	Oct 24, 00
00 - 18	Aug 9, 00	Aug 23, 00	Sep 6, 00	Sep 20, 00	Oct 10, 00	Nov 7, 00
00 - 19	Aug 23, 00	Sep 6, 00	Sep 20, 00	Oct 4, 00	Oct 24, 00	Nov 21, 00
00 - 20	Sep 6, 00	Sep 20, 00	Oct 4, 00	Oct 18, 00	Nov 7, 00	Dec 5, 00
00 - 21	Sep 20, 00	Oct 4, 00	Oct 18, 00	Nov 1, 00	Nov 21, 00	Dec 19, 00
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00 - 23	Oct 25, 00	Nov 8, 00	Nov 22, 00	Dec 6, 00	Dec 26, 00	Jan 23, 01
00 - 24	Nov 8, 00	Nov 22, 00	Dec 6, 00	Dec 20, 00	Jan 9, 01	Feb 6, 01

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

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

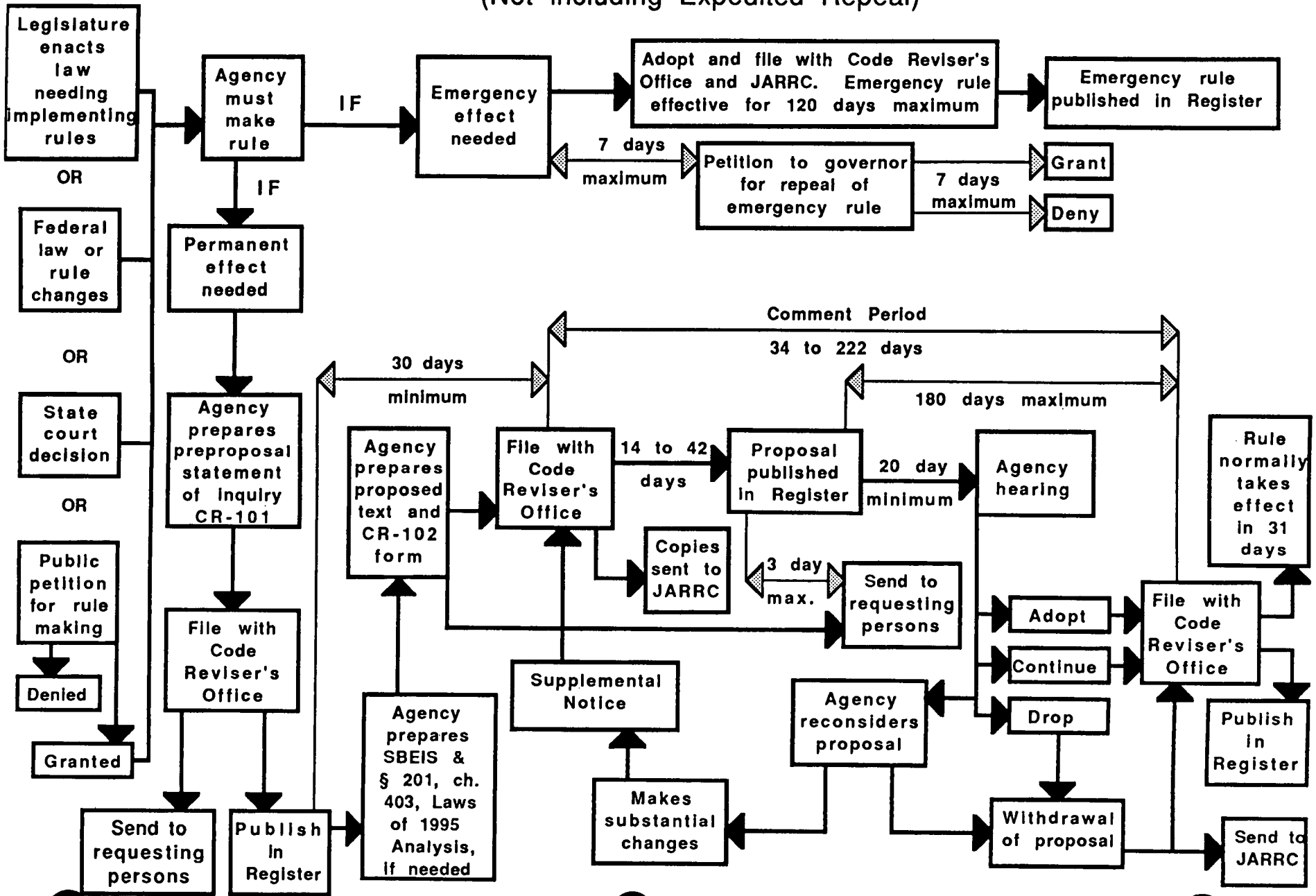
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS

(Not including Expedited Repeal)



WSR 00-11-016**PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION**

[Filed May 8, 2000, 2:46 p.m.]

Subject of Possible Rule Making: Retailer licensing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering amending WAC 315-04-020, dealing with license application eligibility.

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 Mary Jane Ferguson, Rules Coordinator, at (360) 664-4833, fax (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

May 3, 2000

Mary Jane Ferguson

Rules Coordinator

WSR 00-11-031**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 00-10—Filed May 9, 2000, 4:27 p.m.]

Subject of Possible Rule Making: Chapter 173-95A WAC, Uses and limitations of the centennial clean water fund.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.146 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 173-95A WAC guides the centennial program. The current rule was adopted in 1997 with only a single purpose, related to the Growth Management Act. Ecology proposes an update and expansion to the rule to encompass the entire scope of the centennial clean water fund program. Experience has shown that the fund is difficult to manage without a full-scale rule. The rule amendments would help provide consistency and predictability for local governments, tribes, and special districts applying for and receiving funds, clarify the operation of the fund, and allow a full public participation process to any major/significant policy changes or other changes in direction ecology might decide to put into effect.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state and federal agencies regulate this subject but many have an interest in the issue and will be consulted with, coordinated with, and communicated with during the entire rule-making process.

Process for Developing New Rule: Public meetings, mailings, hearings, close work with an advisory council that includes representation of a wide range of stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Much work will be accomplished early through the meetings of the Financial Advisory Council and a series of workshops held state-wide. The council will continue their work through the entire development process, and at the appropriate times ecology will hold public hearings. For more information, contact Tim Hilliard, (360) 407-6429 or by e-mail thil461@ecy.wa.gov, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

May 9, 2000

Megan White, PE

Program Manager

WSR 00-11-032**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 00-11—Filed May 9, 2000, 4:28 p.m.]

Subject of Possible Rule Making: Chapter 173-98 WAC, Uses and limitations of the water pollution control revolving fund.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.50A RCW, Water pollution control facilities—Federal capitalization grants.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 173-98 WAC, which guides the state revolving fund program, became effective in 1989. The rule was amended in 1998 and again in 2000. Because the *water pollution control revolving fund* and the *centennial clean water fund* programs are managed together, minor changes are proposed to chapter 173-98 WAC to improve coordination and consistency, where possible, between the programs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Environmental Protection Agency has a role in regulation of this program and will be closely involved in the amendment process. No other state or federal agencies regulate this subject but many have an interest in the issue and will be consulted with, coordinated with, and communicated with during the entire rule-making process.

Process for Developing New Rule: Public meetings, mailings, hearings, close work with an advisory council that includes representation of a wide range of stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Much work will be accomplished early through the meetings of the Financial Advisory Council and a series of workshops held state-wide. The council will continue their work through the entire development process, and at the appropriate times ecology will hold public hearings. For more information, contact Tim Hilliard, (360) 407-6429 or

by e-mail thil461@ecy.wa.gov, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

May 9, 2000
Megan White, PE
Program Manager

WSR 00-11-033
PREPROPOSAL STATEMENT OF INQUIRY
LAKE WASHINGTON
TECHNICAL COLLEGE
[Filed May 10, 2000, 8:26 a.m.]

Subject of Possible Rule Making: Student services policies and procedures.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes in the Higher Education Act of 1998, state statute, changes in educational program requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Department of Education, proposed provisions will implement new requirements per notifications.

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 mail, telephone, and fax to Dennis B. Long, Vice-President, Student Services, phone (425) 739-8313, fax (425) 739-8299, 11605 132nd Avenue N.E., Kirkland, WA 98034.

May 4, 2000
L. Michael Metke, Ed.D.
President

WSR 00-11-034
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed May 10, 2000, 11:18 a.m.]

Subject of Possible Rule Making: Repealing WAC 388-548-0500 Mental health center services and new WAC 388-548-0100 Mental health center services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.08.520, 71.24.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department had intended to repeal WAC 388-86-067 Mental health center services and replace it with a new rule. Due to an oversight, however, WAC 388-86-067 was repealed and the new rule was not adopted. This resulted in the emergency adoption of new WAC 388-548-0500 so that medical assistance clients could continue to receive necessary services. The emergency rule adopted the text of WAC 388-86-067 with no changes. In

order to comply with the Governor's Executive Order 97-02 on regulatory reform, the department is proposing to rewrite WAC 388-548-0500 and renumber it as WAC 388-548-0100 to update the language and policy.

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 the rule. Draft material and information about how to participate is available from the DSHS representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Myers, Regulatory Improvement Program Manager, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504, phone (360) 725-1345, fax (360) 586-9727, e-mail myerseaa@dshs.wa.gov.

May 4, 2000
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 00-11-080
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION
[Filed May 16, 2000, 8:08 a.m.]

Subject of Possible Rule Making: WAC 180-78A-535 Approval standard—Program design.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010, 28A.305.130 (1) and (2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These proposed amendments require colleges/universities to include a common set of performance indicators in the development of their professional certificate program for teachers and also in the assessment of their candidates for the certificate.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

May 15, 2000
Larry Davis
Executive Director

WSR 00-11-081**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed May 16, 2000, 8:11 a.m.]

Subject of Possible Rule Making: Adding new sections to chapter 180-82 WAC, Certificate endorsements and assignment of certificated personnel.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendments create primary endorsements in drama, dance, English as a second language, thus enabling individuals to obtain certification in Washington when one of these subject areas is the sole endorsement area.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

May 15, 2000

Larry Davis

Executive Director

WSR 00-11-082**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed May 16, 2000, 8:14 a.m.]

Subject of Possible Rule Making: Various sections of the following chapters of WAC: Chapter 180-77 WAC, Standards for vocational certification; chapter 180-77A WAC, Approval standards for vocational-technical teacher preparation programs; chapter 180-79A WAC, Standards for teacher, administrator, and educational staff associate certification; and chapter 180-82 WAC, Certificate endorsements and assignment of certificated personnel.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.130 (1) and (2), 28A.410.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendments to these rules would make it possible for individuals to obtain a regular certificate by completing a college/university program in five vocational areas. A vocational certificate would then be obtained by these individuals through verification of work experience. There are also editorial amendments as well as the repeal of WACs referring to the Vocational-Technical Professional Advisory Council.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

May 15, 2000

Larry Davis

Executive Director

WSR 00-11-083**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION**

[Filed May 16, 2000, 8:16 a.m.]

Subject of Possible Rule Making: WAC 180-82-110 Exceptions to classroom teacher assignment policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.305.130 (1) and (2), 28A.410.010, 28A.150.220(4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed amendment would extend from three to five the number of years a teacher assigned to teach special education under a waiver would have in order to qualify for the special education endorsement. This would align the timeline, and thus, the process, with the professional certificate.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

May 15, 2000

Larry Davis

Executive Director

WSR 00-11-088**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed May 16, 2000, 11:56 a.m.]

Subject of Possible Rule Making: Establishing examination qualifications, examination application procedures and standards of practice for on-site sewage treatment system designers and inspectors required under chapter 18.210 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.210.050 and 18.210.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 2SSB 5821, codified as chapter 18.210 RCW requires that the department develop and administer an examination for licensure and certification. The bill also requires the establishment of standards of practice. These rules will provide those standards and provide information needed for designers and inspectors to apply for and take the examination.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joe Vincent Jr., Manager, On-Site Program, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649, phone (360) 664-1567, fax (360) 664-2551.

May 15, 2000
George A. Twiss
Executive Director

WSR 00-11-089**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed May 16, 2000, 12:51 p.m.]

Subject of Possible Rule Making: Charitable and non-profit organizations owning a commercial gambling establishment.

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: As a result of house-banked card game competition in the gambling industry, charitable and nonprofit organizations have requested ownership in commercial gambling establishments. This preproposal is to generate discussion on this issue.

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, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 374.

Meetings at Cavanaugh's Inn at the Park, 303 West North River Drive, Spokane, WA 99202, (509) 326-8000, on June 8 and 9, 2000; at the WestCoast Bellevue Hotel, 625 116th Avenue N.E., Bellevue, WA 98004, (425) 455-9444, on July 13 and 14, 2000; and at The Inn at Gig Harbor, 3211 56th Street N.W., Gig Harbor, WA 98335, (253) 858-1111, on August 10 and 11, 2000.

May 16, 2000
Susan Arland
Rules Coordinator

WSR 00-11-091**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed May 16, 2000, 3:50 p.m.]

Subject of Possible Rule Making: Amend current rules on self-employment and allowable business deductions to create a standard deduction. Clients will have the option of itemizing expenses if anticipated monthly costs exceed the standard.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.04.510.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendment of these rules will simplify the rules for cash, medical, and food assistance. This will increase the benefits of clients who do not currently claim legitimate business expenses and reduce workload for field staff.

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

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rule(s). Anyone interested in participating should contact the staff person indicated below. After the rule(s) is drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Veronica Barnes, Program Manager, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (360) 413-3071, fax (360) 413-3493, TTY (360) 413-3001, e-mail barnevs@dshs.wa.gov.

May 16, 2000
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 00-11-092**PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed May 16, 2000, 3:51 p.m.]

Subject of Possible Rule Making: Subject of possible rule making specifically includes WAC 388-15-202 Long-term care services—Definitions, 388-15-203 Long-term care services—Assessment of task self-performance and determination of required assistance, 388-15-204 Home and community services—Reassessment, and 388-15-205 Long-term care services—Service plan development. Other rules, which may be amended during this rule making, include WAC 388-71-0410, 388-71-0440, 388-71-0445, and 388-15-194.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amending rules are necessary to: (1) Reflect changes to the department's assessment instrument (CA) used to identify long-term care needs; (2) provide criteria for authorizing hours of care; (3) update definitions; and (4) comply with the Governor's Executive Order 97-02 and the Secretary's Order on Regulatory Improvement.

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

Process for Developing New Rule: Aging and Adult Services Administration (AASA) will schedule informal meetings to allow for feedback and comments from the public. AASA encourages stakeholders to submit written or verbal comments. When AASA files a notice of proposed rule making, we will notify interested parties of the scheduled hearing to adopt rules and how to submit comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lorrie Mahar, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 493-2537, TTY (360) 493-2637, fax (360) 438-8633, e-mail MaharLA@dshs.wa.gov.

May 16, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 00-11-105**PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Adult Services Administration)

[Filed May 18, 2000, 3:27 p.m.]

Subject of Possible Rule Making: WAC 388-97-022 Medical eligibility for nursing facility care and 388-97-027 Nursing facility admission and payment requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.39A.040, 74.42.056.

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

1. Establish one standard for nursing home and COPES eligibility, eliminating redundancy and inconsistency; and
2. Reflect changes to the hospital assessment procedures.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Health Care Financing Authority (HCFA), Long-Term Care Ombudsman.

Process for Developing New Rule: Aging and Adult Services Administration (AASA) will schedule informal meetings to allow for feedback and comments from stakeholders. AASA will provide draft language at meetings and encourages stakeholders to submit written or verbal comments. When AASA files a notice of proposed rule making, we will notify interested parties of the scheduled hearing to adopt rules and how to submit comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brooke Buckingham, Aging and Adult Services Administration, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 493-2544, TTY (360) 493-2637, fax (360) 438-8633, e-mail buckiBE@dshs.wa.gov.

May 17, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 00-11-135**PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF****LABOR AND INDUSTRIES**

[Filed May 23, 2000, 1:38 p.m.]

Subject of Possible Rule Making: Chapter 296-17 WAC, Workers' compensation premium rates, expected loss tables and experience rating plan.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.16.035 and 51.04.020(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Labor and industries is required by law to establish and maintain a workers' compensation classification plan and set premium rates in accordance with recognized principles of insurance. By law the plan is to recognize the hazardous nature of each industry and assign insurance rates respective with the hazard of each industry. Labor and industries is required to adjust these rates annually or more frequently if needed to ensure solvency of the insurance trust funds.

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

Process for Developing New Rule: Labor and industries bases its insurance rates for each industry on the loss and reporting information supplied by employers. Industries whose employers have had an improved loss record from the previous evaluation period will, as a general rule, experience a reduction in rates while industries whose employers experienced an increase in losses will generally see their insurance

rates increase. Labor and industries will also evaluate the need for an overall rate adjustment for all industries.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Labor and industries has tentatively scheduled two formal public hearings. The first hearing is to be held at the Spokane Labor and Industries Office on October 30, 2000, at 10 a.m. The second hearing is to be held at the Tumwater Labor and Industries Central Office Building on November 3, 2000, at 10 a.m. Inquiries can be directed to Ken Woehl of the classification services section at (360) 902-4748.

May 18, 2000
Gary Moore
Director

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Karen Kelley, Program Manager, Veterinary Board of Governors, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4876, fax (360) 753-0657.

Interested parties are invited to attend the June 5, 2000, Veterinary Board of Governors meeting at the Sea-Tac Holiday Inn, LaGuardia Room, and are encouraged to mail or fax comments.

April 18, 2000
Gail Zimmerman
Executive Director
by Carol L. Lewis

WSR 00-11-153
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed May 24, 2000, 9:22 a.m.]

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

WAC Number	WSR Number	WSR Date	Subject
WAC 246-840-990	98-10-108	5/6/98	Fees and Renewal Cycle

If you have any questions, please telephone Michelle Davis at (360) 236-4044.

M. C. Selecky
Secretary

WSR 00-11-157
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed May 24, 2000, 9:25 a.m.]

Subject of Possible Rule Making: Develop a new examination rule on the licensing requirements for persons who have been credentialed to practice veterinary medicine in another state or jurisdiction.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.92.030 and 18.92.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Currently, applicants credentialed in another jurisdiction are required to successfully pass the clinical competency test (CCT) if they have not previously taken the examination. This exam is no longer available. New requirements need to be established for these applicants for licensure.

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

Process for Developing New Rule: Collaborative rule making.

WSR 00-11-158
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Nursing Care Quality Assurance Commission)

[Filed May 24, 2000, 9:26 a.m.]

Subject of Possible Rule Making: RCW 18.79.260 and 18.88A.210, [18.88A.]230 as amended by chapter 95, Laws of 2000 (HB 1218) in the 1999 legislative session. This bill amends the statute titled, Registered nurses—Activities allowed and Delegation—Generally—Rules—Activities allowed. The amendment to the statutes relates to the delegation of nursing tasks to nursing assistants and requires the Nursing Care Quality Assurance Commission to write rules to revise or add to, the nurse delegation protocols. The sections affected by the statute are WAC 246-840-910, 246-840-920, 246-840-930, 246-840-940, 246-840-950, 246-840-960, 246-840-970, 246-840-980, and 246-841-405.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.79.260, 18.88A.060, [18.88A.]210.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The statute requires that rules be written or revised regarding nurse delegation protocols. This includes the elimination of the delegated tasks list and delineation of the standards for nurses to obtain informed consent prior to the delegation of nursing care tasks. These rules will be used to ensure that nursing care services have a consistent standard of practice upon which the public and the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task. This will allow better coordination of care for residents in community care settings and ensure that registered nurses will direct the assessment and evaluation of the resident and nursing assistant to accurately carry out the delegated plan of care.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Social and Health Services will be involved in the rule-writing process through open, public workshop sessions.

Process for Developing New Rule: The nursing commission will hold open rules writing workshops to work with provider groups, licensed nurses, nursing assistants and other state agencies who regulate facilities where nurse delegation

occurs. Following the workshops a public rules hearing will be held to take additional input. All persons on the interested persons mailing list will be contacted to participate in this open public process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jeanne Vincent, Nurse Practice Manager, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4725, fax (360) 236-4738.

May 11, 2000
Paula R. Meyer, RN, MSN
Executive Director

WSR 00-11-159

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Surgical Technology Program)**
[Filed May 24, 2000, 9:26 a.m.]

Subject of Possible Rule Making: Chapter 246-939 WAC, Surgical technologist program, to write one or more rules outlining registration application requirements for surgical technologists.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 18.215 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will outline application requirements for those persons registering as a surgical technologist. The rules will include a reference to chapter 246-12 WAC the administrative procedures and requirements for credentialed health care providers.

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 rule-writing sessions with interested persons.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kendra Pitzler, Program Manager, Department of Health, Surgical Technology Program, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4723, fax (360) 236-4738, e-mail Kendra.Pitzler@doh.wa.gov or Gina.Thompson@doh.wa.gov.

May 23, 2000
M. C. Selecky
Secretary

WSR 00-11-160

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Nursing Care Quality Assurance Commission)**
[Filed May 24, 2000, 9:26 a.m.]

Subject of Possible Rule Making: SSB 5805, chapter 64, Laws of 2000. Chapters 18.79, 18.57 and 18.71 RCW, advanced registered nurse practitioner prescriptive authority.

This bill requires the Nursing Care Quality Assurance Commission, the Medical Quality Assurance Commission and the Board of Osteopathic Medicine and Surgery to jointly adopt by rule a process and criteria that implements the joint practice arrangements for expanded prescriptive authority to include Schedule II through IV drugs for ARNPs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.79.240, chapter 64, Laws of 2000.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The statute requires the two commissions and board to jointly adopt rules by consensus on ARNP prescriptive authority joint practice arrangements for expanded prescriptive authority.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Uniform Controlled Substances Act, chapter 69.50 RCW, and the Federal Drug Enforcement Agency. A representative from the Drug Enforcement Agency will be invited to attend the rule-writing sessions.

Process for Developing New Rule: Collaborative rule making, public rule-writing workshops will be held with interested parties. Workshops will be held in May in Spokane, June in Seattle, and July in Olympia.

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, Health Administrator, Department of Health, Nursing Commission, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4712, fax (360) 236-4738, e-mail Terry.West@doh.wa.gov.

May 8, 2000
Paula R. Meyer, RN, MSN
Executive Director

WSR 00-11-161

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
(Board of Osteopathic Medicine and Surgery)**
[Filed May 24, 2000, 9:27 a.m.]

Subject of Possible Rule Making: SSB 5805, chapter 64, Laws of 2000. Chapters 18.79, 18.57 and 18.71 RCW, advanced registered nurse practitioner prescriptive authority. This bill requires the Nursing Care Quality Assurance Commission, the Medical Quality Assurance Commission and the Board of Osteopathic Medicine and Surgery to jointly adopt by rule a process and criteria that implements the joint practice arrangements for expanded prescriptive authority to include Schedule II through IV drugs for ARNPs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.57.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The statute requires the two commissions and board to jointly adopt rules by consensus on ARNP prescriptive authority joint practice arrangements for expanded prescriptive authority.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Uniform Controlled Substances Act, chapter 69.50

RCW, and the Federal Drug Enforcement Agency. A representative from the Drug Enforcement Agency will be invited to attend the rule-writing sessions.

Process for Developing New Rule: Collaborative rule making, public rule-writing workshops will be held with interested parties. Workshops will be held in May in Spokane, June in Seattle, and July in Olympia.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Arlene Robertson, Program Manager, Department of Health, Board of Osteopathic Medicine and Surgery, P.O. Box 47870, Olympia, WA 98504-7870, phone (360) 236-4945, fax (360) 586-0745, e-mail Arlene.Robertson@doh.wa.gov.

May 24, 2000
Robert Nicoloff
Executive Director

WSR 00-11-162

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed May 24, 2000, 9:27 a.m.]

Subject of Possible Rule Making: SSB 5805, chapter 64, Laws of 2000. Chapters 18.79, 18.57 and 18.71 RCW, advanced registered nurse practitioner prescriptive authority. This bill requires the Nursing Care Quality Assurance Commission, the Medical Quality Assurance Commission and the Board of Osteopathic Medicine and Surgery to jointly adopt by rule a process and criteria that implements the joint practice arrangements for expanded prescriptive authority to include Schedule II through IV drugs for ARNPs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.71.017.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The statute requires the two commissions and board to jointly adopt rules by consensus on ARNP prescriptive authority joint practice arrangements for expanded prescriptive authority.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Uniform Controlled Substances Act, chapter 69.50 RCW and the Federal Drug Enforcement Agency. A representative from the Drug Enforcement Agency will be invited to attend the rule-writing sessions.

Process for Developing New Rule: Collaborative rule making, public rule-writing workshops will be held with interested parties. Workshops will be held in May in Spokane, June in Seattle, and July in Olympia.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Susan Anthony, Licensing Program Manager, Department of Health, Medical Quality Assurance Commission, P.O. Box 47866, Olympia, WA 98504-7866,

phone (360) 236-4787, fax (360) 586-4573, e-mail susan.anthony@doh.wa.gov.

May 4, 2000
Bonnie King
Executive Director

WSR 00-11-163

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed May 24, 2000, 9:28 a.m.]

Subject of Possible Rule Making: Amending WAC 246-840-500 through 246-840-575, rules governing approval of registered nurse and practical nurse education programs.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These amendments are needed to clarify the present rule, to update curricula requirement changes, to change faculty requirements and site visit survey time-frames. A title for this section is needed. The format may need to be changed to reflect the same style throughout the rules, differentiating RN and PN program criteria shown in columns rather than sequential text.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Federal Department of Education approves national certifying/accrediting bodies for nursing education programs; currently one of those bodies gives accreditation for eight years and another gives full accreditation for ten years; our state approval is on an eight year cycle, but the intent is to make our state survey visits in conjunction with the national accrediting body.

Process for Developing New Rule: Collaborative rule making, members of the public, in particular the deans and directors of nursing programs in the state, and other interested parties will be invited to attend public meetings to review and present comment on these WACs.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Maura G. Egan, Ph.D, RN, Nursing Education Program Manager, Department of Health, P.O. Box 47864, Olympia, WA 98504-7864, phone (360) 236-4709, fax (360) 236-4738, e-mail maura.egan@doh.wa.gov.

May 7, 2000
Paula R. Meyer, RN, MSN
Executive Director

WSR 00-11-170
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed May 24, 2000, 9:54 a.m.]

Subject of Possible Rule Making: The Office of Archaeology and Historic Preservation (OAHP) is investigating the need for a rule change regarding the archaeological permit process under chapter 25-48 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 27.44 RCW, Indian graves and records; chapter 27.53 RCW, Archaeological sites and resources; and chapter 43.63A RCW, authorizes the agency to make rules on this subject.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rules, implemented in 1990, are out-of-date and require a timely update.

Process for Developing New Rule: OAHP will hold meetings and consult with all affected parties to discuss any proposed rule changes. OAHP will request input from all affected parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Allyson Brooks, Office of Archaeology and Historic Preservation, P.O. Box 48343, Olympia, WA 98504-8343, phone (360) 407-0752, fax (360) 407-6217, e-mail AllysonB@cted.wa.gov. OAHP will conduct public information gathering sessions. OAHP will also solicit information through a mailed request for suggestions and through telephone solicitation.

May 23, 2000

Jean L. Ameluxen, Director
 Governmental Relations

WSR 00-11-171
PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD OF EDUCATION

[Filed May 24, 2000, 10:02 a.m.]

Subject of Possible Rule Making: Chapter 180-51 WAC, High school graduation requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.230.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Review of existing high school graduation requirements to determine necessary changes in order to align with education reform.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA

98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

May 22, 2000

Larry Davis
 Executive Director

WSR 00-11-172
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed May 24, 2000, 10:12 a.m.]

Subject of Possible Rule Making: Amendment of WAC 308-12-321 Competence, 308-12-322 Conflict of interest, 308-12-323 Full disclosure, 308-12-324 Compliance with laws, and 308-12-325 Professional conduct.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.08.340.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are being revised to clarify and simplify the language and requirements, with no major changes to the content or the intent of the rules.

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

Process for Developing New Rule: Review of all rules pursuant to the Governor's Executive Order 97-02.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Margaret Epting, Department of Licensing, Business and Professions Division, Architect Registration Board, P.O. Box 9045, Olympia, WA 98507-9045, fax (360) 664-2551.

May 24, 2000

Margaret Epting
 Administrator

WSR 00-11-174
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE PATROL

[Filed May 24, 2000, 10:25 a.m.]

Subject of Possible Rule Making: Amends WAC 204-96-010 in order to allow employers to retrieve company vehicles when an employee has been arrested for driving with a suspended license. It will also require that employers and spouses show *significant* hardship before the vehicle can be released to them.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.55.113 and 46.55.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This amendment is necessary because many employers inadvertently allow individuals to drive business vehicles who have criminal violations as described in WAC 204-96-010, thus causing that business vehicle to be impounded and thus not available for business use. This creates a significant economic hardship for the

PREPROPOSAL

employer. This amendment will allow the district commander to review releasing the business vehicle prior to the expiration of the mandated impound period if the employer establishes significant economic hardship.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lt. Fred Fakkema, Washington State Patrol, P.O. Box 42600, Olympia, WA 98504, phone (360) 753-6890, fax (360) 586-1628.

May 17, 2000
Annette M. Sandberg
Chief

WSR 00-11-181

PREPROPOSAL STATEMENT OF INQUIRY FRUIT COMMISSION

[Filed May 24, 2000, 11:22 a.m.]

Subject of Possible Rule Making: Chapter 224-12 WAC, Fruit Commission, clarification of rule on the collection of assessments levied on fruit delivered to processors.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.28 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Washington Fruit Commission has the authority to levy and collect assessments on fruit shipped fresh or delivered to the processors. This rule will clarify the collection of assessments on fruit delivered to processors.

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

Process for Developing New Rule: A public hearing will be conducted on the proposed rule. Interested parties may also contact the Washington Fruit Commission at the address below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ken Severn, President, Washington Fruit Commission, 105 South 18th Street, #205, Yakima, WA 98901, phone (509) 453-4837, fax (509) 453-4880.

May 23, 2000
Kenneth Severn, President
Washington Fruit Commission

WSR 00-11-182

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Economic Services Administration) (Division of Assistance Programs)

[Filed May 24, 2000, 11:50 a.m.]

Subject of Possible Rule Making: Eliminate the state-funded general assistance for children (GA-H) program for children living with a legal guardian or custodian. Expand

the eligibility criteria for temporary assistance for needy families (TANF) and state family assistance (SFA) to cover the entire population of people currently eligible for GA-H.

This change may require the department to create new rules, revise, or repeal WAC sections in chapter 388-400 WAC, Program summary, chapter 388-404 WAC, Age requirements, chapter 388-408 WAC, Assistance units, chapter 388-422 WAC, Child support, chapter 388-424 WAC, Citizenship/alien status, chapter 388-450 WAC, Income, chapter 388-454 WAC, Living with a relative, and chapter 388-478 WAC, Standards for payments, and other chapters as necessary.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, H-5321.3 as passed by the 2000 Washington state legislature and signed by Governor Locke.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provisions of H-5321.3 require the department to make this change. This change will allow the department to use federal funds to provide assistance for children currently receiving benefits provided by state funds. This will also give clients access to services that are currently provided to TANF clients that are not available under the GA-H program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Health and Human Services provides funding for the TANF program and sets some of the requirements of the program by publishing the federal requirements in the United States Code and issuing policy clarifications. The Washington state legislature sets some of the DSHS' requirements for the TANF program and publishes the requirements in the Revised Code of Washington. DSHS incorporates the requirements under state and federal law in the process of creating rules for public assistance.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Camp, Program Manager, Division of Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3232, fax (360) 413-3493, e-mail CAMPJX@DSHS.WA.GOV.

May 24, 2000
Marie Myerchin-Redifer
Manager

WSR 00-11-018
EXPEDITED REPEAL
CASCADIA COMMUNITY COLLEGE
 [Filed May 9, 2000, 8:42 a.m.]

The Following Sections are Proposed for Expedited Repeal: Repeal WAC 132Z-104-010 Time and place of board meetings.

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: Office of the President, 19017 120th Avenue N.E., Suite 102, Bothell, WA 98011, phone (425) 398-5400, fax (425) 398-5730.

Reason the Expedited Repeal of the Rule is Appropriate: The rule is being deleted because the circumstances regarding when and where the board meetings occur has changed. The board meetings are now published in the state register as required by law; that publication will take the place of the new outdated WAC provision and will provide the public with the proper notice of when and where the board will conduct its regular meetings.

May 4, 2000
 Victoria Munoz Richart, Ed.D.
 President

WSR 00-11-061
EXPEDITED REPEAL
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Adult Services Administration)
 [Filed May 15, 2000, 10:35 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 388-18-010, 388-18-020, 388-18-030, 388-18-040, 388-18-050, 388-18-060, 388-18-070, 388-18-080, 388-18-090, 388-18-100, 388-18-110, 388-18-120, and 388-18-130.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances; and 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: Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98503-5850, fax (360) 664-6185.

Reason the Expedited Repeal of the Rule is Appropriate: The Department of Community, Trade and Economic Development (DCTED) administers the long-term care ombudsman program (LTCOP) according to chapter 43.190 RCW. DCTED adopted rule for the LTCOP in May 2000 to replace DSHS's outdated rules in chapter 388-18 WAC. In addition,

it is more appropriate for the rules to be in DCTED's WAC rather than DSHS's WAC.

May 5, 2000
 Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-18-010	Purpose.
WAC 388-18-020	Definitions.
WAC 388-18-030	Duties—State ombudsman.
WAC 388-18-040	Duties—Local ombudsman.
WAC 388-18-050	Duties—Certified volunteer ombudsmen.
WAC 388-18-060	Certification procedures for volunteer ombudsmen.
WAC 388-18-070	Access to residents, facilities, and records.
WAC 388-18-080	Reporting requirements.
WAC 388-18-090	Facility entry—Report and identification—Disclosure of purpose.
WAC 388-18-100	Privacy during ombudsman visits.
WAC 388-18-110	Confidentiality of information.
WAC 388-18-120	Referrals.
WAC 388-18-130	Posting requirements.

EXPEDITED REPEAL



WSR 00-10-034
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Management Services Administration)

[Filed April 24, 2000, 3:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-21-037.

Title of Rule: Chapter 388-02 WAC, DSHS hearing rules.

Purpose: Chapter 388-08 WAC, Practice and procedure—Fair hearings, is being repealed and replaced by chapter 388-02 WAC, DSHS hearing rules. The proposed rules are the result of DSHS reviewing and updating rules according to Executive Order 97-02. The rules have been written in "plain English" using a question and answer format making them more understandable for our customers. The rules describe general procedures for resolution of disputes between DSHS and its clients, vendors, contractors, and customers. It also explains the DSHS hearing process so a lay person can understand it. These rules supplement the procedural provisions of chapter 34.05 RCW, Administrative Procedure Act and chapter 10-08 WAC, Model rules of the Office of Administrative Hearings.

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: RCW 34.05.220.

Summary: Chapter 388-08 WAC, Practice and procedure—Fair hearings, is being repealed and replaced with chapter 388-02 WAC, DSHS hearing process; the definitions in this chapter have been alphabetized; DSHS is used to indicate the department for consistency; questions are used in the rule to help users find information easily; the section on "Separate hearing regarding disclosure of investigative and intelligence files" has been deleted as they are no longer used; equitable estoppel is updated to reflect department policy; fair hearing guidelines have been incorporated into the rule; legal concepts have been explained; DSHS authority regarding stays has been clarified; and the time period for vacating orders of dismissal has been extended.

Name of Agency Personnel Responsible for Drafting and Implementation: Marie Myerchin-Redifer, Mailstop 45850, Lacey, WA 98504-5850, (360) 664-6093; and Enforcement: Kenneth Harden, OB 2, (360) 902-7792.

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: The rules describe general procedures for resolution of disputes between DSHS and its clients, vendors, contractors, and customers. The rules also explain the DSHS hearing process. These rules supplement procedural provisions of the Administrative Procedure Act and OAH model rules. They have been written in "plain English" using a question and answer format making them more understandable and easier to use for our clients, vendors, contractors and customers as required by Executive Order 97-02.

Proposal Changes the Following Existing Rules: Chapter 388-08 WAC, Practice and procedure—Fair hearings, is being repealed. The proposed rules are new rules relating to the DSHS hearing process and are written with much more detail than the previous rules. The rules were written using clear rule-writing techniques.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule impacts all clients, vendors, and customers of DSHS equally. The rules do not have a disproportionate impact on small business.

RCW 34.05.328 does not apply to this rule adoption. This rule is a procedural rule relating to the DSHS hearing process. RCW 34.05.328 does not apply to procedural rules.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 20, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Chapter 388-02 WAC, Marie Myerchin-Redifer, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: September 1, 2000.

April 17, 2000

Edith M. Rice, Chief
Office of Legal Affairs

Chapter 388-02 WAC
DSHS HEARING RULES

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Reviser's note: The typographical error in the above material occurred in the copy filed by the Department of Social and Health Services and appears in the Register pursuant to the requirements of RCW 34.08.040.

PROPOSED

Chapter 388-02 WAC

DSHS HEARING RULES

GENERAL

NEW SECTION

WAC 388-02-0005 What is the purpose and scope of this chapter? This chapter describes the general procedures that apply to the resolution of disputes between you and the various programs within the department of social and health services (DSHS). The rules of this chapter are intended to supplement for DSHS both the Administrative Procedure Act (APA), chapter 34.05 RCW, and the model rules, chapter 10-08 WAC, adopted by the office of administrative hearings (OAH).

(1) This chapter:

(a) Establishes rules encouraging informal dispute resolution between DSHS and persons or entities who disagree with its actions;

(b) Regulates all hearings involving DSHS; and

(c) Consolidates most DSHS hearing procedural rules into one chapter.

(2) Nothing in this chapter is intended to affect the constitutional rights of any person or to limit or change additional requirements imposed by statute or other rule. Other laws or rules determine if you have a hearing right, including the APA and DSHS program rules or laws.

(3) Specific DSHS program hearing rules prevail over the rules in this chapter.

NEW SECTION

WAC 388-02-0010 What definitions apply to this chapter? The following definitions apply to this chapter:

"Administrative law judge (ALJ)" means an impartial decision-maker who is an attorney and presides at an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DSHS employees or DSHS representatives.

"BOA" means the DSHS board of appeals.

"Business days" means all days except Saturdays, Sundays and legal holidays.

"Calendar days" means all days including Saturdays, Sundays and legal holidays.

"Deliver" means giving a document to someone in person.

"Documents" means papers, letters, writings, or other printed or written items.

"DSHS" means the department of social and health services.

"DSHS representative" means an employee of DSHS, a DSHS contractor, an assistant attorney general authorized to represent DSHS in an administrative hearing. DSHS representatives include, but are not limited to, claims officers and fair hearing coordinators.

"Hearing" means a proceeding before OAH that gives a party an opportunity to be heard in disputes about DSHS pro-

grams. For purposes of this chapter, hearings include administrative hearings, adjudicative proceedings, and any other similar term referenced under chapter 34.05 RCW, the Administrative Procedure Act, Title 388 of the Washington Administrative Code, chapter 10-08 WAC, or other law.

"Mail" means placing the document in the mail with the proper postage.

"OAH" means the office of administrative hearings, a separate state agency from DSHS.

"Party" means a person or entity:

(1) Named in a DSHS action;

(2) To whom a DSHS action is directed; or

(3) Allowed to participate in a hearing to protect an interest as authorized by law or rule. DSHS is also a party.

"Prehearing conference" means a proceeding scheduled and conducted by an ALJ in preparation for a hearing.

"Prehearing meeting" means an informal voluntary meeting that may be held before any prehearing conference or hearing.

"Record" means the official documentation of the hearing process. The record includes tape recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

"Review judge" means an attorney employed by the DSHS board of appeals (BOA) who reviews decisions made by an ALJ and makes a final agency decision. The review judge is the reviewing officer in RCW 34.05.464.

"Rule" means a state regulation. Rules are found in the Washington Administrative Code (WAC).

"Stay" means an order temporarily halting the DSHS decision or action.

"You" means any individual or entity that has a right to be involved with the DSHS hearing process, which includes a party or a party's representative. "You" does not include DSHS or its representative.

NEW SECTION

WAC 388-02-0015 How do the terms in the Administrative Procedure Act (APA) compare to this chapter? To improve clarity and understanding, the rules in this chapter may use different words than the APA or the model rules. Following is a list of terms used in those laws and the terms as used in these rules:

Chapter 34.05 RCW Chapter 10.08 WAC	Chapter 388-02 WAC
Adjudicative proceeding	Different terms are used to refer to different stages of the hearing process, and may include prehearing meeting, prehearing conference, hearing, review, reconsideration and the entire hearing process
Agency	DSHS
Application for adjudicative proceeding	Request a hearing

PROPOSED

Chapter 34.05 RCW

Chapter 10.08 WAC

Chapter 388-02 WAC

Enter	Make, send
Initial order	Hearing decision or order
Presiding officer	ALJ or review judge
Reviewing officer	Review judge

NEW SECTION

WAC 388-02-0020 What does good cause mean? (1)

Good cause is a substantial reason or legal justification for failing to appear, to act, or respond to an action. To show good cause, the ALJ must find that a party had a good reason for what they did or did not do, using the provisions of Superior Court Civil Rule 60 as a guideline.

(2) Good cause may include, but is not limited to, the following examples.

(a) You ignored a notice because you were in the hospital or were otherwise prevented from responding; or

(b) You could not respond to the notice because it was written in a language that you did not understand.

ADDRESSES

NEW SECTION

WAC 388-02-0025 Where is the office of administrative hearings located? (1)(a) The office of administrative hearings (OAH) headquarters location is:

Office of Administrative Hearings

919 Lakeridge Way SW

P.O. Box 42488

Olympia WA 98504-2488

(360) 664-8717

(360) 664-8721 (FAX)

(b) The headquarters office is open from 8:00 am to 5:00 p.m. Mondays through Friday, except legal holidays.

(2) OAH field offices are at the following locations:

Olympia

Office of Administrative Hearings - SHS

2420 Bristol Court SW, 3rd Floor

PO Box 42489

Olympia, WA 98504-2489

(360) 753-2531

1-800-583-8271

FAX: (360) 586-6563

Seattle

Office of Administrative Hearings - SHS

1904 3rd Ave., Suite 722

Seattle, WA 98101-1100

(206) 464-6322

1-800-583-8270

FAX: (206) 587-5136

Everett

Office of Administrative Hearings - SHS

2722 Colby, Suite 610

Everett, WA 98201-3571

(425) 339-1921

1-800-583-8261

FAX: (425) 339-3907

Vancouver

Office of Administrative Hearings - SHS

800 Franklin Street, 1st Floor

Vancouver, WA 98660

(360) 690-7189

1-800-243-3451

FAX: (360) 696-6255

Spokane

Office of Administrative Hearings - SHS

136 S. Arthur St.

Spokane, WA 99202-2254

1-800-366-0955

FAX: (509) 533-2473

Yakima

Office of Administrative Hearings - SHS

32 N 3rd Street, Suite 320

Yakima, WA 98901-2730

(509) 575-2147

1-800-843-3491

FAX (509) 454-7281

(3) You should contact the Olympia field office under, subsection (2), if you do not know the correct field office.

(4) You can obtain further hearing information at the OAH website: <http://www.oah.wa.gov>

NEW SECTION

WAC 388-02-0030 Where is the board of appeals located? (1) The mailing address of the DSHS board of appeals (BOA) is:

DSHS Board of Appeals

PO Box 45803

Olympia, WA 98504-5803;

(2) The general telephone numbers of the BOA are:

(360) 664-6100

1-877-351-0002 (toll free)(360) 664-6178 (TTD)

(360) 664-6187 (FAX);

(3) The physical location of the DSHS Board of Appeals (BOA) is:

Blake Office Bldg. East, 2nd Floor

4500 10th Ave. SE

Lacey, WA 98503

DEADLINES

NEW SECTION

WAC 388-02-0035 How are days counted when calculating deadlines for the hearing process? (1) When counting days to find out when a hearing deadline ends under DSHS rules or statutes:

(a) Do not include the day of the action, notice, or order. For example, if a hearing decision is mailed on Tuesday and you have twenty-one days to request a review, start counting the days with Wednesday.

(b) If the last day of the period ends on a Saturday, Sunday or legal holiday, the deadline is the next business day.

PROPOSED

(c) For periods of seven days or less, count only business days. For example, if you have seven days to respond to a review request that was mailed to you on Friday, May 10, the response period ends on Tuesday, May 21.

(d) For periods over seven days, count every day, including Saturdays, Sundays, and legal holidays.

(2) The deadline ends at 5:00 p.m. on the last day.

(3) If you miss a deadline, you may lose your right to a hearing or appeal of a decision.

FILING AND SERVING PAPERS

NEW SECTION

WAC 388-02-0040 How do parties send documents?

(1) When the rules in this chapter or in other law asks a party to send copies of documents to other parties, the party must mail or deliver copies to the DSHS representative and to all other parties or their representatives.

(2) When sending documents to OAH or BOA, you must mail or deliver the documents to one of the locations listed in WAC 388-02-0025(2) for OAH or in WAC 388-02-0030 for BOA.

(3) When sending documents to your assigned field office, you may use the address listed at the top of your notice of hearing. If a field office has not been assigned, all written communication about your hearing must be sent to the OAH Olympia field office which sends the communication to the correct office.

(4) Documents may be sent by giving them to someone in person, placing them in the mail with proper postage, or by FAX or e-mail if the party mails a copy on the same day.

NEW SECTION

WAC 388-02-0045 What is service? Service is the act of sending a document to a party to an action. Service gives the party notice. When a document is given to the party, the party is considered served with official notice of the contents of the document.

NEW SECTION

WAC 388-02-0050 How does a party serve someone?

Unless otherwise stated in law, a party may serve someone by:

- (1) Personal service (hand delivery);
- (2) First class, registered, or certified mail;
- (3) Fax if the party mails a copy of the document the same day;
- (4) Commercial delivery service; or
- (5) Legal messenger service.

NEW SECTION

WAC 388-02-0055 When must a party serve someone? A party must serve all other parties and their representatives whenever the party files a pleading, brief or other document with OAH or BOA, or when required by law.

NEW SECTION

WAC 388-02-0060 When is service complete? Service is complete when:

- (1) Personal service is made;
- (2) Mail is properly stamped, addressed and deposited in the United States mail;
- (3) FAX produces proof of transmission;
- (4) A parcel is delivered to a commercial delivery service with charges prepaid; or
- (5) A parcel is delivered to a legal messenger service with charges prepaid.

NEW SECTION

WAC 388-02-0065 How does a party prove service?

A party may prove service by providing any of the following:

- (1) A sworn statement;
- (2) The certified mail receipt signed by the recipient;
- (3) An affidavit or declaration of mailing;
- (4) A signed receipt from the person who accepted the commercial delivery service or legal messenger service package; or
- (5) Proof of FAX transmission.

NEW SECTION

WAC 388-02-0070 What is filing? (1) Filing is the act of sending documents to OAH or BOA.

(2) The date of filing is the date documents are received by OAH or BOA.

(3) Filing is complete when the documents are received by OAH or BOA during office hours.

NEW SECTION

WAC 388-02-0075 How does a party file documents?

(1) A party may file documents by sending them to OAH or BOA by:

- (a) Personal service;
 - (b) First class, registered, or certified mail;
 - (c) FAX transmission if the party mails a copy of the document the same day;
 - (d) Commercial delivery service; or
 - (e) Legal messenger service.
- (2) A party cannot file documents by e-mail.

RESOLUTION OF DISPUTES

NEW SECTION

WAC 388-02-0080 What are your options for resolving a dispute with DSHS? (1) If you disagree with a DSHS decision or action, you have several options for resolving your dispute, which may include the following:

- (a) Any special prehearing alternative or administrative process offered by the program;
- (b) Prehearing meeting;
- (c) Prehearing conference; and
- (d) Hearing.

(2) Because you have a limited time to request a hearing, you must request a hearing within the deadline on the notice of DSHS action to preserve your hearing right.

HEARING RIGHTS AND REQUESTS

NEW SECTION

WAC 388-02-0085 Do you have a right to a hearing?

(1) You have a right to a hearing only if a law or DSHS rule gives you that right.

(2) If you request a hearing, one is scheduled.

(3) If DSHS or the ALJ questions your right to a hearing, the ALJ decides whether you have that right.

(4) If the ALJ decides you do not have a right to a hearing, your request is dismissed.

(5) If the ALJ decides you do have a right to a hearing, the hearing proceeds.

NEW SECTION

WAC 388-02-0090 Who may request a hearing? (1)

Either you or your representative may request a hearing.

(2) When requesting a hearing, you should remember:

(a) Some DSHS programs may require you to go through an informal administrative process before you can request a hearing. The notice of DSHS action sent to you should include information about this requirement if it applies.

(b) You have a limited time to request a hearing. The deadline for your request varies by the DSHS program involved. You should submit your request right away to protect your right to a hearing, even if you are also trying to resolve your dispute informally.

NEW SECTION

WAC 388-02-0095 What if you have questions about requesting a hearing? If you have questions about how, when, and where to request a hearing, you should:

(1) Contact the DSHS program involved, OAH, or BOA;

(2) Review the notice sent to you of the DSHS action or decision; or

(3) Review the applicable law or DSHS rule.

NEW SECTION

WAC 388-02-0100 How do you request a hearing?

(1) You may request a hearing in writing or orally, depending upon which program is involved. The DSHS notice and applicable laws and rules should tell you whether the request must be in writing or may be made orally.

(2) If you are allowed to make an oral request, you may do so to a DSHS or OAH employee in person or by telephone or voice mail.

(3) You may send a written request by mail, delivery service, personal service, or by FAX if you mail a copy the same day. You should send written requests to the location on the notice or to OAH at the location specified in WAC 388-02-0025(2).

NEW SECTION

WAC 388-02-0105 What information do you give when requesting a hearing? (1) Your hearing request must contain enough information to identify you and the DSHS action. You should include:

(a) Your name, address, and telephone number;

(b) A brief explanation of why you disagree with the DSHS action;

(c) Your client identification or case number, contract number, or any other information that identifies your case or the program involved; and

(d) Any assistance you need, including a foreign or sign language interpreter or any other accommodation for a disability.

(2) You should also refer to a program's specific rules or the notice to see if additional information is required in your request.

(3) OAH may not be able to process your hearing request if it cannot identify or locate you and determine the DSHS action involved.

NEW SECTION

WAC 388-02-0110 What happens after you request a hearing? (1) After you request a hearing, OAH sends the parties a notice containing the hearing date, time, and place. This document is called the notice of hearing. For certain types of hearings, the parties may receive a written notice of a prehearing conference.

(2) Before your hearing is held:

(a) DSHS may contact you and try to resolve your dispute; and

(b) You are encouraged to contact DSHS and try to resolve your dispute.

(3) If you do not appear for your hearing, an ALJ may enter an order of default or an order dismissing your hearing according to WAC 388-02-0285.

NEW SECTION

WAC 388-02-0115 May you withdraw your hearing request? (1) You may withdraw your hearing request for any reason and at any time by contacting DSHS or OAH in writing. After your request for withdrawal is received, your hearing is cancelled and OAH sends an order dismissing the hearing. If you withdraw your request you may not be able to request another hearing on the same DSHS action.

(2) If you withdraw your hearing request, you may only set aside the dismissal according to WAC 388-02-0290.

INTERPRETERS

NEW SECTION

WAC 388-02-0120 Do you have the right to an interpreter in the hearing process? If you need an interpreter because you or any of your witnesses are a person with limited English proficiency, OAH will provide an interpreter at no cost to you.

PROPOSED

NEW SECTION

WAC 388-02-0125 What definitions apply to limited English proficient (LEP) parties? The following definitions apply to LEP parties:

"**Hearing impaired person**" means a person who, because of a hearing or speech impairment, cannot readily speak, understand or communicate in spoken language.

"**Intermediary interpreter**" means an interpreter who:

(1) Holds a reverse skills certificate issued by the registry of interpreters for the deaf; and

(2) Is able to assist in providing an accurate interpretation between spoken and sign language or between types of sign language by acting as an intermediary between a hearing impaired person and a qualified interpreter.

"**Limited English proficient (LEP)**" includes limited English speaking persons or other persons unable to communicate in spoken English because of a hearing impairment.

"**Limited English-speaking (LES) person**" means a person who, because of non-English speaking cultural background or disability, cannot readily speak or understand the English language.

"**Qualified interpreter**" includes qualified interpreters for a limited English-speaking person or a person with a hearing impairment.

"**Qualified interpreter for a limited English - speaking person**" means a person who is readily able to interpret or translate spoken and written English communications to and from a limited English speaking person. If an interpreter is court certified, the interpreter is considered qualified.

"**Qualified interpreter for a person with a hearing impairment**" means a visual language interpreter who is certified by the registry of interpreters for the deaf and is readily able to interpret or translate spoken communications to and from a hearing impaired person.

NEW SECTION

WAC 388-02-0130 What requirements apply to notices for limited English speaking parties? If OAH is notified that you are a limited English speaking person, all hearing notices, decisions and orders for you must:

- (1) Be written in your primary language; or
- (2) Include a statement in your primary language:
 - (a) Indicating the importance of the notice; and
 - (b) Telling you how to get help in understanding the notice and responding to it.

NEW SECTION

WAC 388-02-0135 What requirements apply to interpreters? (1) OAH must provide a qualified interpreter to assist any person who:

- (a) Has limited English proficiency; and
 - (b) Is a party or witness in a hearing.
- (2) OAH may hire or contract with persons to interpret at hearings.
- (3) Relatives of any party and DSHS employees may not be used as interpreters.

(4) The ALJ must determine, at the beginning of the hearing, if an interpreter can accurately interpret all communication for the person requesting the service. To do so, the ALJ considers the interpreter's:

- (a) Ability to meet the needs of the hearing impaired person or limited English speaking person;
 - (b) Education, certification and experience;
 - (c) Understanding of the basic vocabulary and procedures involved in the hearing; and
 - (d) Ability to be impartial.
- (5) The parties or their representatives may question the interpreter's qualifications and ability to be impartial.
- (6) If at any time before or during the hearing the interpreter does not provide accurate and effective communication, the ALJ must provide another interpreter.

NEW SECTION

WAC 388-02-0140 May you waive interpreter services? (1) If you are limited English proficient, you may ask to waive interpreter services.

(2) You must make your request in writing or through a qualified interpreter on the record.

(3) The ALJ must determine if your waiver has been knowingly and voluntarily made.

(4) You may withdraw your waiver at any time before or during the hearing.

NEW SECTION

WAC 388-02-0145 What requirements apply to the use of interpreters? (1) Interpreters must:

- (a) Use the interpretive mode that the parties, the interpreter and the ALJ consider the most accurate and effective;
- (b) Interpret statements made by the parties and the ALJ;
- (c) Not disclose information about the hearing without the written consent of the parties; and
- (d) Not comment on the hearing or give legal advice.

(2) The ALJ must allow enough time for all interpretations to be made and understood.

(3) The ALJ may video tape a hearing and use it as the official transcript for hearings involving a hearing impaired person.

NEW SECTION

WAC 388-02-0150 What requirements apply to hearing decisions involving limited English speaking parties? (1) When an interpreter is used at a hearing, the ALJ must explain that the decision is written in English but that a party using an interpreter may contact the interpreter for an oral translation of the decision at no cost to you.

(2) Interpreters must provide a telephone number where they can be reached. This number must be attached to any decision or order mailed to the parties.

(3) OAH or BOA must mail a copy of a decision or order to the interpreter for use in oral translation.

REPRESENTATION DURING THE HEARING PROCESS

NEW SECTION

WAC 388-02-0155 Who represents you during the hearing process? (1) You may represent yourself or have anyone represent you, except a DSHS employee.

(2) Your representative may be a friend, relative, community advocate, attorney, or paralegal.

NEW SECTION

WAC 388-02-0160 If a DSHS employee cannot represent you, can they assist you during the hearing process? Although DSHS employees cannot represent you during the hearing process, they may assist you by.

- (1) Acting as a witness;
- (2) Referring you to community legal resources;
- (3) Helping you get nonconfidential information; or
- (4) Informing you about or providing copies of the applicable laws or rules.

NEW SECTION

WAC 388-02-0165 What if you would like to be represented by an attorney but you cannot afford one? (1) Neither DSHS nor OAH will pay for an attorney.

(2) If you want an attorney to represent you and cannot afford one, community resources may be available to assist you. These legal services may be free or available at a reduced cost. DSHS or OAH can tell you who to contact for legal assistance.

(3) Information about legal assistance can also be found at <http://www.oah.wa.gov>.

NEW SECTION

WAC 388-02-0170 Who represents DSHS during the hearing? (1) A DSHS employee, DSHS contractor, or the office of the attorney general represents DSHS during the hearing. The DSHS representative may or may not be an attorney.

(2) An ALJ is independent and does not represent DSHS, or any other party.

PREHEARING MEETING WITH A DSHS REPRESENTATIVE

NEW SECTION

WAC 388-02-0175 What is a prehearing meeting? (1) A prehearing meeting is an informal meeting with a DSHS representative that may be held before any prehearing conference or hearing.

(2) A DSHS representative may contact you before the scheduled hearing to arrange a prehearing meeting. You may also contact DSHS to request a prehearing meeting.

(3) A prehearing meeting is voluntary. You are not required to request one and you are not required to participate in one.

(4) The prehearing meeting includes you and/or your representative, the DSHS representative, and any other party. An ALJ does not attend a prehearing meeting.

(5) The prehearing meeting gives the parties an opportunity to:

- (a) Clarify issues;
- (b) Exchange documents and witness statements;
- (c) Resolve issues through agreement or withdrawal; and
- (d) Ask questions about the hearing process and the laws and rules that apply.

(6) A prehearing meeting may be held or information exchanged:

- (a) In person;
- (b) By telephone conference call;
- (c) Through correspondence; or
- (d) Any combination of the above that is agreeable to the parties.

(7) If a prehearing conference is required by the program or rule, a prehearing meeting may not be an option available to you.

NEW SECTION

WAC 388-02-0180 What happens during a prehearing meeting? During a prehearing meeting:

- (1) A DSHS representative:
 - (a) Explains the role of DSHS in the hearing process;
 - (b) Explains how a hearing is conducted and the relevant laws and rules that apply;
 - (c) Explains your right to representation during the hearing;
 - (d) Responds to your questions about the hearing process;
 - (e) Identifies accommodation and safety issues;
 - (f) Distributes copies of the DSHS documents to be presented during the hearing;
 - (g) Provides, upon request, copies of laws and rules DSHS determines are relevant;
 - (h) Identifies additional documents or evidence you may want or be required to present during the hearing;
 - (i) Tells you how to obtain documents from your file;
 - (j) Clarifies the issues; and
 - (k) Attempts to settle the dispute, if possible.

(2) You should explain your position and provide documents that relate to your case. You also have the right to consult legal resources.

(3) You and the DSHS representative may enter into written agreements or stipulations, including agreements that settle your dispute.

NEW SECTION

WAC 388-02-0185 What happens after a prehearing meeting? (1) If you and DSHS resolve the dispute during the prehearing meeting and put it in writing or present the agreement to an ALJ, your agreement may be legally enforceable.

PROPOSED

(2) Any agreements or stipulations made at the prehearing meeting must be presented to an ALJ before or during the hearing, if you want the ALJ to consider the agreement.

(3) If all of your issues are not resolved in the prehearing meeting, you may request a prehearing conference before an ALJ or go to your scheduled hearing. The ALJ may also order a prehearing conference.

(4) You may withdraw your hearing request at any time if DSHS agrees to some action that resolves your dispute, or for any other reason. If you withdraw your hearing request, the hearing is not held and the ALJ sends a written order of dismissal.

NEW SECTION

WAC 388-02-0190 What happens if you do not participate in a prehearing meeting? You are not required to participate in a prehearing meeting. If you do not participate, it does not affect your right to a hearing.

PREHEARING CONFERENCE WITH AN ADMINISTRATIVE LAW JUDGE

NEW SECTION

WAC 388-02-0195 What is a prehearing conference?

(1) A prehearing conference is a formal meeting conducted by an ALJ to prepare for a hearing.

(2) Either the ALJ or a party may request a prehearing conference, but the ALJ decides whether to hold a prehearing conference. OAH sends notice of the conference to all parties.

(3) An ALJ may conduct the conference in person, by telephone conference call, by electronic means, or in any other manner acceptable to the parties. Your attendance is mandatory.

(4) A party may lose the right to participate during the hearing if that party does not attend the prehearing conference.

NEW SECTION

WAC 388-02-0200 What happens during a prehearing conference? During a prehearing conference the parties and the ALJ may:

(1) Simplify or clarify the issues to be decided during the hearing;

(2) Agree to the date, time and place of the hearing;

(3) Identify accommodation and safety issues;

(4) Agree to postpone the hearing;

(5) Allow the parties to make changes in their own documents, including the DSHS notice or the hearing request;

(6) Agree to facts and documents to be entered during the hearing;

(7) Set a deadline to exchange names and phone numbers of witnesses and documents before the hearing;

(8) Schedule additional prehearing conferences;

(9) Resolve the dispute;

(10) Consider granting a stay if authorized by law or DSHS rule; or

(11) Determine any other procedural issues raised by the parties.

NEW SECTION

WAC 388-02-0205 What happens after a prehearing conference? (1) After the conference ends, the ALJ must send a prehearing order describing:

(a) The actions taken;

(b) Any changes to the documents; and

(c) Any agreements reached.

(2) A party may object to the prehearing order by notifying the ALJ in writing within ten days after the mailing date of the order. The ALJ must issue a ruling on the objection.

(3) If no objection is made to the prehearing order, the order determines how the hearing is conducted, including whether the hearing will be in person or held by telephone conference or other means, unless the ALJ changes the order for good cause.

(4) The ALJ may take further appropriate actions to address other concerns.

NEW SECTION

WAC 388-02-0210 What happens if a party does not attend a prehearing conference? (1) All parties are required to attend a prehearing conference.

(2) If you do not attend, you may not be allowed to participate in the hearing. The ALJ may dismiss your hearing request or enter an order of default against you.

(3) If DSHS does not attend, the ALJ may dismiss the action DSHS took against you.

ADMINISTRATIVE LAW JUDGES

NEW SECTION

WAC 388-02-0215 What is the authority of the ALJ?

(1) An ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing.

(2) As needed, an ALJ may:

(a) Determine the order for presenting evidence;

(b) Issue subpoenas or orders directing witnesses to appear or bring documents;

(c) Rule on objections, motions, and other procedural matters;

(d) Rule on an offer of proof made to admit evidence;

(e) Admit relevant evidence;

(f) Impartially question witnesses to develop the record;

(g) Call additional witnesses and request exhibits to complete the record;

(h) Give the parties an opportunity to cross-examine witnesses or present more evidence against the witnesses or exhibits;

(i) Keep order during the hearing;

(j) Allow or require oral or written argument and set the deadlines for the parties to submit argument or evidence;

(k) Permit others to attend, photograph or electronically record hearings, but may place conditions to preserve confidentiality or prevent disruption;

(l) Allow a party to waive rights given by chapters 34.05 RCW or 388-02 WAC, unless another law prevents it;

(m) Decide whether a party has a right to a hearing;

(n) Issue protective orders;

(o) Consider granting a stay if authorized by law or DSHS rule; and

(p) Take any other action necessary and authorized under these or other rules.

(3) An ALJ administers oaths or affirmations and takes testimony.

(4) A review judge has the same authority as an ALJ when presiding at a hearing.

NEW SECTION

WAC 388-02-0220 What rules and laws must an ALJ and review judge apply when making a decision? (1) ALJs and review judges must first apply the DSHS rules adopted in the Washington Administrative Code.

(2) If no DSHS rule applies, the ALJ or review judge must decide the issue according to the best legal authority and reasoning available, including federal and Washington state constitutions, statutes, regulations, and court decisions.

NEW SECTION

WAC 388-02-0225 May an ALJ or review judge decide that a DSHS rule is invalid? (1) Neither an ALJ nor a review judge may decide that a DSHS rule is invalid or unenforceable.

(2) If the validity of a DSHS rule is raised during the hearing, the ALJ or review judge may allow argument for court review.

NEW SECTION

WAC 388-02-0230 When is the ALJ assigned to the hearing? OAH assigns an ALJ at least five business days before the hearing. A party may ask which ALJ is assigned to the hearing by calling or writing the OAH field office listed on the notice of hearing.

NEW SECTION

WAC 388-02-0235 May a party request a different judge? A party may file a motion of prejudice against an ALJ under RCW 34.12.050. A party may also request that an ALJ or review judge be disqualified under RCW 34.05.425.

NEW SECTION

WAC 388-02-0240 How does a party file a motion of prejudice? (1) A party may request a different ALJ by sending a written motion of prejudice at least three business days before the hearing, or before the ALJ rules on a discretionary issue in the case. A motion of prejudice must include an affi-

davit or declaration that a party does not believe that the ALJ can hear the case fairly.

(2) The party must send the request to the OAH field office where the ALJ works.

(3) The first timely request for a different ALJ is automatically granted. Any later request may be granted or denied by the chief ALJ or a designee.

NEW SECTION

WAC 388-02-0245 May an ALJ or review judge be disqualified? (1) An ALJ or review judge may be disqualified for bias, prejudice, or conflict of interest, or if one of the parties or a party's representative has an ex parte contact with the ALJ or review judge.

(2) Ex parte contact means a written or oral communication with the ALJ or review judge about something related to the hearing when the other parties are not present. Procedural questions are not considered an ex parte contact. Examples of procedural questions include clarifying the hearing date, time, or location or asking for directions to the hearing location.

(3) To ask to disqualify an ALJ or review judge a party must send a written petition for disqualification. A petition for disqualification is a written explanation to request assignment of a different ALJ or review judge. A party must promptly make the petition upon discovery of possible bias, conflict of interest or an ex parte contact.

(4) A party must send or deliver the petition to the ALJ or review judge assigned to the case. That ALJ or review judge must decide whether to grant or deny the petition and must state the facts and reasons for the decision.

NOTICES

NEW SECTION

WAC 388-02-0250 What happens after you request a hearing? (1) After you request a hearing, OAH sends a notice of hearing to all parties and their representatives. OAH sends the notice of hearing at least seven business days before the hearing date.

(2) OAH may schedule a prehearing conference. OAH sends a notice of prehearing conference at least seven business days before the prehearing conference date.

(3) You may ask for a prehearing meeting even after you have requested a hearing.

NEW SECTION

WAC 388-02-0255 What information must OAH include in the notice of hearing? (1) A notice of hearing is a written notice that must include:

(a) The names of all parties who receive the notice and, if known, the names and addresses of their representatives;

(b) The name, mailing address, and telephone number of the ALJ, if known;

(c) The date, time, place, and nature of the hearing;

(d) The legal authority and jurisdiction for the hearing; and

(e) The date of the hearing request.

(2) OAH also sends you information with your notice of hearing telling you the following:

(a) If you fail to attend or participate in a prehearing conference or a hearing, you may lose your right to a hearing. Then the ALJ may send:

- (i) An order of default against you; or
- (ii) An order dismissing the hearing.

(b) If you need a qualified interpreter because you or any of your witnesses are persons with limited English proficiency, OAH will provide an interpreter at no cost to you.

(c) If the hearing is to be held by telephone or in person, and how to request a change in the way it is held.

(d) How to indicate any special needs for yourself or your witnesses, including the need for an interpreter in a primary language or for sensory impairments.

(e) How to contact OAH if a party has a safety concern.

NEW SECTION

WAC 388-02-0260 May DSHS amend a notice? (1) The ALJ must allow DSHS to amend (change) the notice of a DSHS action before or during the hearing to match the evidence and facts.

(2) DSHS must put the change in writing and give a copy to the ALJ and the other parties.

(3) The ALJ must offer to continue or postpone the hearing to give the parties more time to prepare or present evidence or argument if there is a significant change from the earlier DSHS notice.

(4) If the ALJ grants a continuance, OAH must send, a new hearing notice at least seven business days before the hearing date.

NEW SECTION

WAC 388-02-0265 May you amend your hearing request? (1) The ALJ may allow you to amend your hearing request before or during the hearing.

(2) The ALJ may postpone the hearing to give the other parties more time to prepare or present evidence or argument because of a significant change in the hearing request.

(3) If the ALJ grants a continuance, OAH must send a new hearing notice at least seven business days before the hearing date.

NEW SECTION

WAC 388-02-0270 Must you tell DSHS and OAH when your mailing address changes? (1) You must tell DSHS and OAH, as soon as possible, when your mailing address changes.

(2) If you do not notify DSHS and OAH of a change in your mailing address and they continue to send notices and other important papers to your last known mailing address, the ALJ may assume that you received the documents.

CONTINUANCES

NEW SECTION

WAC 388-02-0275 What is a continuance? A continuance is a change in the date or time of a prehearing conference, hearing or the deadline for other action.

NEW SECTION

WAC 388-02-0280 Who may request a continuance?

(1) Any party may request a continuance either orally or in writing.

(2) Before contacting the ALJ to request a continuance, a party should contact the other parties, if possible, to find out if they will agree to a continuance. If you are unable to contact the parties, OAH or DSHS must assist you in contacting them.

(3) The party making the request for a continuance must let the ALJ know whether the other parties agreed to the continuance.

(a) If the parties agree to a continuance, the ALJ grants it unless the ALJ finds that good cause for a continuance does not exist.

(b) If the parties do not agree to a continuance, the ALJ sets a hearing to decide whether there is good cause to grant or deny the continuance.

(4) If a continuance is granted, OAH sends notice of the changed time and date of the hearing.

DISMISSALS

NEW SECTION

WAC 388-02-0285 What is an order of dismissal? (1)

An order of dismissal is an order sent by the ALJ to end the hearing. The order is made because the party who requested the hearing withdrew the request, failed to appear, or refused to participate, resulting in a default.

(2) If your hearing is dismissed because you did not appear or refused to participate, the DSHS decision stands.

(3) If the hearing is dismissed due to a written agreement between the parties, the parties must follow the agreement.

NEW SECTION

WAC 388-02-0290 If your hearing is dismissed, may you request another hearing? (1) If the ALJ sends an order dismissing your hearing, you may ask that the ALJ vacate (set aside) the order of dismissal.

(2) If the order of dismissal is vacated, your hearing is reinstated, which means you get another opportunity to have a hearing on your initial request for hearing.

NEW SECTION

WAC 388-02-0295 Where do you send a request to vacate an order of dismissal? You must send your request to vacate an order of dismissal to BOA or OAH. You should specify in your request why the order of dismissal should be

vacated. BOA forwards any request received to OAH to schedule a hearing. OAH sends you a notice of the hearing on the request to vacate the order of dismissal.

NEW SECTION

WAC 388-02-0300 What is the deadline for vacating an order of dismissal? (1) You must send your request to vacate an order to OAH or BOA twenty-one calendar days after the date the order of dismissal was mailed to you. If no request is received within that deadline, the dismissal order becomes a final order.

(2) You may make a late request to vacate the order of dismissal for up to one year after it was mailed but you must show good cause according to WAC 388-02-0020 for the late request to be accepted and the dismissal to be vacated.

(3) If you ask to vacate more than one year after the order was mailed, the ALJ may vacate the order of dismissal if the DSHS representative and any other party agrees to waive (excuse) the deadline.

NEW SECTION

WAC 388-02-0305 How does an ALJ vacate an order of dismissal? (1) If your request was received more than twenty-one days, but less than one year after the dismissal order was mailed, the ALJ first must decide if you have good cause according to WAC 388-02-0020.

(2) If your request was timely or you show good cause for missing the deadline, the ALJ will receive evidence and argument at a hearing from the parties on whether the order of dismissal should be vacated.

(3) The ALJ vacates an order of dismissal and reinstates the hearing if you show good cause or if the DSHS representative agrees to waive the deadline. You will then be allowed to present your case about your original request for hearing, either at the same time or at a later date if a continuance is granted.

STAYS

NEW SECTION

WAC 388-02-0310 May a party request a stay of DSHS action? A party may request that an ALJ or review judge stay (stop) a DSHS action until there is a decision entered by the ALJ or review judge. An ALJ or review judge decides whether to grant the stay.

SUBPOENAS

NEW SECTION

WAC 388-02-0315 May a party require witnesses to testify or provide documents? A party may require witnesses to testify or provide documents by issuing a subpoena. A subpoena is an order to appear at a certain time and place to give testimony, or to provide books, documents, or other items.

NEW SECTION

WAC 388-02-0320 Who may prepare a subpoena?

(1) ALJs, DSHS, and attorneys for the parties may prepare subpoenas. If an attorney does not represent you, you may ask the ALJ to prepare a subpoena on your behalf. The ALJ may schedule a hearing to decide whether to issue a subpoena.

(2) An ALJ may deny a request for a subpoena. For example, an ALJ may deny a request for a subpoena when the ALJ determines that a witness has no actual knowledge regarding the facts or that the documents are not relevant.

NEW SECTION

WAC 388-02-0325 How is a subpoena served? (1)

Any person who is at least eighteen years old and not a party to the hearing may serve a subpoena.

(2) Service of a subpoena is complete when the server:

- (a) Gives the witness a copy of the subpoena; or
- (b) Leaves a copy at the residence of the witness with a person over the age of eighteen.

(3) To prove that a subpoena was served on a witness, the person serving the subpoena must sign a written, dated statement including:

- (a) Who was served with the subpoena;
- (b) When the subpoena was served;
- (c) Where the subpoena was served; and
- (d) The name, age, and address of the person who served the subpoena.

NEW SECTION

WAC 388-02-0330 May the ALJ quash a subpoena?

(1) A party may request that an ALJ quash (set aside) or change the subpoena request at any time before the deadline given in the subpoena.

(2) An ALJ may set aside or change a subpoena if it is unreasonable.

(3) Witnesses with safety or accommodation concerns should contact OAH.

NEW SECTION

WAC 388-02-0335 Do you have to pay for a subpoena? There is no cost to prepare a subpoena, but you may have to pay for:

- (1) Serving a subpoena;
- (2) Complying with a subpoena; and
- (3) Witness fees according to RCW 34.05.446(7).

HEARING METHODS

NEW SECTION

WAC 388-02-0340 How is your hearing held? (1)

Hearings may be held in person or by telephone conference.

(2) An in-person hearing is where:

- (a) The parties appear face-to-face with the ALJ; or
- (b) The parties appear by video conference.

PROPOSED

(3) Whether a hearing is held in person or by telephone conference, the parties have the right to see all documents, hear all testimony and question all witnesses.

(4) Parties or witnesses may appear in person or by telephone conference at the discretion of the ALJ.

NEW SECTION

WAC 388-02-0345 Is an ALJ present at your hearing? (1) If your hearing is scheduled as an in-person hearing, an ALJ is physically or visually present.

(2) If your hearing is scheduled as a telephone conference, an ALJ is present by telephone.

NEW SECTION

WAC 388-02-0350 Is your hearing recorded? An ALJ must tape record or provide a record or transcript of the hearing.

NEW SECTION

WAC 388-02-0355 Who may attend your hearing? (1) All parties and their representatives may attend the hearing.

(2) Witnesses may be excluded from the hearing if the ALJ finds good cause.

(3) The ALJ may also exclude other persons from all or part of the hearing.

NEW SECTION

WAC 388-02-0360 May a party convert how a hearing is held? (1) The parties have the right to request that:

(a) A hearing be converted (changed) to an in-person hearing or a telephone conference; or

(b) A witness appear in person or by telephone conference. OAH must advise you of the right to request a change in how a witness appears.

(2) In all DSHS cases, except public assistance cases, a party requesting a change in how a hearing is held must show good cause. A party must also show good cause to change the way a witness appears (in-person or by telephone conference). Some examples of good cause are:

(a) A party does not speak or understand English well.

(b) A party wants to present a significant number of documents during the hearing.

(c) A party does not believe that one of the witnesses or another party is credible, and wants the ALJ to have the opportunity to see the testimony.

(d) A party has a disability or communication barrier that affects their ability to present their case.

(e) A party believes that the personal safety of someone involved in the hearing process is at risk.

(3) In public assistance cases, a party has the right to request that a hearing be changed without showing good cause to the ALJ. Public assistance programs include:

(a) Temporary assistance for needy families (TANF);

(b) General or medical assistance;

(c) Food stamps; and

(d) Refugee assistance.

NEW SECTION

WAC 388-02-0365 How does a party convert how a hearing is held or how the witnesses or parties appear? (1) If a party wants to convert the hearing or change how their witnesses or other parties appear, the party must contact OAH to request the change.

(2) The ALJ may schedule a prehearing conference to determine if the request should be granted.

(3) If the ALJ grants the request, the ALJ reschedules the hearing or changes how the witness or party appears.

(4) If the ALJ denies the request, the ALJ must issue a written order that includes findings of fact supporting why the request was denied.

NEW SECTION

WAC 388-02-0370 How are documents submitted for a telephone conference? (1) When a hearing is conducted by telephone, an ALJ may order the parties to provide the hearing documents at least five days before the hearing, so all parties have an opportunity to view them during the hearing.

(2) DSHS may be able to help you copy and send your documents to the ALJ and any other parties.

NEW SECTION

WAC 388-02-0375 What happens at your hearing? At your hearing:

(1) The ALJ:

(a) Explains your rights;

(b) Marks and admits or rejects exhibits;

(c) Ensures that a record is made;

(d) Explains that a decision is mailed after the hearing;

(e) Notifies the parties of appeal rights;

(f) May keep the record open for a time after the hearing if needed to receive more evidence or argument; and

(g) May take actions as authorized according to WAC 388-02-0210.

(2) The parties may:

(a) Make opening statements to explain the issues;

(b) Offer evidence to prove their positions, including oral or written statements of witnesses;

(c) Question the witnesses presented by the other parties; and

(d) Give closing arguments about what the evidence shows and what laws apply.

(4) At the end of the hearing if the ALJ does not allow more time to send in evidence, the record is closed.

NEW SECTION

WAC 388-02-0380 What is a group hearing? (1) A group hearing may be held when two or more parties request a hearing about similar issues.

(2) Hearings may be combined at the request of the parties or the ALJ.

(3) All parties participating in a group hearing may have their own representative.

NEW SECTION

WAC 388-02-0385 May a party withdraw from a group hearing? (1) A party may withdraw from a group hearing by asking the ALJ for a separate hearing.

(2) If a party asks to withdraw from a group hearing before the ALJ makes a discretionary ruling or the hearing begins, the ALJ must give the party a separate hearing.

(3) If a party later shows good cause, the ALJ may give the party a separate hearing at any time during the hearing process.

EVIDENCE

NEW SECTION

WAC 388-02-0390 What is evidence? (1) Evidence includes documents, objects, and testimony of witnesses that parties give during the hearing to help prove their positions.

(2) Evidence may be all or parts of original documents or copies of the originals.

(3) Parties may offer statements signed by a witness under oath or affirmation as evidence, if the witness cannot appear.

(4) Testimony given with the opportunity for cross-examination by the other parties may be given more weight by the ALJ.

NEW SECTION

WAC 388-02-0395 When may the parties bring in evidence? (1) The parties may bring evidence to any prehearing meeting, prehearing conference, or hearing, or may send in evidence before these events.

(2) The ALJ may set a deadline before the hearing for the parties to provide proposed exhibits and names of witnesses. If the parties miss the deadline, the ALJ may refuse to admit the evidence unless the parties show:

- (a) They have good cause for missing the deadline; or
- (b) That the other parties agree.

(3) If the ALJ gives the parties more time to submit evidence, the parties may send it in after the hearing. The ALJ may allow more time for the other parties to respond to the new evidence.

NEW SECTION

WAC 388-02-0400 What evidence may the parties present during the hearing? The parties may bring any documents and witnesses to the hearing to support their position. However, the following provisions apply:

- (1) The other parties may object to the evidence and question the witnesses;
- (2) The ALJ determines whether the evidence is admitted and what weight (importance) to give it;

(3) If the ALJ does not admit the evidence the parties may make an offer of proof to show why the ALJ should admit it;

(4) To make an offer of proof a party presents evidence and argument on the record to show why the ALJ should consider the evidence; and

(5) The offer of proof preserves the argument for appeal.

NEW SECTION

WAC 388-02-0405 What is a stipulation? (1) A stipulation is an agreement among two or more parties that certain facts or evidence is correct or authentic.

(2) If an ALJ accepts a stipulation, the ALJ must enter it into the record.

(3) A stipulation may be made before or during the hearing.

NEW SECTION

WAC 388-02-0410 After the parties agree to a stipulation, may they change or reject it? (1) A party may change or reject a stipulation after it has been made.

(2) To change or reject a stipulation, a party must show the ALJ that:

- (a) The party did not intend to make the stipulation or was mistaken when making it; and
- (b) Changing or rejecting the stipulation does not harm the other parties.

NEW SECTION

WAC 388-02-0415 What are proposed exhibits? Proposed exhibits are documents or other objects that a party wants the ALJ to consider when reaching a decision. After the document or object is accepted by the ALJ, it is admitted and becomes an exhibit.

NEW SECTION

WAC 388-02-0420 Do the parties mark and number their proposed exhibits? (1) DSHS representatives must mark and number their proposed exhibits and provide copies to the other parties as far ahead of the hearing as possible.

(2) The ALJ may request that you mark and number your proposed exhibits before the hearing. You should bring enough copies of your proposed exhibits for all parties. If you do not bring enough copies, you must make your proposed exhibits available for copying.

(3) If you cannot afford to pay for copies of proposed exhibits, either DSHS or OAH must make the copies for you.

(4) The ALJ may require proof that you are unable to pay.

NEW SECTION

WAC 388-02-0425 Who decides whether to admit proposed exhibits into the record? (1) The ALJ decides whether or not to admit a proposed exhibit into the record and also determines the weight (importance) of the evidence.

PROPOSED

(2) The ALJ admits proposed exhibits into the record by marking, listing, identifying, and admitting the proposed exhibits.

(3) The ALJ may also exclude proposed exhibits from the record.

(4) The ALJ must make rulings on the record to admit or exclude exhibits.

NEW SECTION

WAC 388-02-0430 What may a party do if they disagree with an exhibit? (1) A party may object to the authenticity or admissibility of any exhibit, or offer argument about how much weight the ALJ should give the exhibit.

(2) Even if a party agrees that a proposed exhibit is a true and authentic copy of a document, the agreement does not mean that a party agrees with:

(a) Everything in the exhibit or agrees that it should apply to the hearing;

(b) What the exhibit says; or

(c) How the ALJ should use the exhibit to make a decision.

NEW SECTION

WAC 388-02-0435 When should an ALJ receive proposed exhibits for a telephone hearing? (1) Parties should send their proposed exhibits to the ALJ and the other parties at least five days before the telephone hearing. In some cases, the ALJ may require that the parties send them earlier.

(2) Sending the proposed exhibits to the ALJ before the telephone hearing allows all parties to use them during the hearing.

(3) For a telephone hearing, DSHS may help you send copies of your proposed exhibits to the ALJ and the other parties if you cannot afford to do so.

NEW SECTION

WAC 388-02-0440 What is judicial notice? (1) Judicial notice is evidence that includes facts or standards that are generally recognized and accepted by judges, government agencies, or national associations.

(2) For example, an ALJ may take judicial notice of a calendar, a building code or a standard or practice.

NEW SECTION

WAC 388-02-0445 How does the ALJ respond to requests to take judicial notice? (1) The ALJ may consider and admit evidence by taking judicial notice.

(2) If a party requests judicial notice, or if the ALJ intends to take judicial notice, the ALJ may ask the party to provide a copy of the document that contains the information.

(3) If judicial notice has been requested, or if the ALJ intends to take judicial notice, the ALJ must tell the parties before or during the hearing.

(4) The ALJ must give the parties time to object to judicial notice evidence.

WITNESSES

NEW SECTION

WAC 388-02-0450 What is a witness? (1) A witness is any person who makes statements or gives testimony that becomes evidence in a hearing.

(2) One type of witness is an expert witness. An expert witness is qualified by knowledge, experience, and education to give opinions or evidence in a specialized area.

NEW SECTION

WAC 388-02-0455 Who may be a witness? (1) A witness may be:

(a) You or the DSHS representative; or

(b) Anyone you, the ALJ, or the DSHS representative asks to be a witness, including DSHS employees.

(2) The ALJ decides who may testify as a witness.

(3) Unless DSHS agrees, a former DSHS employee may not be an expert witness against DSHS if that employee was actively involved in the case while working for DSHS.

NEW SECTION

WAC 388-02-0460 How do witnesses testify? All witnesses:

(1) Must affirm or take an oath to testify truthfully during the hearing.

(2) May testify in person or by telephone.

(3) May request interpreters from OAH at no cost to you.

(4) May be subpoenaed and ordered to appear according to WAC 388-02-0315.

NEW SECTION

WAC 388-02-0465 May the parties cross-examine a witness? (1) The parties have the right to cross-examine (question) each witness.

(2) If a party has a representative, only the representative, and not the party, may question the witness.

(3) The ALJ may also question witnesses.

NEW SECTION

WAC 388-02-0470 May witnesses refuse to answer questions? Witnesses may refuse to answer questions. However, if a witness refuses to answer, the ALJ may reject all of the related testimony of that witness.

PROOF

NEW SECTION

WAC 388-02-0475 What evidence does an ALJ consider? (1) The ALJ may only consider admitted evidence to decide the case.

(2) Admission of evidence is based upon the reasonable person standard. This standard means evidence that a reasonable person would rely on in making a decision.

(3) The ALJ may admit and consider hearsay evidence. Hearsay is a statement made outside of the hearing used to prove the truth of what is in the statement. The ALJ may base a finding only on hearsay evidence, if the ALJ finds that the parties had the opportunity to question or contradict it.

(4) The ALJ may reject evidence, if it:

- (a) Is not relevant;
 - (b) Repeats evidence already admitted; or
 - (c) Is from a privileged communication protected by law.
- (5) The ALJ must reject evidence if required by law.

(6) The ALJ decides:

- (a) What evidence is more credible if evidence conflicts;

and

- (b) The weight given to the evidence.

NEW SECTION

WAC 388-02-0480 What does burden of proof mean? The party who has the burden of proof is the party who has the responsibility to provide evidence to persuade the ALJ that a position is correct.

NEW SECTION

WAC 388-02-0485 What is the standard of proof? Standard of proof refers to the amount of evidence needed to prove a party's position. Unless the rules or law states otherwise, the standard of proof in a hearing is a preponderance of the evidence. This standard means that it is more likely than not that something happened or exists.

NEW SECTION

WAC 388-02-0490 How is a position proven at hearing? The ALJ decides if a party has met the burden of proof. The ALJ writes a decision based on the evidence presented during the hearing and consistent with the law.

NEW SECTION

WAC 388-02-0495 What is equitable estoppel? (1) Equitable estoppel is a legal doctrine defined in case law that may prevent DSHS from taking some action against you, such as collecting an overpayment.

(2) There are five elements of equitable estoppel. The standard of proof is clear and convincing evidence. You must prove all of the following:

(a) DSHS made a statement or took action or failed to take action, which is inconsistent with a later claim or position by DSHS. For example, DSHS gave you money based on your application, then later tells you that you received an overpayment and wants you to pay the money back based on the same information.

(b) You relied on DSHS' original statement, action or failure to act. For example, you believed DSHS acted correctly when you received money.

(c) You will be injured to your detriment if DSHS is allowed to contradict the original statement, action or failure to act. For example, you did not seek help from health clinics or food banks because you were receiving benefits from

DSHS and you would have been eligible for these other benefits.

(d) Equitable estoppel is needed to prevent a manifest injustice. For example, you cannot afford to repay the money to DSHS, and you gave DSHS timely and accurate information when required but did not know that DSHS made a mistake.

(e) The exercise of government functions is not impaired. For example, the overpayment was not your fault and it was caused solely by a DSHS mistake.

(3) If the ALJ concludes that you have proven all of the elements of equitable estoppel in subsection (2) of this section with clear and convincing evidence, DSHS is stopped or prevented from taking action or enforcing a claim against you.

RECORD CLOSURE

NEW SECTION

WAC 388-02-0500 What may an ALJ do before the record is closed? Before the record is closed, the ALJ may:

- (1) Set another hearing date;
- (2) Enter orders to address limited issues if needed before writing and mailing a hearing decision to resolve all issues in the proceeding; or
- (3) Give the parties more time to send in exhibits or written argument.

NEW SECTION

WAC 388-02-0505 When is the record closed? The record is closed:

- (1) At the end of the hearing if the ALJ does not allow more time to send in evidence or argument; or
- (2) After the deadline for sending in evidence or argument is over.

NEW SECTION

WAC 388-02-0510 What happens when the record is closed? No more evidence may be taken without good cause after the record is closed.

HEARING DECISIONS

NEW SECTION

WAC 388-02-0515 What happens after the record is closed? (1) After the record is closed, the ALJ must write a hearing decision and send copies to the parties.

(2) The maximum time an ALJ has to send a decision is ninety calendar days after the record is closed, but many DSHS programs have earlier deadlines. See those rules for the deadlines.

NEW SECTION

WAC 388-02-0520 What information must the ALJ include in the decision? The ALJ must include the following information in the decision:

- (1) Identify the hearing decision as a DSHS case;
- (2) List the name and docket number of the case and the names of all parties and representatives;
- (3) Find the facts used to resolve the dispute based on the hearing record;
- (4) Explain why evidence is credible when the facts or conduct of a witness is in question;
- (5) State the law that applies to the dispute;
- (6) Apply the law to the facts of the case in the conclusions of law;
- (7) Discuss the reasons for the decision based on the facts and the law;
- (8) State the result and remedy ordered;
- (9) Explain how to request changes in the decision and the deadlines for requesting them;
- (10) State the date the decision becomes final according to WAC 388-02-0520; and
- (11) Include any other information required by law or DSHS program rules.

NEW SECTION

WAC 388-02-0525 When does a decision become final? (1) In most cases, if no one requests review, the hearing decision is final twenty-one calendar days after it is mailed.

(2) In food stamp cases involving a claim of an intentional program violation, the ALJ decision is preliminary and the review judge sends a final decision whether or not a party requests review.

(3) If a review request is dismissed, the hearing decision becomes final twenty-one calendar days after mailing the hearing decision.

NEW SECTION

WAC 388-02-0530 What if a party disagrees with the decision? (1) If a party disagrees with a decision because of a clerical error, the party may ask for a corrected decision from the ALJ.

(2) If a party disagrees with the hearing decision and wants it changed, the party must request review by BOA.

(3) If a party wants to stay the DSHS action until review is completed, the party must request a stay from a review judge.

NEW SECTION

WAC 388-02-0535 Who may ask for a change in a decision? Any party to a hearing may ask for a review or a corrected decision.

CLERICAL ERRORS IN DECISIONS

NEW SECTION

WAC 388-02-0540 How are clerical errors corrected? (1) A clerical error is a mistake that does not change the intent of the decision.

(2) The ALJ corrects clerical errors in the hearing decisions by issuing a second decision referred to as a corrected decision.

(3) Some examples of clerical error are:

- (a) Missing or incorrect words or numbers;
- (b) Dates inconsistent with the decision or evidence in the record such as using May 3, 1989, instead of May 3, 1998; or;
- (c) Math errors when adding the total of an overpayment or a child support debt.

NEW SECTION

WAC 388-02-0545 How does a party ask for a corrected decision? (1) A party may ask for a corrected decision by calling or writing the OAH office that held your hearing.

(2) When asking for a corrected decision, please identify the clerical error you found.

NEW SECTION

WAC 388-02-0550 How much time do the parties have to ask for a corrected decision? The parties must ask OAH for a corrected decision on or before the tenth calendar day after the hearing decision was mailed.

NEW SECTION

WAC 388-02-0555 What happens when a party requests a corrected decision? (1) When a party requests a corrected decision, the ALJ must either:

- (a) Send all parties a corrected decision; or
- (b) Deny the request within three business days of receiving it.

(2) If the ALJ corrects the hearing decision and a party does not request review, the corrected decision becomes final twenty-one calendar days after the original hearing decision was mailed.

(3) If the ALJ denies a request for a corrected decision and the party still wants the hearing decision changed, the party must request review from the board of appeals.

(4) Requesting a corrected decision does not automatically extend the deadline to request review by BOA. A party may ask for more time to request review when needed.

REQUESTS FOR REVIEW

NEW SECTION

WAC 388-02-0560 What is review? (1) Review occurs when a party disagrees or wants a change in the hearing decision, other than correcting a clerical error.

(2) A party must request review from the BOA.

(3) The review judge considers the request, the hearing decision, and record, before deciding if the decision may be changed.

(4) Review does not include another hearing by the BOA.

NEW SECTION

WAC 388-02-0565 What evidence does the review judge consider in a decision? (1) The review judge, in most cases, only considers evidence given at the original hearing.

(2) The review judge may allow the parties to make oral argument on review.

NEW SECTION

WAC 388-02-0570 Who may request review? (1) Any party may request BOA to review a hearing decision.

(2) If more than one party requests review, each request must meet the deadlines in WAC 388-02-0575.

NEW SECTION

WAC 388-02-0575 What must a party include in the review request? A party must make the review request in writing and clearly identify the:

(1) Parts of the hearing decision with which the party disagrees; and

(2) Evidence supporting the party's position.

NEW SECTION

WAC 388-02-0580 What is the deadline for requesting review? (1) BOA must receive the written review request on or before the twenty-first calendar day after the hearing decision was mailed.

(2) A review judge may extend the deadline if a party:

(a) Asks for more time before the deadline expires; and

(b) Gives a good reason for more time.

(3) A review judge may accept a review request after the twenty-one calendar day deadline only if:

(a) The BOA receives the review request on or before the thirtieth calendar day after the deadline; and

(b) A party shows good reason for missing the deadline.

NEW SECTION

WAC 388-02-0585 Where does a party send a review request? (1) A party must send a review request to BOA at the address given in WAC 388-02-0030. A party should also send a copy of the review request to the other parties.

(2) After receiving a party's review request, BOA sends a copy to the other parties, OAH, and representatives giving them time to respond.

NEW SECTION

WAC 388-02-0590 How does a party respond to the review request? (1) A party does not have to respond to the review request. A response is optional.

(2) If a party responds, that party must send the response so that BOA receives it on or before the seventh business day after the date the review request was mailed to the party by BOA.

(3) The party must send a copy of the response to any other party or representative.

(4) If a party needs more time to respond, the party must contact BOA and give a good reason.

(5) A review judge may accept and consider a party's response even if it is received after the deadline.

NEW SECTION

WAC 388-02-0595 What happens after the response deadline? (1) After the response deadline, the record on review is closed unless there is a good reason to keep it open.

(2) A review judge is assigned to the review after the record is closed. To find out which judge is assigned, call BOA.

(3) After the record is closed, the assigned review judge:

(a) Reviews the case; and

(b) Sends a review decision that either affirms, changes, dismisses or reverses the hearing decision; or

(c) Remands (returns) the case to OAH for further action.

REVIEW JUDGES

NEW SECTION

WAC 388-02-0600 What is the authority of the review judge? (1) A review judge has the same decision-making authority as an ALJ in the following cases, but must consider the ALJ's opportunity to observe the witnesses:

(a) Licensing, certification and related civil fines;

(b) Rate-making proceedings; and

(c) Parent address disclosure.

(2) In all other cases, a review judge may only change the hearing decision if:

(a) There are irregularities, including misconduct of a party or misconduct of the ALJ or abuse of discretion by the ALJ, that affected the fairness of the hearing;

(b) The findings of fact are not supported by substantial evidence based on the entire record;

(c) The decision includes errors of law;

(d) The decision needs to be clarified before the parties can implement it; or

(e) Findings of fact must be added because the ALJ failed to make an essential factual finding. The additional findings must be supported by substantial evidence in view of the entire record and must be consistent with the ALJ's findings that are supported by substantial evidence based on the entire record.

(3) Review judges have the authority to remand cases to the ALJ for further action.

REQUESTS FOR RECONSIDERATION OF A REVIEW DECISION

NEW SECTION

WAC 388-02-0605 What if a party does not agree with a review decision? (1) If a party does not agree with the review decision and wants it changed, the party must either:

- (a) Ask the review judge to reconsider the decision; or
- (b) Appeal the review decision to superior court which is judicial review according to WAC 388-02-0640.

(2) RCW 34.05.510 to 34.05.598 governs how to appeal a review decision to superior court.

(3) The review decision or the reconsideration decision is the final agency decision. If a party disagrees with that decision, the party must petition for judicial review to change it.

(4) The party may ask the court to stay or stop the DSHS action after filing the petition for judicial review.

NEW SECTION

WAC 388-02-0610 What is reconsideration? (1) Reconsideration is asking the review judge to reconsider the review decision because the party believes the review judge made a mistake.

(2) If the party asks the review judge to reconsider the review decision, the reconsideration process must be completed before you go to court. Completion of the process occurs when the review judge sends a reconsideration decision.

NEW SECTION

WAC 388-02-0615 What must a party include in the reconsideration request? The party must make the request in writing and clearly state why the party wants the review judge to reconsider the review decision.

NEW SECTION

WAC 388-02-0620 What is the deadline for requesting reconsideration? (1) The BOA must receive a written reconsideration request on or before the tenth calendar day after the review decision was mailed.

(2) If a reconsideration request is timely, the deadline for asking for superior court review stops until a reconsideration decision or order denying reconsideration is mailed.

(3) If a reconsideration request is received after the deadline, the deadline to ask for superior court review continues to run. The review judge will not reconsider the review decision.

(4) A review judge may extend the deadline if a party:

- (a) Asks for more time before the deadline expires; and
- (b) Gives a good reason for the extension.

(5) If a party does not request reconsideration or ask for an extension within the deadline, the review judge cannot reconsider the review decision and it becomes the final agency decision.

NEW SECTION

WAC 388-02-0625 Where does a party send a reconsideration request? (1) A party must send a written reconsideration request to BOA at the address in WAC 388-02-0030.

(2) After receiving a reconsideration request, BOA sends a copy to the other parties and representatives giving them time to respond.

NEW SECTION

WAC 388-02-0630 How does a party respond to a reconsideration request? (1) A party does not have to respond to a request. A response is optional.

(2) If a party responds, that party must send a response to BOA by or before the seventh business day after the date BOA mailed the request to the party.

(3) A party must send a copy of the response to any other party or representative.

(4) If a party needs more time to respond, the review judge may extend the deadline if the party gives a good reason.

NEW SECTION

WAC 388-02-0635 What happens after a party requests reconsideration? (1) After BOA receives a reconsideration request, a review judge has twenty calendar days to send a reconsideration decision unless BOA sends notice allowing the review judge more time.

(2) After BOA receives a reconsideration request, the review judge must either:

- (a) Write a reconsideration decision; or
- (b) Send all parties an order denying the request.

(3) If the review judge does not send an order or notice granting more time within twenty days of receipt of the reconsideration request, the request is denied.

REQUESTS FOR JUDICIAL REVIEW

NEW SECTION

WAC 388-02-0640 What is judicial review? (1) Judicial review is the process of appealing a final hearing decision to a court.

(2) You may appeal a review decision by filing a written petition for judicial review that meets the requirements of RCW 34.05.546. DSHS may not request judicial review.

(3) You must consult RCW 34.05.510 to 34.05.598 for further details of the judicial review process.

NEW SECTION

WAC 388-02-0645 When must you ask for judicial review? (1) You must file your petition for judicial review with the superior court within thirty calendar days after BOA mails its final decision.

(2) Generally, you may file a petition for judicial review only after you have completed the administrative hearing process.

NEW SECTION

WAC 388-02-0650 How do you serve your petition for judicial review? (1) You must file and serve the petition for judicial review of a review decision within thirty days after the date it was mailed. You must file your petition for judicial review with the court. You must serve copies of your petition on DSHS, the office of the attorney general, and all other parties.

(2) To serve DSHS, you must deliver a copy of the petition to the secretary of DSHS or to BOA. You may hand deliver the petition or send it by mail that gives proof of receipt. The physical location of the secretary is:

DSHS Office of the Secretary
OB-2, 4th Floor
Mail Stop 45010
14th and Jefferson
Olympia, WA 98504-5010

The mailing address of the secretary is:
DSHS Office of the Secretary
P.O. Box 45010
Olympia, WA 98504-5010

The physical and mailing addresses for BOA are in WAC 388-02-0030.

(3) To serve the office of the attorney general and other parties, you may send a copy of the petition for judicial review by regular mail. You may send a petition to the address for the attorney of record to serve a party. If the office of the attorney general has not yet appeared in your case, you may serve the office of the attorney general by mailing to:

Office of the Attorney General
P.O. Box 40124
Olympia WA 98504-0124

WSR 00-10-096
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)
[Filed May 2, 2000, 3:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-122.

Title of Rule: Support establishment notices. Proposed new rules: WAC 388-14A-3100 How does the division of child support establish a child support obligation when there is no child support order? WAC 388-14A-3102 When the parents have signed a paternity affidavit, which support establishment notice does the Division of Child Support serve on the noncustodial parent? WAC 388-14A-3105 How

does the division of child support serve support establishment notices? WAC 388-14A-3110 When can a support establishment notice become a final order? WAC 388-14A-3115 The notice and finding of financial responsibility is used to set child support when paternity is not an issue. WAC 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity. WAC 388-14A-3125 The notice and finding of medical responsibility is used to set a medical support obligation when the custodial parent receiving medical assistance declines full child support enforcement services. WAC 388-14A-3130 What happens if a parent makes a timely request for hearing on a support establishment notice? WAC 388-14A-3131 What happens if neither parent appears for the hearing? WAC 388-14A-3132 What happens if only one parent appears for the hearing? WAC 388-14A-3133 What happens when the noncustodial parent and the custodial parent both appear for the hearing? WAC 388-14A-3135 Late hearings, or hearing on untimely objections to support establishment notices. WAC 388-14A-3140 What can happen at a hearing on a support establishment notice? WAC 388-14A-3200 How does DCS determine my support obligation? and WAC 388-14A-3205 How does DCS calculate my income?

Proposed amended rules: WAC 388-11-011 Definitions. WAC 388-11-100 Duty of the administrative law judge in a hearing to determine the amount of a support obligation. WAC 388-11-120 When is it appropriate to vacate a default ((Vacate-)) order? WAC 388-11-150 ((Consent order and)) The parties may resolve any child support case by entering a consent order or an agreed settlement. WAC 388-11-305 Uniform Interstate Family Support Act—Notices served in another state; and WAC 388-11-310 Request for late hearing—Good cause.

Proposed repealers: WAC 388-11-285 Notice and finding of financial responsibility, 388-11-290 Notice and finding of parental responsibility, 388-11-295 Notice and finding of medical responsibility, 388-11-400 Physical custodians—Rights to participate in hearings, 388-11-410 Notice of proposed child support amount, 388-11-415 Support establishment notice—Physical custodian accepts proposed child support amount, 388-11-420 Support establishment notice—Physical custodian objects to the proposed child support amount, 388-11-425 Hearings on support establishment notices, 388-11-430 Settlement and consent order, and 388-14-445 Notice of proposed settlement.

Purpose: The Division of Child Support seeks to revise its procedures for preparing and serving a support establishment notice under RCW 74.20A.055 or 74.20A.056.

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056.

Statute Being Implemented: RCW 74.20A.055, 74.20A.056.

Summary: After the Division of Child Support enacted changes to the WAC regarding procedures for preparing and serving support establishment notices so as to give the physical custodian of the child full party status, DCS staff requested that the procedures be revised. DCS commissioned a quality improvement team to look at the process and the

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QIT has come up with suggestions on how the preparation and service of the support establishment notice can be streamlined, revised and improved. DCS believes the new method will be more efficient and easier to understand, and will result in better customer service for both custodial and noncustodial parents.

Reasons Supporting Proposal: Efficiency, customer service.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: After the Division of Child Support enacted changes to the WAC regarding procedures for preparing and serving support establishment notices so as to give the physical custodian of the child full party status, DCS staff requested that the procedures be revised. DCS commissioned a quality improvement team to look at the process and the QIT has come up with suggestions on how the preparation and service of the support establishment notice can be streamlined, revised and improved. DCS believes the new method will be more efficient and easier to understand, and will result in better customer service for both custodial and noncustodial parents.

Proposal Changes the Following Existing Rules: Amends WAC 388-11-011, 388-11-100, 388-11-120, 388-11-150, 388-11-305, and 388-11-310. Repeals WAC 388-11-285, 388-11-290, 388-11-295, 388-11-400, 388-11-415, 388-11-420, 388-11-425, 388-11-430, and 388-14-445. Adds several new sections to chapter 388-14A WAC.

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

RCW 34.05.328 applies to this rule adoption. RCW 34.05.328 (5)(b)(vii) exempts DSHS rules that apply only to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Rules and Policies Assistance Unit by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail myercme@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6187.

Date of Intended Adoption: June 28, 2000.

April 26, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-09-036 (Order 3964), filed 4/10/96, effective 5/11/96)

WAC 388-11-011 Definitions. For purposes of this chapter and chapters 388-13 (~~and~~), 388-14, and 388-14A WAC, the following definitions shall apply:

~~((1))~~ **"Accrued debt"** means a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including birth costs, of a dependent child owed by a person having signed an affidavit acknowledging paternity which has been filed with the state center for health statistics.

~~((2))~~ **"Administrative order"** means a determination, finding, decree, or order for support issued under RCW 74.20A.055 or 74.20A.056 or by another state's agency under an administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support money to satisfy current support or a support debt. Administrative orders include:

~~((a))~~ (1) An agreed settlement or consent order entered under WAC 388-11-150; or

~~((b))~~ (2) A notice and finding of financial responsibility, a notice and finding of parental responsibility, or a notice and finding of medical responsibility that has become final by operation of law.

~~((3))~~ **"Agency"** means the division of child support, department of social and health services. "Office of support enforcement," "office," and "OSE" also mean the division of child support.

~~((4))~~ **"Agreed settlement"** means the informal disposition of a contested case by written agreement between one or both parents and the agency establishing or modifying a support obligation and ordering payment or establishing a health insurance coverage obligation. The agreement shall be effective without the presiding officer's approval.

~~((5))~~ **"Arrears," "delinquency," and "past support"** mean the amount owed for a period of time before the instant month.

~~((6))~~ **"Birth costs"** mean the reasonable and necessary costs associated with the birth of a child, including costs of the mother's pregnancy and confinement.

~~((7))~~ **"Consent order"** means the disposition of a contested case by written agreed order, approved by the presiding officer, between one or both parents and the agency establishing a support obligation and ordering payment.

~~((8))~~ **"Current support"** or "current and future support" means support money paid to satisfy the support obligation for the present month as opposed to satisfaction of a support debt. Current and future support also means the prospective obligation to make monthly support payments.

~~((9))~~ **"Custodial parent"** means the person (whether parent or nonparent) with whom a child resides the majority of the time.

"Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" means the date an aid to families with dependent children, or foster care program grant is effective. For purposes of this chapter, the state remains responsible for the support of a

dependent child until public assistance terminates, or support enforcement services terminate, whichever occurs later.

((+0)) **"Department"** means the Washington state department of social and health services.

((+1)) **"Dependent child"** means a person:

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

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

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

((+d)) (a) A full-time student; and

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

((+2)) **"Fraud"** means, for the purposes of WAC 388-11-120:

((+a)) (1) The representation of the existence or nonexistence of a fact;

((+b)) (2) The representation's materiality;

((+c)) (3) The representation's falsity;

((+d)) (4) The speaker's knowledge of the falsity;

((+e)) (4) The speaker's intent that the representation should be acted on by the person to whom it is made;

((+f)) (5) Ignorance of the falsity on the part of the person to whom it is made;

((+g)) (6) The latter's:

((+h)) (a) Reliance on the truth of the representation;

((+i)) (b) Right to rely upon it; and

((+j)) (c) Subsequent damage.

((+3)) **"Genetic testing"** means tests of blood, tissues, or bodily fluids.

"Good cause" for the purposes of late hearing requests under WAC 388-11-310 and petitions to vacate orders on default under WAC 388-11-120 means there is substantial reason or legal justification for delay, including but not limited to a showing of those grounds enumerated in civil rule 60. The time periods set forth in civil rule 60 apply to determinations of good cause under this definition.

((+4)) **"Health care costs,"** for the purpose of:

((+a)) (1) Establishing support obligations under RCW 74.20A.055 and 74.20A.056, means medical, dental, and optometrical costs and expenses; and

((+b)) (2) Enforcement action under Titles 26.23, 74.20, and 74.20A RCW, including a notice of support owed and a notice of support debt, means medical, dental, optometrical costs stated as a fixed dollar amount by a support order.

((+5)) **"Hearing"** means an adjudicative proceeding authorized by this chapter, chapter 388-13 ((+)), 388-14, or 388-14A WAC, or chapter 26.23, 74.20 or 74.20A RCW and conducted under chapters 388-08 WAC and 34.05 RCW. A conference board under WAC 388-14-385 is not a hearing or an adjudicative proceeding.

((+6)) **"Locate"** means service of a notice and finding of financial, parental, or medical responsibility in a manner

prescribed by WAC 388-11-285, 388-11-290 ((+)), 388-11-295, 388-14A-3115, 388-14A-3120, or 388-14A-3125.

((+7)) **"Medical support"** means health care costs stated as a fixed dollar amount in a support order and health insurance coverage for a dependent child's benefit.

((+8)) **"Noncustodial parent"** means the natural parent, adoptive parent, responsible stepparent, or person having signed an affidavit acknowledging paternity which has been filed with the state center for health statistics, from whom the division of child support seeks support for a dependent child because the child did not reside the majority of the time period in question in that parent's household.

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

((+a)) (1) Directly benefiting a dependent child; and

((+b)) (2) Relating to the parent's residential time or visitation with a child.

((+9)) **"Paternity testing"** means blood testing or genetic tests of blood, tissues, or bodily fluids.

((+10)) **"Reasonable efforts to locate"** means any of the following actions taken by the agency:

((+a)) (1) Mailing the notice and finding of financial responsibility, the notice and finding of parental responsibility, or the notice and finding of medical responsibility, by certified mail, return receipt requested, to the responsible parent;

((+b)) (2) Referral to a sheriff, other server of process or locate service, or department employee for locate activities;

((+c)) (3) Tracing activity as follows:

((+d)) (a) Checking local telephone directories and attempts by telephone or mail to contact the applicant/recipient, applicant/custodian, relatives of the responsible parent, past or present employers, or the postal authorities;

((+e)) (b) Contacting state agencies, union or financial, or fraternal organizations;

((+f)) (c) Periodic searches for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record keeping agencies or entities;

((+g)) (d) Case maintenance in the agency's automated locate program.

((+h)) (4) Referral to state or federal parent locator service;

((+i)) (5) Referral to the attorney general, a prosecuting attorney, the IV-D agency of another state, or the Internal Revenue Service for specific legal or collection action;

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

((+k)) (7) Other actions reasonably calculated to produce information regarding the responsible parent's whereabouts.

((+11)) **"Residential parent"** means a parent with whom a child resides a majority of the time.

((+12)) **"Responsible parent"** means the natural parent, adoptive parent, responsible stepparent, or a person having signed an affidavit acknowledging paternity which has been filed with the state center for health statistics, from whom the department seeks support for a dependent child because the child resided with someone else during the period for which support is sought.

~~((23))~~ **"Responsible stepparent"** means a stepparent having established an in loco parentis relationship with the dependent child or children.

~~((a))~~ (1) The status shall continue until the relationship is terminated by death, dissolution of marriage, or by superior court order as provided under RCW 26.16.205.

~~((b))~~ (2) A rebuttable presumption of an in loco parentis relationship is created when the stepparent:

~~((i))~~ (a) Lives with the child and the parent; or

~~((ii))~~ (b) Provides care, support, or guidance for the child.

~~((24))~~ **"Secretary"** means the secretary of the department of social and health services or the secretary's designee.

~~((25))~~ **"State"** means a state or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, a federally recognized Indian tribe, or a foreign country.

~~((26))~~ **"Superior court order"** means a judgment, decree, or order of a Washington state superior court or another state's court of comparable jurisdiction:

~~((a))~~ (1) Establishing a support obligation and ordering payment thereon of a set or determinable amount; or

~~((b))~~ (2) Specifically relieving a responsible parent of a support obligation.

~~((27))~~ **"Support debt"** means:

~~((a))~~ (1) A delinquent amount of support money due, owing, and unpaid under a superior court order or an administrative order;

~~((b))~~ (2) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance, including health care costs as defined in this section, birth costs, child care, special child rearing expenses, and an accrued debt under RCW 74.20A.056, of a dependent child or other person for whom a support obligation is owed;

~~((c))~~ (3) A debt under RCW 74.20A.100 or 74.20A.270; or

~~((d))~~ (4) Accrued interest, fees, or penalties charged on a support debt, and attorneys' fees and other costs of litigation awarded in an action under Title IV-D of the Social Security Act establishing and enforcing a support obligation or support debt.

~~((28))~~ **"Support establishment notice"** means a notice and finding of financial responsibility under WAC 388-11-285 or 388-14A-3115, a notice and finding of parental responsibility under WAC 388-11-290 or 388-14A-2120, or a notice and finding of medical responsibility under WAC 388-11-295 or 388-14A-3125.

~~((29))~~ **"Support money"** means money paid to satisfy a support obligation whether named child support, spousal support, alimony, maintenance, medical support, birth costs, or other money intended to satisfy a support obligation for a person or satisfy wholly or partly a support debt.

~~((30))~~ **"Support obligation"** means the obligation to provide for the necessary care, support, and maintenance of a dependent child or other person as required by law, including health insurance coverage, health care costs as defined in this section, birth costs, and child care and special child rearing expenses.

~~((31))~~ **"Tribunal"** means a state court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders, or to determine parentage.

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

AMENDATORY SECTION (Amending WSR 90-04-077 (Order 3005), filed 2/5/90, effective 3/1/90)

WAC 388-11-100 Duty of the administrative law judge in a hearing to determine the amount of a support obligation. (1) In hearings held under this chapter and chapter 388-14A WAC to contest a notice and finding of financial responsibility or a notice and finding of parental responsibility or other notice or petition, the administrative law judge ~~((shall))~~ (ALJ) must determine:

(a) The ~~((responsible))~~ noncustodial parent's obligation to provide support under RCW 74.20A.057;

(b) The net monthly income of the ~~((responsible))~~ non-custodial parent and any ~~((residential))~~ custodial parent;

(c) The ~~((responsible))~~ noncustodial parent's share of the basic support obligation and any adjustments to that share, as warranted by his or her circumstances;

(d) If requested by a party, the ~~((responsible))~~ noncustodial parent's share of any special child-rearing expenses;

(e) The ~~((responsible))~~ noncustodial parent's obligation to provide medical support under WAC 388-11-215 (or as later amended);

(f) The ~~((responsible))~~ noncustodial parent's accrued debt and order payments thereon; and

(g) The ~~((responsible))~~ noncustodial parent's total current and future support obligation as a sum certain and order payments thereon.

(2) The ~~((administrative law judge shall))~~ ALJ must allow the ~~((office of support enforcement))~~ division of child support (DCS) to orally amend the notice at the hearing to conform to the evidence. The ~~((administrative law judge))~~ ALJ may grant a continuance, when deemed necessary, to allow the ~~((responsible))~~ noncustodial parent and/or the custodial parent additional time to present rebutting evidence and/or argument as to the amendment.

(3) The ~~((administrative law judge shall))~~ ALJ may not require ~~((the office of support enforcement))~~ DCS to produce or obtain information, documents, or witnesses to assist the ~~((responsible))~~ noncustodial or custodial parent in proof of defenses to liability. However, this rule ~~((shall))~~ does not apply to relevant, nonconfidential information or documents that ~~((the office of support enforcement))~~ DCS has in its possession.

AMENDATORY SECTION (Amending WSR 96-09-036 (Order 3964), filed 4/10/96, effective 5/11/96)

WAC 388-11-120 When is it appropriate to vacate a default~~((—Vacate—))~~ order? (1) If a party fails to appear at a hearing, the ~~((presiding officer shall))~~ administrative law judge (ALJ) must, upon a showing of valid service, enter an initial decision and default order or proceed in the absence of the defaulting party as provided in WAC 388-11-140(6) ~~((or~~

~~388-11-425)) (or as later amended) and 388-14A-3131, 388-14A-3132, or 388-14A-3140.~~

~~(2) The ((presiding officer shall)) ALJ must state in the decision that the:~~

~~(a) Support debt and the current support obligation stated in the notice ((and finding of financial or parental responsibility)) are assessed, determined, and subject to collection action; ((or))~~

~~(b) Health insurance provisions of the notice ((and finding of financial, parental or medical responsibility)) are subject to direct enforcement action((-~~

~~(2)); or~~

~~(c) Relief sought in the notice served by the division of child support is granted.~~

~~(3) Decisions and orders on default become final twenty-one days from the date of mailing under WAC 388-08-464.~~

~~((3)) (4) Any party against whom the ((presiding officer)) ALJ has entered an initial decision and order on default may petition the secretary or the secretary's designee for vacation of the default order, subject to the provisions, including time limits, of civil rule 60.~~

~~((4) The agency shall)~~

~~(5) DCS must:~~

~~(a) Request that the office of administrative hearing (OAH) schedule a hearing to determine whether or not the petitioner has good cause for vacating the default order; and~~

~~(b) Give any other parties to the hearing notice of the time and date of the hearing. ((The department shall)) OAH must send the notice to the last known address of the party.~~

~~((5)) (6) If, in a hearing under this section, the ((presiding officer)) ALJ finds that the petitioner has good cause for vacating the default order, the ((presiding officer shall)) ALJ:~~

~~(a) Must conduct a hearing on the merits of the petitioner's objection to the notice that was the basis for the hearing at which the petitioner failed to appear; and~~

~~(b) May stay any further collection to the extent provided for under the regulations authorizing the notice the ((responsible)) parent originally objected to.~~

~~((6)) (7) The ((presiding officer shall)) ALJ must apply civil rule 60 to determine whether the petitioner has good cause.~~

~~(8) Before vacating an order of default at the request of the NCP or CP, the ALJ must consider the prejudice to the non-DCS party that did appear for hearing.~~

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

WAC 388-11-150 ((Consent order and)) The parties may resolve any child support case by entering a consent order or an agreed settlement. (1) ~~((The department may enter a consent order or agreed settlement to dispose of any contested case. The department shall use consent orders and agreed settlements in any case in which such informal disposition is feasible.~~

~~(a) An agreed settlement shall be effective without approval of a presiding officer.~~

~~(b) A consent order shall require the approval of a presiding officer to be effective. The presiding officer shall~~

~~approve a consent order without requiring testimony or a hearing unless the entry of such an order would be specifically contrary to law.~~

~~(2) If negotiations to a consent order or agreed settlement are commenced within twenty days of service of a support establishment notice in Washington, or within sixty days of service of the support establishment notice in another state, and such negotiations fail, the responsible parent shall have an additional twenty days from the date the negotiations fail to file a written request for a hearing.) The division of child support (DCS) may enter a consent order or agreed settlement to finalize any dispute in which a party requests a hearing. DCS attempts to settle matters through agreement when possible.~~

~~(a) An agreed settlement is signed only by the parties (DCS, the custodial parent and the noncustodial parent).~~

~~(b) A consent order must be signed by the parties and by an administrative law judge (ALJ). The ALJ approves a consent order without requiring testimony or a hearing, unless entry of the order would be unlawful.~~

~~(2) An agreed settlement or consent order is final and enforceable on:~~

~~(a) The date the last party signs the agreed settlement, if all parties signed the agreed settlement;~~

~~(b) The date the ALJ signs the consent order; or~~

~~(c) If the ALJ defaults one of the parties to the proceeding, the latest of the following dates:~~

~~(i) The date the ALJ signed the consent order;~~

~~(ii) The date the last party signed the agreed settlement;~~

~~or~~

~~(iii) The date the order of default is final.~~

~~(3) A party to a consent order or an agreed settlement may:~~

~~(a) Not petition for review of the settlement or order under WAC 388-08-464;~~

~~(b) Petition for modification under WAC 388-11-140 (or as later amended); and~~

~~(c) Petition to vacate the settlement or consent order under WAC 388-11-120 (or as later amended). ((The presiding officer)) However, the ALJ may only vacate a settlement or consent order ((or)) after making a finding of fraud by a party, or on any other basis that would result in manifest injustice.~~

~~(4) If a hearing has been scheduled, DCS files a copy of the agreed settlement or consent order with the office of administrative hearings (OAH), and OAH issues an order dismissing the hearing. There are no hearing rights on the order dismissing the hearing.~~

AMENDATORY SECTION (Amending WSR 96-09-036 (Order 3964), filed 4/10/96, effective 5/11/96)

WAC 388-11-305 Uniform Interstate Family Support Act—Notices served in another state. (1) Except as specified in WAC 388-14A-3105, where grounds for personal jurisdiction exist under RCW 26.21.075 or other Washington law, the ((agency)) division of child support (DCS) may serve the following legal actions in another state by certified mail, return receipt requested or by personal service, under chapter 26.21 RCW:

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- (a) A notice and finding of financial responsibility under WAC 388-11-285 or 388-14A-3115; and
- (b) A notice and finding of parental responsibility under WAC 388-11-290 or 388-14A-3120;
- (c) A notice of paternity test costs under WAC 388-11-048; or
- (d) An affidavit of birth costs under WAC 388-11-220.
- (2) A notice and finding of financial responsibility, a notice of paternity test costs, or an affidavit of birth costs becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the ~~((responsible))~~ noncustodial parent, within sixty days of service in another state:
 - (a) Contacts ~~((the agency))~~ DCS and signs an agreed settlement or consent order; or
 - (b) Files a written request for a hearing under:
 - (i) WAC 388-11-285(5) or 388-14A-3115 for a notice and finding of financial responsibility;
 - (ii) WAC 388-11-220 for an affidavit of birth costs; or
 - (iii) WAC 388-11-048 for a notice of paternity test costs.
 - (3) The effective date of a hearing request is the date the agency receives the hearing request.
 - (4) A notice and finding of parental responsibility becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the ~~((responsible))~~ noncustodial parent, within sixty days of service in another state:
 - (a) Contacts ~~((the agency))~~ DCS and signs an agreed settlement or consent order;
 - (b) Files a written request for a hearing under WAC 388-11-290(9) or 388-14A-3120 with ~~((the agency))~~ DCS; or
 - (c) Files a written request for paternity testing under WAC 388-11-048 to determine if he is the natural father of the dependent child named in the notice and cooperates in the testing. A request for a hearing or paternity testing is filed on the date the request is received by the agency.
 - (5) If the results of paternity tests requested under subsection (4) of this section do not exclude the responsible parent as the natural father of the dependent child, the notice and finding of parental responsibility becomes final and subject to immediate wage withholding without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the ~~((responsible))~~ noncustodial parent, within sixty days of service of the paternity test costs in another state:
 - (a) Contacts ~~((the agency))~~ DCS and signs an agreed settlement or consent order; or
 - (b) Files a written request for a hearing under WAC 388-11-290(9) or 388-14A-3120.
 - (6) ~~((Presiding officers))~~ Administrative law judges and parties ~~((shall))~~ must conduct administrative hearings on notices served in another state under this section under the special rules of evidence and procedure in chapter 26.21 RCW and according to chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 96-09-036 (Order 3964), filed 4/10/96, effective 5/11/96)

WAC 388-11-310 Request for late hearing—Good cause. (1) A person with a right to a hearing under chapter 388-11, 388-13, ~~((or))~~ 388-14, or 388-14A WAC may file a

written request for a late hearing after the period for requesting a timely hearing has passed. The effective date of a hearing request is the date the agency receives the request.

- (2) Filing a request for a late hearing does not stay:
 - (a) Collection and enforcement under chapters 26.18, 26.23, or 74.20A RCW;
 - (b) The effect of any qualified domestic relations order;
 - (c) Certification of the support debt to the Internal Revenue Service for an income tax refund offset; or
 - (d) Distribution upon receipt of moneys collected.
- (3)(a) A person who files a late hearing request shall show good cause for not filing a timely hearing request unless good cause is not required by the rule governing the notice that is objected to. Good cause is defined in WAC 388-11-011.
 - (b) If the presiding officer finds good cause for filing a late hearing request, the presiding officer shall:
 - (i) Issue a decision on the merits of the objection to the notice; and
 - (ii) Consider whether to order a stay of collection activities until such time as an initial decision or a temporary order under WAC 388-11-315 or 388-14A-3850(ff) is issued. Upon request, the ~~((presiding officer shall))~~ administrative law judge (ALJ) must, based on the evidence presented at hearing, issue an order under WAC 388-11-315 or 388-14A-3850(ff), setting or denying temporary support pending the initial decision. ~~((This order shall be on the record, but an order denying temporary support need not be in writing.))~~
 - (c) If the ~~((presiding officer))~~ ALJ does not find good cause for filing a late hearing request, the ~~((presiding officer))~~ ALJ may issue a decision on modification of the current and future support obligation, if applicable, without a showing of a change of circumstances.
 - (4) If the ~~((presiding officer))~~ ALJ finds good cause for filing a late hearing request, the agency shall not refund any excess moneys collected prior to the finding of good cause. However, the ~~((presiding officer))~~ ALJ may issue a decision which gives credit against future support in the amount of the excess collections when and to the extent that credits against future support do not:
 - (a) Create hardship to the children for whom support is sought; and
 - (b) Offset an overpayment of the obligation to the physical custodian against a debt owed to the department; or
 - (c) Offset an overpayment of the obligation to the department against a debt owed to the physical custodian.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-11-285	Notice and finding of financial responsibility.
WAC 388-11-290	Notice and finding of parental responsibility.
WAC 388-11-295	Notice and finding of medical responsibility.

WAC 388-11-400	Physical custodians—Rights to participate in hearings.
WAC 388-11-410	Notice of proposed child support amount.
WAC 388-11-415	Support establishment notice—Physical custodian accepts proposed child support amount.
WAC 388-11-420	Support establishment notice—Physical custodian objects to the proposed child support amount.
WAC 388-11-425	Hearings on support establishment notices.
WAC 388-11-430	Settlement and consent order.
WAC 388-14-445	Notice of proposed settlement.

DCS seeks to set only a medical support obligation instead of a monetary child support obligation.

NEW SECTION

WAC 388-14A-3102 When the parents have signed a paternity affidavit, which support establishment notice does the division of child support serve on the noncustodial parent? (1) When the parents of a child are not married, they may sign an affidavit of paternity, also called an acknowledgment of paternity. The legal effect of the affidavit or acknowledgment depends on when it is filed, in what state it is filed, and whether both parents were over age eighteen when the affidavit was signed.

(2) For paternity affidavits filed before August 14, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFPR). See WAC 388-14A-3120.

(3) For paternity affidavits filed on or after August 14, 1997 with the center for health statistics in the state of Washington, it depends on how much time has elapsed since filing:

(a) If less than sixty days have passed since filing, DCS serves a NFPR under WAC 388-14A-3120, because the parents can rescind (withdraw) the affidavit within sixty days of filing and request genetic testing; or

(b) If sixty or more days has passed since filing, DCS serves a notice and finding of financial responsibility (NFFR) under WAC 388-14A-3115, because the affidavit has become a conclusive presumption of paternity under RCW 26.26.040.

(4) For paternity affidavits filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFPR depending on the laws of the state where the affidavit is filed.

(5) DCS relies on paternity affidavits if the mother and the father were eighteen years of age or older at the time they signed the affidavit, or have reached eighteen years of age since signing the affidavit. A party who was under eighteen at the time the affidavit was signed and filed in Washington after August 14, 1997 has sixty days after their eighteenth birthday to void the affidavit; for affidavits filed in other states, the law of the state of filing determines whether the affidavit is voidable.

(6) If the mother was married at the time of the child's birth, but not to the man acknowledging paternity, the man to whom she was married must also have signed the affidavit to deny paternity.

(7) If the affidavit is legally deficient in any way, DCS may refer the case for paternity establishment in the superior court.

(8) If the mother is the noncustodial parent, DCS serves a NFFR.

NEW SECTION

WAC 388-14A-3105 How does the division of child support serve support establishment notices? The division of child support (DCS) serves a notice and finding of finan-

Chapter 388-14A WAC

DIVISION OF CHILD SUPPORT RULES

NEW SECTION

WAC 388-14A-3100 How does the division of child support establish a child support obligation when there is no child support order? (1) When there is no order setting the amount of child support a noncustodial parent (NCP) should pay, the division of child support (DCS) serves a support establishment notice on the NCP and the custodial parent. A support establishment notice is an administrative notice that can become an enforceable order for support if nobody requests a hearing on the notice.

(2) DCS may serve a support establishment notice when there is no order that:

(a) Establishes the noncustodial parent's support obligation for the child(ren) named in the notice; or

(b) Specifically relieves the noncustodial parent of a support obligation for the child(ren) named in the notice.

(3) Depending on the legal relationship between the NCP and the child for whom support is being set, DCS serves one of the following support establishment notices:

(a) Notice and finding of financial responsibility (NFFR), see WAC 388-14A-3115. This notice is used when the NCP is either the mother or the legal father of the child. WAC 388-14A-3102 describes when DCS uses a NFFR to set the support obligation of a father who has signed a paternity affidavit.

(b) Notice and finding of parental responsibility (NFPR), see WAC 388-14A-3120. This notice is used when the NCP was not married to the mother but has filed an affidavit or acknowledgment of paternity. WAC 388-14A-3102 describes when DCS uses a NFPR to set the support obligation of a father who has signed a paternity affidavit.

(c) Notice and finding of medical responsibility (NFMR), see WAC 388-14A-3125. This notice is used when

PROPOSED

cial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR) in the following manner:

- (1) On the noncustodial parent:
 - (a) By certified mail, return receipt requested; or
 - (b) By personal service.
- (2) On the custodial parent:
 - (a) By first class mail to the last known address, if the custodial parent is the one who applied for services.
 - (b) In the same manner as on the noncustodial parent, if the custodial parent is not the one who applied for services.

NEW SECTION

WAC 388-14A-3110 When can a support establishment notice become a final order? (1) The notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR) becomes a final, enforceable order if neither the custodial parent or the noncustodial parent objects and requests a timely hearing on the notice. An objection is also called a hearing request.

(2) If a timely objection is filed, the division of child support (DCS) cannot enforce the terms of the notice until a final order as defined in this section is entered.

(3) To be timely, the noncustodial parent must object within the following time limits:

(a) Within twenty days of service, if the noncustodial parent was served in Washington state.

(b) Within sixty days of service, if the noncustodial parent was served outside of Washington state.

(4) To be timely, the custodial parent must object within twenty days of service.

(5) An objection to a support establishment notice is a request for hearing on the notice.

(6) The effective date of the hearing request is the date the division of child support (DCS) receives the request for hearing.

(7) When an NFPR is served, the order will not become a final order if either parent requests genetic testing under WAC 388-11-048 (or as later amended) within the following time limits:

(a) The noncustodial parent must request genetic testing within twenty days of service, if the noncustodial parent was served in Washington state and the affidavit has not yet become a final determination of paternity.

(b) The noncustodial parent must request genetic testing within sixty days of service, if the noncustodial parent was served outside of Washington state and the affidavit has not yet become a final determination of paternity.

(c) The custodial parent must request genetic testing within twenty days of service and may request genetic testing only if the affidavit has not yet become a final determination of paternity.

(d) For parties who have filed paternity affidavits in Washington after August 14, 1997, a request for genetic testing does not by itself operate to rescind the affidavit.

(8) The noncustodial parent or custodial parent must make the hearing request or request for genetic testing, either

in writing or orally, at any DCS office. See WAC 388-14-500 (or as later amended) regarding oral requests for hearing.

(9) After a timely request for hearing, the final order is one of the following, whichever occurs latest:

(a) An agreed settlement or consent order under WAC 388-11-150 (or as later amended);

(b) An initial decision for which twenty-one days have passed and no party has filed a petition for review (this includes an order of default if neither party appears for hearing); or

(c) A review decision.

NEW SECTION

WAC 388-14A-3115 The notice and finding of financial responsibility is used to set child support when paternity is not an issue. (1) A notice and finding of financial responsibility (NFFR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.055.

(2) The NFFR:

(a) Advises the noncustodial parent and the custodial parent (who can be either a parent or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFFR fully and fairly advises the parents of their rights and responsibilities under the NFFR.

(b) Includes the information required by WAC 388-11-210 (or as later amended) and RCW 74.20A.055.

(c) Includes the noncustodial parent's health insurance obligation, as required by WAC 388-11-215 (or as later amended).

(d) May include an obligation to provide support for day-care or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(e) Warns the noncustodial parent and the custodial parent that at an administrative hearing, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFFR, if necessary for an accurate support order.

(3) After service of the NFFR, the noncustodial parent and the custodial parent must notify DCS of any change of address, or of any changes that may affect the support obligation.

(4) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFFR. DCS does not give the NCP credit for payments made to any other party after service of a NFFR, except as provided by WAC 388-11-015 and 388-11-280 (or as these sections are later amended).

(5) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFFR is a final order. WAC 388-14A-3110 describes when the notice becomes a final order.

(6) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-11-155 (or as later amended) describes when the obligation under the NFFR can end sooner or later than age eighteen.

(7) An affidavit or acknowledgment of paternity filed in Washington state on or after August 14, 1997 becomes a legal finding of paternity under RCW 26.26.040 (1)(e) unless it is rescinded (withdrawn) within sixty days of filing. If sixty days have passed since the affidavit or acknowledgment was filed, DCS may serve a NFFR to establish a support obligation.

(8) If the parents filed a paternity affidavit or acknowledgment of paternity in another state, and by that state's law paternity is therefore conclusively established, DCS may serve a NFFR to establish a support obligation.

(9) A hearing on a NFFR is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The NCP has the burden of proving any defenses to liability.

NEW SECTION

WAC 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity. (1) A notice and finding of parental responsibility (NFPR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.056.

(2) The NFPR differs from a notice and finding of financial responsibility (NFFR)(see WAC 388-14A-3115) because the parties may request genetic testing to contest paternity after being served with a NFPR.

(3) DCS serves a NFPR when:

(a) An affidavit acknowledging paternity is on file with the center for health statistics and was filed before August 14, 1997;

(b) An affidavit acknowledging paternity is on file with the center for health statistics and was filed on or after August 14, 1997 but the sixty-day period for rescission has not yet passed; or

(c) An affidavit acknowledging paternity is on file with the vital records agency of another state and the laws of that state allow the parents to withdraw the affidavit or challenge paternity.

(4) DCS attaches a copy of the acknowledgment of paternity or certification of birth record information to the NFPR.

(5) The NFPR advises the noncustodial parent and the custodial parent (who is either the mother or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFPR fully and fairly advises the parents of their rights and responsibilities under the NFPR. The NFPR warns the noncustodial parent and the custodial parent that at an administrative hearing on the notice, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFPR, if necessary for an accurate support order.

(6) The NFPR includes the information required by WAC 388-11-210 (or as later amended), RCW 74.20A.055, and 74.20A.056.

(7) The NFPR includes the noncustodial parent's health insurance obligation, pursuant to WAC 388-11-215 (or as later amended).

(8) The NFPR may include an obligation to provide support for daycare expenses or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(9) DCS may not assess an accrued support debt for a period longer than five years before the NFPR is served. This limitation does not apply to the extent that the noncustodial parent hid or left the state of Washington for the purpose of avoiding service.

(10) After service of the NFPR, the noncustodial parent and the custodial parent must notify DCS of any change of address, or of any changes that may affect the support obligation.

(11) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFPR. DCS does not give the NCP credit for payments made to any other party after service of the NFPR, except as provided by WAC 388-11-015 and 388-11-280 (or as these sections are later amended).

(12) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFPR is a final order. See WAC 388-14A-3110 for when the notice becomes a final order.

(13) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-11-155 (or as later amended) describes when the obligation under the NFPR can end sooner or later than age eighteen.

(14) Either the noncustodial parent, or the mother, if she is also the custodial parent, may request genetic tests under WAC 388-11-048 (or as later amended), notwithstanding the language of WAC 388-11-048, which refers only to the father. A mother who is not the custodial parent may at any time request that DCS refer the case for paternity establishment in the superior court.

(15) DCS does not stop enforcement of the order unless DCS receives a timely request for hearing or a timely request for genetic tests. See WAC 388-14A-3110 for time limits. DCS does not refund any money collected under the notice if the noncustodial parent is later:

(a) Excluded from being the father by genetic tests; or

(b) Found not to be the father by a court of competent jurisdiction.

(16) If the noncustodial parent requested genetic tests and was not excluded as the father, he may request within twenty days from the date of service of the genetic tests in Washington, or sixty days from the date of service of the genetic tests outside of Washington:

(a) A hearing on the NFPR.

(b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(17) If the noncustodial parent was not excluded as the father, the mother, if she is also the custodial parent, may within twenty days of the date of service of the genetic tests request:

(a) A hearing on the NFPR; or

(b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(18) If the affidavit or acknowledgment was filed in Washington after August 14, 1997, but sixty days have not passed since filing, DCS serves a NFPR. If the NCP wishes to contest paternity he must rescind (withdraw) the acknowledgment at the center for health statistics before the sixty-day period ends or there will be a legal finding of paternity under RCW 26.26.040 (1)(e). A request to DCS for genetic testing is not sufficient to withdraw the paternity affidavit.

(19) If the NCP is excluded by genetic testing, DCS may refer the case for paternity establishment in the superior court.

(20) A hearing on a NFPR is for the limited purpose of resolving the accrued support debt, current support obligation and reimbursement to DCS for paternity-related costs. The NCP has the burden of proving any defenses to liability.

NEW SECTION

WAC 388-14A-3125 The notice and finding of medical responsibility is used to set a medical support obligation when the custodial parent receiving medical assistance declines full child support enforcement services. (1) A notice and finding of medical responsibility (NFMR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support pursuant to chapter 74.20A RCW to establish and enforce a health insurance obligation.

(2) DCS may serve a NFMR when:

(a) The custodial parent (who is either a parent or the physical custodian of the child) or a dependent child receives or is certified eligible to receive medical assistance and is not receiving cash grant public assistance under 74.12 RCW; and

(b) The custodial parent has requested medical support enforcement services only and has asked DCS in writing not to collect monetary child support.

(3) The NFMR advises the NCP and the CP of the medical support obligation for the children named in the notice. The NFMR fully and fairly advises the parties of their rights and responsibilities under the NFMR.

(4) The NFMR warns the noncustodial parent and the custodial parent that at an administrative hearing on the notice, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFMR, if necessary for an accurate support order.

(5) The NFMR includes:

(a) The information required by WAC 388-11-210 (or as later amended);

(b) The noncustodial parent's health insurance obligation, pursuant to WAC 388-11-215 (or as later amended);

(c) The maximum premium amount the noncustodial parent must pay; and

(d) The income basis used to calculate the maximum premium amount, pursuant to WAC 388-14A-3200.

(6) The income basis for an obligation established by DCS for a NFMR is not binding on any party in any later action to establish a cash child support obligation.

(7) After service of the NFMR, the noncustodial parent (NCP) and the custodial parent must notify DCS of any

change of address, or of any changes that may affect the support obligation.

(8) DCS may take enforcement action under RCW 26.18.170, WAC 388-11-215, and 388-14-480 (or as these sections are later amended) without further notice when the NFMR is a final order. See WAC 388-14A-3110 for how a notice becomes a final order.

(9) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-11-155 (or as later amended) describes when the obligation under the NFMR can end sooner or later than age eighteen.

(10) If the custodial parent applies for full enforcement services while a hearing on a NFMR is pending, DCS may, at any time before the hearing record is closed, convert the hearing to a hearing on a notice and finding of financial responsibility (NFFR) under WAC 388-14A-3115 or a notice and finding of parental responsibility (NFPR) under WAC 388-14A-3120. To convert the hearing, DCS serves a NFFR or NFPR on the parents and files a copy with the administrative law judge (ALJ). The ALJ may grant a continuance if a party requests additional time to respond to the claim for monetary child support.

(11) In a NFMR hearing, the ALJ must determine the:

(a) Basic support obligation, without deviations; and

(b) Maximum premium amount under chapter 26.19 RCW and WAC 388-11-215 (or as later amended).

(12) A hearing on a NFMR is for the limited purpose of resolving the NCP's medical support responsibility. The NCP has the burden of proving defenses to liability.

NEW SECTION

WAC 388-14A-3130 What happens if a parent makes a timely request for hearing on a support establishment notice? (1) A timely request for hearing is an objection made within the time limits of WAC 388-14A-3110. For late (or untimely) hearing requests, see WAC 388-14A-3135.

(2) If either parent makes a timely request for hearing, the division of child support (DCS) submits the hearing request to the office of administrative hearings (OAH) for scheduling.

(3) OAH sends a notice of hearing by certified mail to all parties, notifying each party of the date, time and place of the hearing. DCS, the noncustodial parent, and the custodial parent are all parties to the hearing.

(4) A timely request for hearing stops the support establishment notice from becoming a final order, so DCS cannot collect on the notice. However, in appropriate circumstances, the administrative law judge (ALJ) may enter a temporary support order under WAC 388-14A-3850.

(5) A hearing on an objection to a support establishment notice is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The NCP has the burden of proving any defenses to liability.

NEW SECTION

WAC 388-14A-3131 What happens if neither parent appears for the hearing? (1) If neither parent appears at the

scheduled hearing after being sent a notice of hearing, the administrative law judge (ALJ) enters an initial decision and order on default, declaring the support establishment notice's claim for support to be final and subject to collection action.

(2) The initial decision and order on default is subject to collection action on the twenty-second day after the order of default was mailed by the office of administrative hearings.

(3) A parent that did not appear may petition to vacate the default order pursuant to WAC 388-11-120 (or as later amended).

(a) If the ALJ vacates the order of default, the ALJ then conducts a full hearing on the merits of the NFFR, NFPR or NFMR. All parties may participate in the hearing.

(b) If the parent who did not appear at the hearing is unsuccessful in the motion to vacate the default order, the ALJ may treat the petition as a petition to modify the support order.

NEW SECTION

WAC 388-14A-3132 What happens if only one parent appears for the hearing? (1) If one parent appears at the hearing, but the other parent fails to appear after being sent a notice of hearing, the administrative law judge (ALJ) enters an order of default against the parent that did not appear. The hearing proceeds as described in WAC 388-14A-3140.

(2) The division of child support (DCS) and the parent that did appear may enter a consent order, but not an agreed settlement. The obligation in the consent order may be higher or lower, or different from, the terms set forth in the notice, without further notice to the nonappearing parent, if necessary for an accurate support order. The terms of the consent order become final on the twenty-second day after the mailing of the order of default to the parent that did not appear.

(3) DCS and the parent that did appear may proceed to hearing. The ALJ may enter an initial decision setting an obligation which is higher or lower, or different from, the terms set forth in the notice, without further notice to the nonappearing parent, if necessary for an accurate support order.

(4) The parent that did not appear may petition to vacate the order of default pursuant to WAC 388-11-120 (or as later amended). The ALJ must consider the prejudice to the party that appeared for hearing before vacating an order of default.

(5) If the ALJ vacates the order of default, the ALJ then conducts a full hearing on the merits of the notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR) or notice and finding of medical responsibility (NFMR). All parties may participate in the hearing.

(6) If the parent who did not appear at the hearing is unsuccessful in the motion to vacate the default order, the ALJ may treat the petition as a petition to modify the support order.

NEW SECTION

WAC 388-14A-3133 What happens when the non-custodial parent and the custodial parent both appear for the hearing? If both parents appear at the hearing:

(1) All parties may enter an agreed settlement or consent order. WAC 388-11-150 (or as later amended) describes when an agreed settlement or consent order is a final order.

(2) All parties may proceed to hearing, after which the ALJ issues an initial decision and order. The ALJ may enter an initial decision setting an obligation which is higher or lower, or different from, the terms set forth in the notice, if necessary for an accurate support order.

(3) In a hearing under this section, the division of child support (DCS) shall proceed first to document the support amount that DCS believes to be correct. Following DCS's presentation, the custodial parent (CP) and the noncustodial parent (NCP) may proceed in turn to show why the DCS position is wrong.

NEW SECTION

WAC 388-14A-3135 Late hearings, or hearing on untimely objections to support establishment notices. (1) For orders established before August 30, 1997, if the noncustodial parent did not timely object to the notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR), only the noncustodial parent may petition for a late hearing, pursuant to WAC 388-11-310 (or as later amended).

(2) For orders established after August 30, 1997, if neither parent timely objected to the NFFR, NFPR, or NFMR, either the noncustodial parent or the custodial parent may petition for a late hearing, pursuant to WAC 388-11-310 (or as later amended). See WAC 388-14A-3110 for the time limits for a timely hearing request.

(3) The division of child support (DCS) continues to enforce the order even if a late request for hearing is filed.

(4) If DCS receives the late hearing request within one year of the date of service of the notice, the parent requesting the hearing is not required to show good cause to have a hearing on the merits of the notice.

(5) If DCS receives the late hearing request more than a year after the date of service of the notice, the parent requesting the hearing must show good cause why the hearing request was not timely. WAC 388-11-011 (or as later amended) contains the definition of good cause.

NEW SECTION

WAC 388-14A-3140 What can happen at a hearing on a support establishment notice. (1) When a parent requests a hearing on a notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR), the hearing is limited to resolving the accrued support debt, current support and future support obligation.

(2) The noncustodial parent has the burden of proving any defenses to liability. See WAC 388-11-065 (or as later amended).

(3) Both the NCP and the custodial parent (CP) must show cause why the terms in the NFFR, NFPR, or NFMR are incorrect.

(4) The administrative law judge (ALJ) or review judge has authority to enter a support obligation that may be higher or lower than the amounts set forth in the NFFR, NFPR, or NFMR, including the support debt, current support, and the future support obligation. The ALJ or review judge may enter an order that differs from the terms stated in the notice, including different debt periods, if the obligation is supported by credible evidence presented by any party at the hearing, without further notice to any nonappearing party, if the ALJ or review judge finds that due process requirements have been met.

(5) The ALJ has no authority to determine custody or visitation issues.

(6) When a party has advised the ALJ that they will participate by telephone, the ALJ attempts to contact that party on the record before beginning the proceeding or rules on a motion. The ALJ may not disclose to the other parties the telephone number of the location of the party appearing by phone.

(7) In certain cases, there is no "custodial parent" because the child or children are in foster care.

(a) If the NCP fails to appear for hearing, see WAC 388-14A-3131.

(b) If the NCP appears for hearing, see WAC 388-14A-3133.

(8) In certain cases, there can be two NCPs, called "joint NCPs." This happens when a husband and wife are jointly served a support establishment notice for a common child who is not residing in their home.

(a) If both NCPs fail to appear for hearing, see WAC 388-14A-3131;

(b) If both NCPs appear for hearing, see WAC 388-14A-3133; or

(c) One joint NCP may appear and represent the other joint NCP.

(9) When the CP asserts good cause level B (see WAC 388-422-0020), DCS notifies the CP that they will continue to receive documents, notices and orders. The CP may choose to participate at any time. Failure to appear at hearing results in a default order but does not result in a sanction for noncooperation under WAC 388-14-201 (or as later amended).

(10) If any party appears for the hearing and elects to proceed, absent the granting of a continuance the ALJ hears the matter and enters an initial decision and order based on the evidence presented. The ALJ includes a party's failure to appear in the initial decision and order as an order of default against that party. The direct appeal rights of the party who failed to appear shall be limited to an appeal on the record made at the hearing.

NEW SECTION

WAC 388-14A-3200 How does DCS determine my support obligation? The division of child support (DCS) determines support obligations using the Washington state child support schedule, which is found in chapter 26.19 RCW, for the establishment and modification of support orders.

NEW SECTION

WAC 388-14A-3205 How does DCS calculate my income? (1) The division of child support (DCS) calculates a parent's income using the best available information, in the following order:

- (a) Actual income;
- (b) Estimated income, if DCS has:
 - (i) Incomplete information;
 - (ii) Information based on the prevailing wage in the parent's trade or profession; or
 - (iii) Information that is not current.
- (c) Imputed income under RCW 26.19.071(6).

(2) DCS calculates support obligations using the methods set forth in WAC 388-11-205 (or as later amended).

WSR 00-11-025

PROPOSED RULES

COMMISSION ON

JUDICIAL CONDUCT

[R.D. 99-04—Filed May 9, 2000, 1:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-01-031.

Proposal is exempt under RCW 34.05.310(4).

Title of Rule: Confidentiality.

Purpose: To amend existing rule of procedure, Rule 11.

Other Identifying Information: Commission on Judicial Conduct rules of procedure.

Statutory Authority for Adoption: Chapter 2.64 RCW and Article IV, Section 31, Wash. State Constitution.

Statute Being Implemented: Chapter 2.64 RCW and Article IV, Section 31, State Constitution.

Summary: The proposed action would reformat and clarify an existing rule of procedure, Rule 11.

Reasons Supporting Proposal: The commission is directed to provide for rules of procedure and confidentiality.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, P.O. Box 1817, Olympia, WA 98507, (360) 753-4585.

Name of Proponent: Washington State Commission on Judicial Conduct, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendments to the existing rule would clarify procedures used in proceedings before the commission.

PROPOSED

Proposal Changes the Following Existing Rules: The changes proposed to the existing rule would clarify procedures used in proceedings before the commission.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact statement is required for this proposal by chapter 19.85 RCW. The rules are procedural in nature.

RCW 34.05.328 does not apply to this rule adoption. The action would amend procedural rules.

Hearing Location: SeaTac Holiday Inn, 17338 International Boulevard, Seattle, WA, on December 1, 2000, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Kathy Sullivan by November 22, 2000, TDD (360) 753-4585.

Submit Written Comments to: Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, fax (360) 586-2918, by October 6, 2000.

Date of Intended Adoption: December 1, 2000.

May 9, 2000

David Akana

Executive Director

COMMISSION ON JUDICIAL CONDUCT

RULES OF PROCEDURE (CJCRP)

AMENDATORY SECTION (Amending Order 99-02, filed 12/7/99)

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PROPOSED

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RULE 11. CONFIDENTIALITY

(a) Investigative and initial proceedings.

(1) ((Prior to the filing of a statement of charges, all proceedings shall be confidential except as provided in Rule 17(e).)) Before the commission files a statement of charges alleging misconduct by or incapacity of a judge, all proceedings, including commission deliberations, investigative files, records, papers and matters submitted to the commission, shall be held confidential by the commission, disciplinary counsel, investigative officers, and staff except as follows:

(A) With the approval of the commission, the investigative officer may notify respondent that a complaint has been received and may disclose the name of the person making the complaint to respondent pursuant to Rule 17(e).

(B) The commission may inform a complainant or potential witness when respondent is first notified that a complaint alleging misconduct or incapacity has been filed with the commission.

The name of the respondent, in the discretion of the commission, may not be used in written communications to the complainant.

(C) The commission may disclose information upon a waiver in writing by respondent when:

(i) Public statements that charges are pending before the commission are substantially unfair to respondent; or

(ii) Respondent is publicly accused or alleged to have engaged in misconduct or with having a disability, and the commission, after a preliminary investigation, has determined that no basis exists to warrant further proceedings or a recommendation of discipline or retirement.

(D) The commission has determined that there is a need to notify another person or agency in order to protect the public or the administration of justice.

(2) ((After the filing of a statement of charges, all subsequent proceedings shall be public except as may be provided by protective order. The statement of charges alleging judicial misconduct or incapacity shall be available for public inspection. The records of the initial proceedings that formed the basis of a finding of probable cause shall become public on the first day of the hearing. The hearing before the commission shall be open to the public; however, all deliberations of the commission in reaching a decision on the statement of charges shall be confidential.)) Except as provided under Rule 11, the fact that a complaint has been made, or that a statement has been given to the commission, shall be confidential during the investigation and initial proceeding.

(3) No person providing information to the commission shall disclose information they have obtained from the commission concerning the investigation, including the fact that an investigation is being conducted, until the commission

files a statement of charges, dismisses the complaint, or otherwise concludes the investigation or initial proceeding.

(b) ((~~Information~~)) Hearings on statement of charges.

(1) ((Prior to the filing of a statement of charges, all information relating to a complaint shall be held confidential by the commission, disciplinary counsel, and staff, except that the commission may disclose information.)) After the filing of a statement of charges, all subsequent proceedings shall be public, except as may be provided by protective order.

((A) When the commission has determined that there is a need to notify another person or agency in order to protect the public or the administration of justice; or

(B) Upon waiver in writing by respondent:

(i) If public statements that charges are pending before the commission are substantially unfair to respondent; or

(ii) If respondent is publicly associated with violating a rule of judicial conduct or with having an incapacity, and the commission, after a preliminary investigation, has determined there is no basis for further proceedings or for a recommendation of discipline or retirement.))

(2) ((Except as provided in these rules, the fact that a complaint has been made, or a statement has been given to the commission, and all papers and matters submitted to the commission together with the investigation and initial proceedings conducted pursuant to these rules, shall be confidential. Any person providing information to the commission shall not disclose the existence of such investigation to a third party before the commission files a statement of charges, dismisses the complaint, or otherwise closes the investigation or initial proceeding. However, the person filing a complaint or giving a statement to the commission is not prohibited by these rules from informing any third party, or the public generally, of the factual basis upon which a complaint is based, or a statement is given.)) The statement of charges alleging misconduct or incapacity shall be available for public inspection. Investigative files and records shall not be disclosed unless they formed the basis for probable cause. Those records of the initial proceeding that were the basis of a finding of probable cause shall become public as of the date of the fact-finding hearing.

(3) ((The commission may inform a complainant or potential witness when respondent is first given notice of misconduct or incapacity allegations:

The name of the respondent, in the discretion of the commission, shall not be used in written communication to the complainant.)) Disciplinary counsel's work product shall be confidential.

((4) Disciplinary counsel's work product and records of the commission's deliberations shall not be disclosed.

(5) Investigative files and records prior to the date of the filing of the statement of charges shall not be disclosed unless they formed the basis for probable cause. Those records of the initial proceeding that were the basis of a finding of probable cause shall become public as of the date of the fact-finding hearing.

(6) Informal action taken by the commission prior to May 5, 1989, when amended rules were adopted eliminating

PROPOSED

private informal dispositions, may, in the commission's discretion, be disclosed to the Washington State Bar Association, American Bar Association, a judicial authority, any judicial appointive, selection or confirmation authority, or to law enforcement agencies, when required in the interests of justice, or to maintain confidence in the selection of judges or administration of the judiciary. The person to whom the information relates shall be informed of any information released.

(7) Unless otherwise permitted by these rules, or from public documents, or from a public hearing, no person shall disclose information obtained by that person during commission proceedings or from papers filed with the commission. Any person violating confidentiality rules may be subject to a proceeding for contempt in superior court.)

(c) Commission deliberations. All deliberations of the commission in reaching a decision on the statement of charges shall be confidential.

(d) General Exceptions.

(1) A complainant may inform any third party, or the public generally, of the factual basis of his or her complaint.

(2) Any person, other than a complainant, who gives a statement to the commission, may inform any third party, or the public generally, of the factual basis of such statement.

(e) General Applicability.

(1) No person shall disclose information obtained from commission proceedings or papers filed with the commission, except that information obtained from documents disclosed to the public by the commission pursuant to Rule 11 and all information disclosed at public hearings conducted by the commission are not deemed confidential under Rule 11.

(2) Any person violating Rule 11 may be subject to a proceeding for contempt in superior court.

(3) A judge shall not intimidate, coerce, or otherwise attempt to induce any person to disclose, conceal or alter records, papers, or information in violation of Rule 11. Violation of Rule 11 (e)(3) may be charged as a separate violation of the Code of Judicial Conduct.

(4) If the commission or its staff initiates a complaint under Rule 17 (b)(1), Rule 11 (a)(1) as it applies to the commission, rather than those applicable to complainants, shall govern the commission and its staff.

Comment:

((The 1989 amendments to the State Constitution and to the statutes, required the Commission to make public the records of the initial proceedings upon which it based its finding of probable cause. By statute, these records become subject to public disclosure on the first day of the public fact-finding hearing. The State Constitution otherwise mandates confidentiality. The statute,¹ the 1989 Voter's Pamphlet description² and State Constitution do not suggest that everything in the records of the initial proceeding may be disclosed. The operative language is clearly different.

RCW 2.64.111, among others, and the constitutional amendment were presented to the voters as a "single package." The constitutional and statutory amendments read together, the described effect of the amendment in the Voter's Pamphlet, and the rules adopted by the Commission are con-

sistent with each other. Those records of the initial proceeding that were the basis of the finding of probable cause shall become public as of the date of the fact-finding hearing. Nothing more; nothing less.³ See also, Garner v. Cherberg, 111 Wn.2d 811, 820-21 (1988).

Before Commission records of the initial proceedings can be disclosed as public documents, the Commission must first make a finding of probable cause. Next, the records must be those records of the initial proceeding that were the basis of the finding of probable cause. Matters unrelated to the basis of the finding must retain their confidentiality mandated by the State Constitution. By rule, the participating commission members identify the records for the basis of their finding.

The Commission's rules mandate confidentiality on other persons only during the investigative (confidential) stages to preserve the state's compelling interest in preserving the integrity of its judiciary. The rules are narrowly tailored to achieve the state's compelling interests consistent with Kamasinski v. Judicial Review Council, 44 F.3d 106 (2nd Cir. 1994). First, there is no restriction concerning the substance of a person's complaint or testimony.⁴ Second, the fact that a complaint has been filed with the Commission or testimony given to the Commission is susceptible to a limited ban. Third, information a person obtains through interaction with a judicial conduct commission is susceptible to a limited ban. The limited ban is effective only so long as the Commission acts in its investigatory capacity. After a complaint has been dismissed or the Commission takes public action, the complainant, any witness and the judge may speak freely. See CJCRP 11 (b)(2). The Commission and its staff are nonetheless bound by confidentiality even though a complaint has been dismissed or proceeding concluded. The rules of confidentiality are consistent with the State Constitution and current First Amendment concerns expressed in Kamasinski v. Judicial Review Council, supra.) The integrity of investigations would be harmed, the privacy interests of individuals, and the independence of the judiciary would be adversely affected without providing for limited restrictions of information learned or provided to the Commission during the investigation. Confidentiality is critical for the integrity of the Commission investigations, and often influences whether a person who works directly with a judge is willing to file a complaint or disclose misconduct in an investigation. Prohibiting disclosure that a complaint has been filed, or that a person has been interviewed, protects those persons from questioning by their supervising judge, or by others. The confidentiality required during the investigation of a complaint also protects the independence of the judiciary by preventing unfounded complaints from being used to threaten or distract judges. After considering alternate ways of providing this necessary protection, the Commission has concluded that the restrictions on public disclosure in this rule are the narrowest restrictions that will provide the confidentiality needed for persons who disclose misconduct or file complaints and for the judges under investigation.

PROPOSED

~~(RCW 2.64.111 provides in part: "As of the date of a public hearing, all those records of the initial proceeding that were the basis of a finding of probable cause are subject to the public disclosure requirements of chapter 42.17 RCW."~~

~~"If a hearing is then held, the hearing is open to the public and all of the records of the initial proceeding that provided the basis for the Commission's conclusion are to be made public."~~

~~³In this regard *In re Deming*, 108 Wn.2d 82, 89-94 (1987) admonishes at page 93:~~

~~Const. Art 4, § 31 (amend. 71) and RCW 2.64.110 indicate that confidentiality is the norm. RCW 2.64.110 expressly provides for contempt of court proceedings against those who leak or disclose confidential information. Indeed, statements by any person on the Commission or in its employ to the news media or to any other person not in the employ of the Commission concerning a matter under investigation and violative of the statute would not only be contempt of court but a breach of duty as an employee or member of the Commission.~~

~~"Thus, a complainant could also relate the substance of a complaint to a law enforcement official.")~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Commission on Judicial Conduct and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 00-11-026

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed May 9, 2000, 2:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-05-074.

Title of Rule: Amending WAC 458-30-200 Definitions, 458-30-275 Continuing classification upon sale or transfer of ownership, 458-30-285 Withdrawal from classification, 458-30-295 Removal of classification, 458-30-300 Additional tax—Withdrawal or removal from classification, 458-30-305 Due date of additional tax, applicable interest, and penalty upon withdrawal or removal, 458-30-310 County recording authority—County financial authority—Duties, and 458-30-325 Transfer between classifications—Application for reclassification; and repealing WAC 458-30-315 County financial authority—Duties, and 458-30-350 Reclassification of lands classified under chapter 84.34 RCW prior to 1973.

Purpose: These rules explain the terms used in the current use program, codified as chapter 84.34 RCW. The rules also describe the procedures to withdraw and remove land from current use classification, to reclassify land into a different current use classification, and the duties of county auditors and treasurers relative to classified current use land.

Statutory Authority for Adoption: RCW 84.34.141.

Statute Being Implemented: RCW 84.34.070, 84.34.080, and 84.34.108.

Summary: WAC 458-30-200 defines the terms used to administer the open space program. WAC 458-30-275 explains the process followed when classified land is sold or transferred. WAC 458-30-285 describes the process to withdraw current use classification. WAC 458-30-295 lists the events or circumstances that trigger removal of land from classification and the removal process. WAC 458-30-300 explains the financial consequences of withdrawing or removing land from classification. This rule also describes the method used to calculate the additional tax, interest, and penalty imposed when land loses its classified status and the circumstances that are exempt from these charges. WAC 458-30-305 explains how the date upon which these charges is determined and the consequences of failing to pay these sums on the due date. WAC 458-30-310 describes the duties of the county auditor. WAC 458-30-315 outlines the duties of the county treasurer. WAC 458-30-325 establishes the process by the classification of land can be changed, that is reclassified. WAC 458-30-350 declares that land classified prior to July 16, 1973, that meets the criteria contained in chapter 84.34 RCW is hereby reclassified.

Reasons Supporting Proposal: Changes to these rules are being proposed at this time: To consolidate the definitions of terms used in administering the current use program; to clarify existing practices regarding the sale or transfer of classified land, the withdrawal and removal of land from classification, the date upon which additional tax, interest, and penalty are due when classified status is lost, and the reclassification process; to reflect 1999 changes made to RCW 84.34.108; and to merge two rules describing the overlapping duties of county auditors and treasurers. Additionally, one rule that merely repeats statutory language will be repealed.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 1025 Union Avenue, Room 400, Olympia, WA, (360) 570-6113; **Implementation and Enforcement:** Sandy Guilfoil, 1025 Union Avenue, Room 200, Olympia, WA, (360) 570-5860.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 458-30-200, 458-30-275, 458-30-285, 458-30-305, and 458-30-325 will be amended to clarify existing practices and procedures and to eliminate some areas of confusion that currently exist in the administration of the current use program. In particular, the proposed revision of WAC 458-30-200 consolidates definitions of terms previously scattered throughout chapter 458-30 WAC. Also, WAC 458-30-305 is being revised to clarify the date on which back taxes are due. WAC 458-30-325 is to be amended to clarify and eliminate confusion about the reclassification process.

Chapters 233 and 356, Laws of 1999, changed RCW 84.34.108 regarding conveying classified current use land and added a new exemption to the collection of back taxes when land is withdrawn or removed from classification. Chapter 4, Laws of 1999 1st sp. sess., also changed RCW 84.34.108 by adding two more exemptions to the list of circumstances under which no back taxes are collected when

land is withdrawn or removed from current use classification. WAC 458-30-295 and 458-30-300 are being amended to reflect these statutory changes and to clarify removal and withdrawal procedures.

WAC 458-30-310 describes the duties of the county auditor. WAC 458-30-315 outlines the duties of the county treasurer. WAC 458-30-310 and 458-30-315 are being consolidated into WAC 458-30-310 because the duties of the two offices overlap and are somewhat interdependent. WAC 458-30-315 will be repealed.

WAC 458-30-350 declares that land classified prior to July 16, 1973, meeting the criteria contained in chapter 84.34 RCW is to be reclassified under the provisions of the Open Space Taxation Act, commonly referred to as the current use program. The rule is being repealed because it merely reiterates RCW 84.34.150.

Proposal Changes the Following Existing Rules: See descriptions above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rules and the proposed amendments do not impose any requirements or burdens upon small businesses that are not already specifically required by statute.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules are interpretative rules as defined in RCW 34.05.328.

Hearing Location: Capital Plaza Building, 1025 Union Street, Room 400, Olympia, WA, on June 27, 2000, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Ginny Dale no later than ten days before the hearing date, TDD 1-800-451-7985, or (360) 586-0721.

Submit Written Comments to: Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, by June 27, 2000.

Date of Intended Adoption: July 7, 2000.

May 9, 2000

Claire Hesselholt

Rules Manager

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-200 Definitions. (1) **Introduction.** This section provides definitions for the terms used throughout chapter 458-30 WAC. The terms listed in this section are intended to act in concert with each other as appropriate, and with other definitions as they appear in the several sections of this chapter.

(2) **Definitions.** For purposes of chapter 458-30 WAC, the following definitions apply:

(a) "Additional tax" means the ~~((tax*))~~ additional property taxes that will be collected when classification is withdrawn or removed from land ~~((that is))~~ classified ~~((according to the provisions of))~~ under chapter 84.34 RCW.

(b) "Affidavit" means the real estate excise tax affidavit required by chapter 82.45 RCW and chapter 458-61 WAC. ~~((See WAC 458-30-275 for a more detailed definition.))~~ The affidavit will be prescribed by the department and furnished to county treasurers. This form is used by landowners to report sales or transfers of classified land. The owner or transferor and the purchaser or transferee, or agents of each, must sign the affidavit under penalty of perjury.

(c) "Agreement" means an agreement executed between an owner and the granting authority regarding the classification of land ~~((in accordance with))~~ under chapter 84.34 RCW.

(d) "Applicant" means the owner who submits an application for classification of land ~~((in accordance with))~~ under chapter 84.34 RCW.

(e) "Application" means an application for classification of land ~~((in accordance with))~~ under chapter 84.34 RCW.

(f) "Approval" means a determination by the granting authority that ~~((the))~~ land qualifies for classification under chapter 84.34 RCW.

(g) "Appurtenance" refers to something used with, and related to or dependent upon another thing; that is, something that belongs to something else, an adjunct. The thing appurtenant is strictly necessary and essential to the proper use and enjoyment of the land, as well as useful or necessary for carrying out the purposes for which the land was classified under chapter 84.34 RCW.

(i) In terms of farm and agricultural land, an appurtenance is something used for a particular sort of farm and ~~((the thing))~~ is widely and routinely used in the operation of the commercial agricultural enterprise.

(ii) For example, an appurtenance may be an outhouse, barn, or tool shed attached to or adjoining a dwelling or it may be equipment used for a particular purpose or task, such as tools, instruments, or clothing.

(h) "Aquaculture" means the growing and harvesting of marine or fresh water flora or fauna in a soil or water medium for commercial agricultural purposes.

(i) "Assessor" means the county assessor or any agency or person who is authorized to act on behalf of the assessor.

(j) "Assessment year" means the year when the property is listed and valued by the assessor and precedes the year when the ~~((tax is))~~ taxes are due and payable.

(k) "Change in use" means direct action taken by an owner that actually changes the use of, or has started changing the use of, classified land to a use that is not in compliance with the conditions of the agreement executed between the owner and the granting authority or to a use that is otherwise not in compliance with the provisions of chapter 84.34 RCW.

(l) "Classified land" means a parcel(s) of land that has been approved by the appropriate granting authority for taxation under chapter 84.34 RCW.

(m) "Commercial agricultural purposes" means the use of land on a continuous and regular basis, prior to and subsequent to application for classification, that demonstrates that the owner or lessee intends to obtain through lawful means, a monetary profit from cash income received by:

(i) Raising, harvesting, and selling lawful crops;

(ii) Feeding, breeding, managing, and selling of livestock, poultry, fur-bearing animals, or honey bees, or any products thereof;

(iii) Dairying or selling of dairy products;

(iv) Animal husbandry;

(v) Aquaculture;

(vi) Horticulture;

(vii) Participating in a government-funded crop reduction or acreage set-aside program; or

(viii) Cultivating Christmas trees or short-rotation hardwoods on land that has been prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising such trees.

(n) "Contiguous" means land that adjoins other land (~~that is~~) owned by the same owner or under the same ownership. Land that is an integral part of a farming operation is considered contiguous even though the land may be separated by a public road, railroad, right of way, or waterway.

(o) "County financial authority" and "financial authority" mean the (~~county~~) treasurer or any agency or person charged with the responsibility of billing and collecting property taxes.

(p) "County legislative authority" means the county commission, council, or other (~~county~~) legislative body.

(q) "County recording authority" means the (~~county~~) auditor or any agency or person charged with the recording of documents.

(r) "Current" and "currently" means as of the date on which property is to be listed and valued by the assessor.

(s) "Current use value" means the taxable value of a parcel of land placed on the assessment rolls following classification under (~~the provisions of~~) chapter 84.34 RCW.

(t) "Department" means the department of revenue.

(u) "Farm woodlot" means an area of land within a parcel(s) of classified farm and agricultural land that is used in a manner compatible with commercial agricultural purposes including, but not limited to, the growing and cutting of trees for the use of the owner or the sheltering of livestock.

(v) "Granting authority" means the appropriate agency or official who acts on an application for classification (~~in accordance with the provisions of~~) under chapter 84.34 RCW.

(w) "Gross income" means cash income derived from commercial agricultural (~~purposes~~) activities, including payments received from the United States Department of Agriculture for participating in a crop reduction or acreage set-aside program when such payments are based on the productive capacity of the land. The term shall not include the following:

(i) The value of any products produced on the land and consumed by the owner or lessee;

(ii) Cash income derived from leases for the use of the land for (~~other than commercial~~) noncommercial agricultural (~~purposes~~) activities; or

(iii) Payments for soil conservation programs.

(x) "Incidental use" means a use of land classified as farm and agricultural land that is compatible with commercial agricultural purposes if it does not exceed twenty percent of the classified land. An incidental use may include, but is

not limited to, wetland preservation, a gravel pit, a farm woodlot, or a produce stand.

(y) "Integral" means that which is central to or inherent in the use or operation of classified farm and agricultural land for commercial agricultural purposes.

(z) "Interest" means the amount or applicable interest assessed upon additional property taxes, which are imposed when land is removed or withdrawn from current use classification, and authorized by RCW 84.34.080 and 84.34.108.

(aa) "Net cash rental" means the earning or productive capacity of farm and agricultural land less the production costs customarily or typically paid by an owner or landlord. See WAC 458-30-260 for a more detailed explanation.

~~((aa))~~ (bb) "Notice of continuance" means the notice signed when land classified as open space, farm and agricultural land, or timber land under chapter 84.34 RCW is sold or transferred if the new owner of the classified land wishes to have the land remain classified under chapter 84.34 RCW. This notice may either be part of the real estate excise tax affidavit or a separate document prescribed by the department and attached to this affidavit.

(cc) "Owner" means:

(i) Any person(s) having a fee interest in a parcel of land, except when the land is subject to a real estate contract; and

(ii) The vendee when the land is subject to a real estate contract.

~~((bb))~~ (dd) "Parcel of land" means a property identified as such on the assessment roll. For purposes of chapter 84.34 RCW and this WAC chapter, a parcel shall not include any land area not owned by the applicant including, but not limited to, a public road, right of way, railroad, or waterway.

~~((ee))~~ (ee) "Penalty" means (~~an~~) the amount due when land is removed from classification (~~in accordance with~~) under chapter 84.34 RCW. The amount of the penalty is equal to twenty percent of the additional tax and (~~applicable~~) interest calculated (~~according to the provisions of~~) in accordance with RCW 84.34.108.

~~((dd))~~ (ff) "Planning authority" means the local government agency empowered by the appropriate legislative authority to develop policies and proposals relating to land use.

~~((ee))~~ (gg) "Primary use" means the existing use of a parcel or parcels of land so prevalent that when the characteristic use of the land is evaluated a conflicting or nonrelated use (~~is~~) appears to be very limited or excluded.

~~((ff))~~ (hh) "Qualification of land" means the approval of an application for classification of land by the granting authority in accordance with (~~the provisions of~~) chapter 84.34 RCW.

~~((gg))~~ (ii) "Rating system" means a public benefit rating system adopted for (~~the~~) classified open space (~~classification~~) land according to RCW 84.34.055.

~~((hh))~~ (jj) "Reclassification" means the process by which land classified under chapter 84.34 or 84.33 RCW is changed from one classification to (~~another~~) a different classification established by chapter 84.34 RCW or into one of the forest land (~~as~~) categories described in chapter 84.33 RCW. For example, land classified as farm and agricultural land under RCW 84.34.020(2) may be reclassified as (~~either timber or~~) open space land under (~~the provisions of chapter~~

84.34 RCW or as forest land under the provisions of chapter 84.33 RCW)) RCW 84.34.020(1).

((kk)) "Removal" means land classified under chapter 84.34 RCW must be removed from classification because the land is no longer being used for the purpose for which classification was granted nor for any other classified use authorized by this chapter. A change in use may occur because of a sale or transfer of the classified land, a request by the owner to remove the land from the current use program, a determination by the assessor that the classified land no longer meets the criteria for classification under chapter 84.34 RCW, or any of the circumstances listed in RCW 84.34.108.

((ll)) (ll) "Sale of ownership" means the conveyance of the ownership of a parcel of land in exchange for ((a)) valuable consideration.

((mm)) (mm) "Tax year" means the year when property tax is due and payable.

((nn)) (nn) "Timber management plan" means the plan filed with the county legislative authority or ((with)) the assessor when classified timber land is sold or transferred ((that)). It details an owner's plan regarding the management of classified timber land including, but not limited to, the planting, growing and/or harvesting of ((forest crops)) timber.

((oo)) (oo) "Transfer" means the conveyance of the ownership of a parcel of land without an exchange of valuable consideration.

((pp)) (pp) "True and fair value" is the value of a parcel of land placed on the assessment rolls at its highest and best use without regard to its current use. The term also refers to market value, that is, the amount of money a willing, but not obligated to buy, purchaser would pay a willing, but not obligated to sell, owner for the property.

((qq)) "Withdrawal" or "withdrawn" means the owner of land classified under chapter 84.34 RCW has filed a notice of request to withdraw land from classification under the current use program. Land is withdrawn from classification as a result of a voluntary act by the owner.

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-275 Continuing classification upon sale or transfer of ownership of classified land. (1) **Introduction.** When land classified under chapter 84.34 RCW is sold or transferred certain procedures must be followed if the new owner wishes to keep the land in its present classified status. This section explains the required procedures and forms.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Affidavit" means the real estate excise tax affidavit that the department prescribes and furnishes to county treasurers for use by the owner in reporting sales and/or transfers of classified land. The form will require the signature, under the penalty of perjury, of the owner and purchaser or transferee or agents of each. See chapter 82.45 RCW and chapter 458-61 WAC for more specific details.

(b) "Notice of continuance" means the notice signed when land classified as open space, farm and agricultural, or

timber land under the provisions of chapter 84.34 RCW is sold or transferred and when the new owner of the classified land wishes to have the land remain classified under the provisions of chapter 84.34 RCW. This notice may be either part of the real estate excise tax affidavit or a separate document created by the department.

(c) "Owner" means any person or persons having a fee interest in a parcel of land, except when the land is subject to a real estate contract and the vendee when the land is subject to a real estate contract. For purposes of this section, the owner or owners of classified land must all sign the notice of classification continuance and/or real estate excise tax affidavit.

(3) **General requirements.** When a parcel(s) of land classified as open space, farm and agricultural, or timber land under chapter 84.34 RCW is sold or transferred and the new owner wishes to keep the land in its classified status, the new owner must:

(a) Sign ((a)) the notice of classification continuance that is part of a real estate excise tax affidavit. For the purposes of this section, if there are multiple owners of classified land, they must all sign the notice of continuance and/or the affidavit. (See subsection ((8)) (7) of this section for a discussion regarding this ((affidavit)) tax); and

(b) Provide the assessor with a signed statement that explains how the owner will use the parcel(s) of land so as to continue its eligibility for classification under ((the provisions of)) chapter 84.34 RCW; and

(c) Sign a separate notice of continuance prepared by the department if the county has decided that it will require new owners to submit such a form.

((4)) (3) **Assessor's and auditor's duties and authority related to sale or transfers.** When land classified under chapter 84.34 RCW is in the process of being sold or transferred, the new owner must sign ((a)) and submit to the assessor the notice of continuance and the statement described in subsection ((3)) (2) of this section if ((he or she)) the owner wishes the land to remain so classified. ((This notice of continuance and signed statement shall be presented to the assessor who must determine if the land will continue to be used in a manner approved for classified status or if the land will not be used in a manner consistent with the current use program.)) Upon receipt of these documents, the assessor must determine whether the new owner will continue the classified use of the land or whether the land must be removed from classification. The assessor ((shall be)) is allowed a reasonable amount of time to ((determine whether the classified use of the land will be continued by the new owner)) make this determination.

(a) Upon receipt of the notice of ((classification)) continuance, the assessor may require the new owner to submit additional information including ((, but not limited to,)) the types of data listed in RCW 84.34.121 and WAC 458-30-270.

(b) Within fifteen calendar days of receiving the notice of ((classification)) continuance, the signed statement, and all requested information, the assessor ((shall)) will determine whether the land qualifies for continued classification as of the date of conveyance.

(c) The assessor may, but is not required to, consult with the granting authority ~~((to determine if))~~ in determining whether the land will qualify for continued classification. The assessor and/or the granting authority may ask the owner to submit additional information and pertinent data to ensure that the land will continue to be used ~~((for a classified use))~~ in a manner for which classification under chapter 84.34 RCW was granted.

(d) No instrument of conveyance may be filed with the county auditor or recorded unless:

(i) The assessor has determined ~~((that))~~ the land will be used for current use purposes and can continue to be classified within the current use program;

(ii) ~~((If the land is no longer eligible to be classified within the current use program,))~~ The seller or transferor has paid the additional tax, ~~((applicable))~~ interest, and penalty owed because the land has been removed from classification and the treasurer has affixed a stamp on the affidavit signifying that these sums have been paid;

(iii) The land will be removed from classification and the removal results solely from one of the exceptions listed in RCW 84.34.108~~((5))~~ (6) to the imposition of additional tax, ~~((applicable))~~ interest, and penalty. See also WAC 458-30-300 ~~((that implements this statute));~~ or

(iv) ~~((In the case of a sale,))~~ A completed real estate excise tax affidavit has been submitted to the treasurer of the county in which the classified land is located if the land has been sold or transferred. To be complete, the ~~((real estate excise tax))~~ affidavit must indicate whether the land is classified under ~~((the provisions of))~~ chapter 84.34 RCW.

(e) If land ~~((must be))~~ is removed from classification because it was sold or transferred as a result of any of the occurrences or actions listed in RCW 84.34.108~~((5))~~ (6), the assessor shall:

(i) Follow the standard procedures set forth in WAC 458-30-295 and 458-30-300 for removing ~~((the))~~ land from classification;

(ii) Notify the ~~((county))~~ treasurer and the seller or transferor that no additional tax, ~~((applicable))~~ interest, or penalty are due ~~((as a result of the sale or transfer))~~ because RCW 84.34.108 ~~((5))~~ (6) specifically exempts the transaction from the imposition of additional tax, ~~((applicable))~~ interest, and penalty; and

(iii) ~~((In the case of))~~ If classified land is acquired for conservation purposes by any of the entities listed in RCW 84.34.108 ~~((5))~~ (6)(f), inform the new owner or transferee that if the land ceases to be used for the purposes enumerated in RCW 84.34.210 or 64.04.130, ~~((the))~~ additional tax, ~~((applicable))~~ interest, and penalty will be ~~((due))~~ imposed.

~~((5))~~ (4) Timber land. When a parcel(s) of classified timber land is sold or transferred, the new owner must submit a timber management plan to the assessor ~~((in order to continue the classification, in addition to))~~ and comply with the general requirements listed in subsection ~~((3))~~ (2) of this section to continue the land's classified status. The assessor ~~((shall))~~ will send a copy of the timber management plan to the ~~((county))~~ legislative authority of the county in which the classified land is located. WAC 458-30-232 contains a list of the types of additional information an assessor may require

the new owner to submit ~~((so that))~~ to enable the assessor ~~((can))~~ to determine ~~((if))~~ whether the land will continue to be used to grow and harvest ~~((forest crops))~~ timber for commercial purposes.

~~((6))~~ (5) Farm and agricultural land. When a parcel(s) of classified farm and agricultural land is sold or transferred, the new owner must comply with the general requirements ~~((set forth))~~ listed in subsection ~~((3))~~ (2) of this section. The size of the parcel(s) of ~~((farm and agricultural))~~ classified land sold or transferred will determine whether any additional requirements must also be satisfied. ~~((A parcel(s) of land that is less than twenty acres must produce a specified amount of income to remain classified as farm and agricultural land.))~~ After all required information is submitted, the assessor ~~((shall))~~ will determine whether the land qualifies for continued classification.

(a) Twenty acres or more. If the parcel(s) sold or transferred is twenty acres or more, the new owner must satisfy the general requirements listed in subsection ~~((3))~~ (2) of this section.

(b) Less than twenty acres. In a sale or transfer involving less than twenty acres, the new owner will be required to comply with the general requirements of subsection ~~((3))~~ (2) of this section and may be asked to provide gross income data relating to the productivity of the farm or agricultural operation for three of the past five years. ~~((This information regarding the earning or productive capacity of the classified land will be used to determine if the land meets the income criteria listed in chapter 84.34 RCW and this WAC chapter.))~~ The income production data relating to the classified land will be used to determine whether the land meets the income production requirements listed in RCW 84.34.020 (2)(b) and (c).

(i) Minimum income ~~((limits))~~ production requirements are set forth in RCW 84.34.020 (2)(b)(i) and (ii) for parcels that are at least five but less than twenty acres in size and in RCW 84.34.020 (2)(c)(i) and (ii) for parcels that are less than five acres in size. Any sale or transfer of classified land ~~((; except to a surviving spouse,))~~ is subject to these income limits. However, the income production requirements will not be examined when classified land is being transferred to a surviving spouse, even though the land remains subject to the same production requirements that were applicable before the spouse's death. See WAC 458-30-210(3) and 458-30-317 for further information and details.

(ii) Land classified prior to January 1993. If, after January 1, 1993, ~~((classified))~~ land that was classified prior to January 1993 is sold ~~((by an owner who applied for and was granted classification prior to January 1, 1993,))~~ to a new owner, the minimum income requirements specified in RCW 84.34.020 (2)(b)(ii) and (c)(ii) will be deferred for a period of three years. The new owner must meet these minimum income ~~((limits))~~ requirements at least once during the three calendar years immediately following the sale or transfer of the classified farm and agricultural land. For example, if classification was granted in 1978 to a fifteen acre parcel that produced a gross income of one hundred thirty dollars per acre per year and the land is sold on April 15, 1993, the minimum income requirements will be deferred until 1996. By

the end of 1996, the new owner must provide proof that the parcel produced two hundred dollars per acre at least one year during the three-year period between 1993 and 1996. If the land has produced a gross income of two hundred dollars per acre, the land will remain classified as farm and agricultural land. If the land has not produced this amount at least once during this three-year period, the land will be removed from classification and the owner will be required to pay an additional tax, interest, and penalty.

(iii) Land classified after January 1993. When land classified after January 1, 1993, is sold or transferred, the assessor will review the information regarding about the productivity of the land for three out of the past five years to determine whether the minimum income limits set forth requirements listed in RCW 84.34.020 (2)(b)(ii) or (c)(ii) have been met. For example, if a ten acre parcel was granted classification classified as farm and agricultural land on May 1, 1993, and it is sold on February 23, 1994, the assessor will ask the seller and/or buyer of the classified land to provide information about the earning or production capacity of income the land for produced during at least the five calendar years preceding the sale (i.e., 1989 through 1993). To retain the current use farm and agricultural classification, the land must have produced a minimum income of two hundred dollars per acre per year at least three out of the five calendar years preceding the date of sale.

(c) Segregation of land. If a sale or transfer involving of classified land involves a land segregation, the owner of the newly created parcel(s) and the owner of the parcel(s) of land from which the segregated land was taken must comply with the requirements of (a) or (b) of this subsection before to enable the assessor to determine if whether the land qualifies for continued classification.

6 New owner's warranty guarantee. The new owner, upon by signing the notice of continuance, warrants guarantees that future use of the land will conform to the provisions of chapter 84.34 RCW and this WAC chapter.

7 Real estate excise tax. Under the provisions of chapter 82.45 RCW whenever real property is sold or transferred an excise tax is imposed; the amount of this tax is related to the selling price of the real property. Real estate excise tax is due at the time of sale. This tax is paid to and collected by the treasurer of the county where in which the real property is located.

(a) The seller or transferor or the buyer or transferee, or the agent of either, of the real property must pay the excise tax and must submit a signed real estate excise tax affidavit to the treasurer of the county where the real property is located.

(b) When the ownership of classified land is sold or transferred to a new owner who intends to continue classification of the land under the provisions of chapter 84.34 RCW, the new owner must make a notation of this intent on the affidavit.

(c) No instrument of sale or conveyance evidencing a sale subject to the real estate excise tax may will be accepted by the county auditor for filing or recording until a stamp is affixed to the affidavit by the treasurer that shows the excise tax has been paid. The county treasurer shall not stamp the instrument of sale or conveyance unless the assessor has determined that the classified use of the land will be continued or that the additional tax, interest, and/or penalty required under RCW 84.34.080 and 84.34.108, except as exempted under RCW 84.34.070 or 84.34.108(5), have been collected. Nor will the treasurer stamp this instrument unless the assessor has determined that the classified use of the land will continue, that the additional tax, interest, and penalty imposed by RCW 84.34.080 and 84.34.108 have been paid, or that no additional tax, interest, and penalty are due.

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-285 Withdrawal from classification. (1)

Introduction. After a request to withdraw classification is received, the assessor is required to make a series of determinations. This section explains the procedures the assessor must follow upon receipt of a request for withdrawal.

(2) Definition. For purposes of this section, the following definition applies: "Withdrawal" or "withdrawn" occurs when the owner of land classified under the provisions of chapter 84.34 RCW has filed a notice of request to withdraw all or a portion of the land from classification. In order to qualify for withdrawal, the parcel(s) of land must have been classified for a minimum of ten years and the owner must have filed a notice of request to withdraw with the assessor at least two years prior to the assessment year when the parcel will be valued at the assessed value as determined in accordance with the county's approved revaluation cycle. Land is withdrawn from classified status by a voluntary act of the owner.

3 Complete or partial withdrawal. Land that has been classified under chapter 84.34 RCW must be applied to the classified use and remain in its classified status for at least ten years from the date of classification. During the ninth or later year of classification, if the owner decides to have the land withdrawn from the current use program he or she the owner must submit a written request to withdraw classification. The land will be withdrawn from classification two assessment years after the request to withdraw is received.

(a) A parcel of land may be withdrawn from classification in whole or in part.

(b) The additional tax and applicable interest set forth in imposed by RCW 84.34.108 are due when land is withdrawn from classification. When If a request to withdraw classification has been is received by the assessor's office and an intervening act causes the current use classification to be removed before the two assessment years have elapsed, the penalty described in RCW 84.34.108 3 4(c) is also due. However, if the removal is a result of one of the circumstances set forth listed in RCW

84.34.108~~((5))~~ (6) no additional tax, interest, or penalty will be imposed. (See WAC 458-30-300.)

~~((4))~~ (c) Within seven days of receiving a notice to withdraw classification, the assessor must forward a copy of this notice to the legislative body that approved the initial application.

(d) A request to withdraw may be revoked by the owner at any time before the land is actually withdrawn from classification.

(3) **Procedure for partial withdrawal.** If only a portion of the classified land is to be withdrawn from classification, the remaining parcel must ~~((meet))~~ satisfy the same requirements the entire parcel was required to meet when the land was originally granted classification unless ~~((the remaining parcel has))~~ different criteria is required by statute. For example, if ~~((a thirty-acre parcel of land was previously classified as farm and agricultural land and))~~ the owner ~~((now))~~ of a thirty acre parcel of classified farm and agricultural land wishes to withdraw fifteen acres, ((the land that remains classified)) the remaining fifteen acres must meet the income production requirements ~~((set forth))~~ listed in RCW 84.34.020 (2)(b)(i) or (ii) to remain classified even though the thirty acre parcel was not required to meet any minimum income production requirements under RCW 84.34.020 (2)(a).

(a) The assessor may ask the owner of the ~~((remaining))~~ parcel ~~((of))~~ that will remain classified ~~((land))~~ to submit information relevant to its continuing eligibility ~~((of the land))~~ under chapter 84.34 RCW. See WAC 458-30-270 for more details about such a request.

(b) If the parcel is classified ~~((as))~~ farm and agricultural land, the assessor ~~((shall))~~ will verify that the remaining portion meets the requirements of RCW 84.34.020(2) ~~((and this WAC chapter)).~~

(c) If the parcel is classified ~~((as))~~ open space or timber land, the assessor ~~((shall))~~ will consult with the granting authority before determining whether the remaining portion meets the requirements of RCW 84.34.020 (1) ~~((and))~~ or (3) ~~((and this WAC chapter)).~~ The granting authority may ask the owner to submit pertinent data that it considers necessary to assist it in making this determination.

(d) The assessor may segregate the portion of land from which classification is being withdrawn for valuation and taxation purposes.

~~((5))~~ (4) **Date of withdrawal and notice to owner.** ~~((According to))~~ RCW 84.34.070(1) requires the assessor ~~((shall))~~ to withdraw land from classification when two assessment years have elapsed following receipt of the owner's request to withdraw ~~((classification)).~~ In other words, land ~~((shall))~~ will be withdrawn from classification as of January 1st of the third assessment year after the request to withdraw classification is received by the assessor's office.

(a) Method for counting assessment years. The year in which the request to withdraw is received ~~((shall))~~ counts as the first assessment year; the second assessment year ~~((shall))~~ begins on January 1 of the year immediately following the year in which the request ~~((was))~~ is received; and the third assessment year ~~((shall))~~ begins on January 1 of the following year. (For example, if a request to withdraw classification is received on November 1, 1995, the first assessment year is

1995, the second assessment year is 1996, and the third assessment year is 1997. The land is withdrawn from classification as of January 1, 1997.)

(b) Notice to owner. No later than thirty days after withdrawing the land from classification, the assessor ~~((shall))~~ must notify the owner in writing that classification has been withdrawn ~~((from the parcel(s))).~~

(c) Valuation of land withdrawn from classification. When land has been withdrawn from classification, it shall be placed on the assessment roll at the assessed value ~~((as))~~ determined in accordance with the county's approved revaluation ~~((cycle))~~ plan.

(d) Example. An application for classification as open space land was submitted in April 1980 and approved effective assessment year 1981. In 1989, the owner submits a notice of request to withdraw all the land from classification. The assessor ~~((shall))~~ will withdraw the land from classification as of January 1, 1991, which is the third assessment year after the request to withdraw ~~((classification))~~ was received ~~((; the land value shall be the assessed value as determined in accordance with the county's approved revaluation cycle on January 1 of assessment year 1991)).~~ This land will be placed on the assessment roll at its assessed value as of January 1st in accordance with the county's approved revaluation plan.

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-295 Removal of classification. (1) **Introduction.** This section discusses the ~~((occurrences))~~ circumstances that may cause land to be removed from classification under chapter 84.34 RCW and the actions to be taken by an assessor relative to a removal. Classified land ~~((may))~~ will be removed if it is no longer used for the purpose for which classification was granted, the owner wants the land removed from classification, the owner does not want to follow the withdrawal process set out in RCW 84.34.070, or ~~((if))~~ the owner ~~((has))~~ sought reclassification ~~((of the land))~~ and the land does not meet the criteria for classification under chapter 84.34 or 84.33 RCW.

(2) ~~((Definitions. For purposes of this section, the following definitions apply:~~

(a) "Reclassification" means ~~the process by which land classified under chapter 84.34 or 84.33 RCW is changed from one classification to another classification established by chapter 84.34 RCW or into forest land as described in chapter 84.33 RCW. For example, land classified as farm and agricultural land under RCW 84.34.020(2) may be reclassified as either timber or open space land under the provisions of chapter 84.34 RCW or as forest land under the provisions of chapter 84.33 RCW.~~

(b) "Removal" means ~~that all or a portion of land classified under the provisions on chapter 84.34 RCW must be removed from classification because the land is no longer being used for the purpose for which classification was granted or for any other classified use within the current use program. The change in use may occur because of the sale or transfer of the classified land, the request by the owner to~~

remove the land from current use program, the determination by the assessor that the classified land no longer meets the criteria for classification under chapter 84.34 RCW, or any of the other occurrences listed in subsection (4) of this section.

(3)) **General requirement.** If land classified under chapter 84.34 RCW is applied to a use other than the one for which classification is granted, the owner ~~((shall))~~ must notify the assessor of the change in use within thirty days of the change. ~~((And))~~ If the new use of the land does not qualify for classification under chapter 84.34 or 84.33 RCW, the land must be removed from classification and additional property tax, ((applicable)) interest, and a penalty ((shall)) will be imposed ((upon the land when it is removed from classification due to this change in use)). See WAC 458-30-300 for details about the additional tax, interest, and ~~((or))~~ penalty imposed when land is removed from classification.

~~((4))~~ (3) Circumstances that cause removal of land from classification. When any of the following actions occur, the assessor ~~((shall))~~ will remove all or a portion of the land, from classification ~~((all or a portion of the parcel))~~:

(a) Receipt of a written notice from the owner directing ~~((removal of))~~ the assessor to remove the land from classification;

(b) Sale or transfer of the land to an owner exempt from paying property taxes, except a transfer ~~((that resulted))~~ resulting from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the land for the same use as before;

(c) Any change in use that occurs after a request to withdraw classification is made ~~((in accordance with the provisions of WAC 458-30-285))~~ under RCW 84.34.070 and before the actual withdrawal of the classification occurs;

(d) Sale or transfer of ~~((all or a portion of))~~ classified land to a new owner who is not exempt from paying property taxes and who has not signed a notice of classification continuance, except a transfer to an owner who is an heir or devisee of a deceased owner;

(e) Failure of an owner to respond to a request for data ~~((pursuant to WAC 458-30-270))~~ under RCW 84.34.121;

(f) When the owner ~~((has sought a))~~ requested reclassification of the land because the use of the land no longer meets the criteria of the classification under which it ~~((is))~~ was classified ~~((or the))~~ and the request for reclassification is denied;

(g) The owner ((has decided to)) of classified land changes the use of the ((classified)) land thereby requiring a change in classification and the land does not meet the requirements of the new classification; or

~~((g))~~ (h) A determination by the assessor based on field inspections, analysis of income and expense data, or any other reasonable evidence that ~~((all or a portion of))~~ the ~~((parcel(s) of))~~ land no longer meets the criteria for classification under chapter 84.34 RCW.

(i) Example 1. During an on-site inspection of ~~((a parcel of))~~ classified farm and agricultural land, the assessor discovers that the land is no longer being used for commercial agricultural purposes ~~((because))~~. The five acre parcel has been paved over and is ~~((currently))~~ being used as a parking lot for school buses.

(ii) Example 2. Based on information released at a public meeting of the county planning commission, the assessor learns that an owner of classified timber land has harvested all ~~((forest crops))~~ timber from the ~~((classified))~~ land, the land has been platted, public services such as roads, sewers, and domestic water supply have ~~((all))~~ been made available to the platted land, and at least six houses have been built on the ~~((classified timber))~~ land.

(iii) If the assessor determines that the land is not being used for a classified use, the assessor must notify the owner in writing regarding this determination((, but)) and may not remove classification until the owner has had an opportunity to respond.

(iv) The owner must respond, in writing, to the assessor's inquiry about the use of the classified land no later than thirty calendar days following the date ~~((this))~~ the assessor's inquiry was mailed.

(v) If the parcel ~~((of land))~~ in question is classified ~~((as))~~ open space land or timber land, the assessor may ask, but is not required to ask, the granting authority to provide reasonable assistance in determining whether the classified land continues to meet the criteria for classification. The granting authority ~~((shall))~~ will provide this assistance within thirty days of receiving the assessor's request for assistance.

(4) Transactions that do not cause land to be removed from classification. Land cannot be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(5) **Notice to owner.** Within thirty days ~~((after))~~ of the removal ~~((of all or a portion))~~ of ~~((the))~~ land from classification, the assessor ~~((shall))~~ must notify the owner in writing of the reason(s) for ~~((the))~~ removal.

(6) **Right of appeal.** The seller, transferor, or owner of classified land may appeal the removal ~~((of land))~~ from classification to the board of equalization of the county in which the land is located. The appeal must be filed within thirty calendar days ~~((following))~~ of the date the notice of removal was mailed by the assessor.

(7) **Assessor's duty after removal.** Unless the removal is reversed on appeal, the assessor ~~((shall))~~ will revalue the previously classified land ~~((by consulting the existing assessment rolls that contain both the current use and the))~~ with reference to its true and fair value ((of the land. After the effective date of the removal, the assessor will list only the true and fair value of the land on the assessment roll)) on the date of removal from classification. The assessment roll will list both the assessed ~~((valuation))~~ value of the land before and after the removal of classification. Taxes for the current tax year will be prorated according to the portion of the year to which each assessed ~~((valuation))~~ value applies.

(8) **Possible segregation after removal.** If only a portion of the land is being removed from classification, the assessor may segregate the affected portion for valuation and tax purposes.

(9) ~~((Penalties))~~ **Additional tax, interest, and penalty due when land is removed.** The additional tax, ~~((applicable))~~ interest, and penalty ~~((set forth in))~~ imposed by RCW 84.34.080 and 84.34.108 ~~((will be))~~ are due when land is removed from classification unless the removal is the result ~~((of))~~ of one of the exempt circumstances or transactions ~~((exempt under that statute))~~ listed in RCW 84.34.108(6). (See WAC 458-30-300.)

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-300 Additional tax—Withdrawal or removal from classification. (1) **Introduction.** When land is withdrawn or removed from classification ~~((an))~~ additional ~~((tax))~~ property taxes ("additional tax") and ~~((applicable))~~ interest are due. A penalty is also due when land is removed. This section explains how the additional tax, ~~((applicable))~~ interest, and, if appropriate, penalty are calculated. It also ~~((sets forth))~~ lists the situations under which no additional tax, ~~((applicable))~~ interest, and ~~((or))~~ penalty are due if land is withdrawn or removed from classification. The provisions of RCW 84.34.108 and 84.34.070(2) are outlined in this section.

(2) ~~((Definitions. For purposes of this section, the following definitions apply:~~

(a) "Reclassification" means the process by which land classified under chapter 84.34 or 84.33 RCW is changed from one classification to another classification established by chapter 84.34 RCW or into forest land as described in chapter 84.33 RCW. The process of reclassification is a voluntary act taken on the part of an owner of classified land when the land must either be removed from classification or transferred to another classification to remain eligible under chapter 84.34 or 84.33 RCW. For example, land classified as farm and agricultural land under RCW 84.34.020(2) may be reclassified as either timber or open space land under the provisions of chapter 84.34 RCW or as forest land under the provisions of chapter 84.33 RCW.

(b) "Removal" means that all or a portion of land classified under the provisions of chapter 84.34 RCW must be removed from classification because the land is no longer being used for the purpose for which classification was granted or for any other classified use within the current use program. The change in use may occur because of the sale or transfer of the classified land, the request by the owner to remove the land from the current use program, the determination by the assessor that the classified land no longer meets the criteria for classification under chapter 84.34 RCW, or any of the other occurrences listed in WAC 458-30-295.

(c) "Withdrawal" or "withdrawn" occurs when the owner of land classified under the provisions of chapter 84.34 RCW has filed a notice of request to withdraw all or a portion of the land from classification. In order to qualify for withdrawal, the parcel(s) of land must have been classified for a minimum of ten years and the owner must have filed a notice of request to withdraw with the assessor at least two years prior to the assessment year when the parcel will be valued at the assessed value as determined in accordance with the county's

approved revaluation cycle. Land is withdrawn from classified status by a voluntary act of the owner.

~~((3))~~ **Duties of assessor and ~~((county))~~ treasurer.** ~~((When land is withdrawn from classification the assessor shall compute an additional tax and applicable interest and when land is removed from classification the assessor shall compute an additional tax, applicable interest, and penalty.))~~ As soon as possible after determining that the land is to be withdrawn or removed from classification, the assessor ~~((shall))~~ will compute the amount of the additional tax, ~~((applicable))~~ interest, and, if appropriate, penalty due, ~~((except as provided))~~ unless the withdrawal or removal is the result of one of the circumstances listed in subsection ~~((6))~~ (5) of this section. When land is withdrawn from classification, additional tax and interest are imposed. When land is removed from classification, additional tax, interest, and penalty are imposed.

(a) The ~~((county))~~ treasurer ~~((shall))~~ will mail a notice to the owner regarding the additional tax, ~~((applicable))~~ interest, and, if required, penalty due and the date on which the total amount ~~((is due))~~ must be paid. The ~~((additional tax, applicable interest, and penalty shall be))~~ total amount is due and payable to the ~~((county))~~ treasurer thirty days after the notice is mailed to the owner.

~~((4))~~ (3) **Amount of additional tax, ~~((applicable))~~ interest, and penalty.** The amount of additional tax, ~~((applicable))~~ interest, and penalty ~~((shall))~~ will be determined as follows:

(a) The amount of additional tax ~~((shall be))~~ is equal to the difference between the property tax that was levied on the land based on its classified current use value and the property tax that would have been levied on the land based on its true and fair value for the seven tax years preceding the withdrawal or removal, ~~((in addition to the portion))~~ and for the balance of the tax year ~~((when))~~ during which the withdrawal or removal takes place;

(b) The amount of ~~((applicable))~~ interest ~~((shall be))~~ is equal to the interest on the amount of additional tax determined under (a) of this subsection at the statutory rate, specified in RCW 84.56.020, charged on delinquent property taxes starting from the date the tax could have been paid without interest to the date the additional tax is paid; and

(c) The amount of penalty ~~((shall be))~~ is twenty percent of the additional tax and ~~((applicable))~~ interest; that is, twenty percent of the total amount computed in (a) and (b) of this subsection. A penalty is not imposed when:

(i) The land has been classified for at least ten years at the time ~~((of declassification))~~ it is withdrawn from classification and the owner ~~((has given))~~ submitted a request to withdraw classification to the assessor ~~((a request to withdraw classification))~~ at least two assessment years ~~((in advance of))~~ prior to the date the ~~((classified))~~ land ~~((will be))~~ is withdrawn, ~~((in accordance with RCW 84.34.070))~~ from classification; or

(ii) The use of the land has changed and the change in use was the result of one of the circumstances listed in RCW 84.34.108 ~~((5))~~ (6). See subsection ~~((6))~~ (5) of this section for a detailed list of these circumstances.

~~((5))~~ (4) **Failure to sign notice of continuance.** If a new owner fails to sign the notice of ~~((classification))~~ continuance when classified land is sold or transferred, ~~((an))~~ additional tax, ~~((applicable))~~ interest, and penalty ~~((shall be calculated))~~ are imposed according to ~~((subsection (4) of this section))~~ RCW 84.34.108(4). A notice of continuance is not required when classified land is transferred to a new owner who is the heir or devisee of a deceased owner.

~~((6))~~ (5) **Exceptions - no additional tax, ~~((applicable))~~ interest, or penalty are due.** When ~~((all or a portion of))~~ classified land is withdrawn or removed from classification, no additional tax, ~~((applicable))~~ interest, ~~((or))~~ and penalty ~~((shall be))~~ are imposed if the withdrawal or removal is the result of one or more of the following circumstances:

(a) Transfer to a governmental entity in exchange for other land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain or the sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of this power~~((, said))~~. This entity ~~((having manifested))~~ must have declared its intent to exercise the power of eminent domain in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity ~~((rather than by virtue of the))~~ as opposed to an act of the landowner changing the use of ~~((such))~~ the property;

(d) Official action by an agency of the state of Washington or by the county or city in which the land is located disallowing the current use of classified land. For the purposes of this section, "official action" ~~((may))~~ includes~~((but is not limited to,))~~ city ordinances, zoning restrictions, Growth Management Act, Shoreline Protection Act, and Environmental Protection Act(s);

(e) Transfer of land to a church when the land would qualify for a property tax exemption ~~((pursuant to))~~ under RCW 84.36.020. ~~((The conditions set forth in RCW 84.36.020 shall only apply to the affected parcel of land and shall not relieve any portion not so affected from the potential tax liability.))~~ Only the land that would qualify for exemption under RCW 84.36.020 is included within this exception. Additional tax, interest, and, if appropriate, the penalty will be assessed upon the remainder of the land withdrawn or removed from classification.

(f) Acquisition of property interests by public agencies or private organizations qualified under RCW 84.34.210 or 64.04.130 for the purposes specified therein. See subsection ~~((7))~~ (6) of this section for a listing of these agencies, organizations, and purposes. However, when the property interests are not used for the purposes enumerated in ~~((these statutes))~~ RCW 84.34.210 or 64.04.130, the additional tax, ~~((applicable))~~ interest, and penalty specified in ~~((subsection (4) of this section shall))~~ RCW 84.34.108(4) will be imposed;

(g) Removal of land that was granted classification as farm and agricultural land under RCW 84.34.020 (2)(d) because the principal residence of the farm operator or owner and/or housing for farm and agricultural employees was situated on it. This exemption applies only to the land upon which the housing is located even if this portion of the agri-

cultural enterprise has not been allocated a separate parcel number for assessment and tax purposes; ~~((or))~~

(h) Removal of classification after a statutory exemption is enacted that would exempt the land from property tax and the landowner has submitted a written request to the assessor to remove the land from classification. This exemption applies only to newly enacted exemptions that would cause classified land to go from taxable to exempt ownership:

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040; or

(k) The result of one of the following changes in classification:

(i) Reclassification from farm and agricultural land under RCW 84.34.020(2) to timber land under RCW 84.34.020(3), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(ii) Reclassification from timber land under RCW 84.34.020(3) to farm and agricultural land under RCW 84.34.020(2), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(iii) Reclassification from open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land; or

(iv) Reclassification from forest land under chapter 84.33 RCW to open space land under RCW 84.34.020(1).

~~((7))~~ (6) **Land acquired by agencies or organizations qualified under RCW 84.34.210 or 64.04.130.** If the purpose for acquiring classified land is to protect, preserve, maintain, improve, restore, limit the future use of, or conserve the land for open space purposes and otherwise conserve the land for public use or enjoyment and the classified land is acquired by any of the following entities, no additional tax, ~~((applicable))~~ interest, or penalty ~~((are due))~~ will be imposed as long as the property is used for one of the purposes listed in this subsection:

(a) State agency;

(b) Federal agency;

(c) County;

(d) City;

(e) Town;

(f) Metropolitan park district;

(g) Metropolitan municipal corporation;

(h) Nonprofit historic preservation corporation as defined in RCW 64.04.130; or

(i) Nonprofit nature conservancy corporation or association as defined in RCW 84.34.250.

~~((8))~~ (7) **Removal of classification from land that was previously classified or designated forest land under chapter 84.33 RCW.** Land that was previously classified or designated as forest land under chapter 84.33 RCW may be reclassified under RCW 84.34.020. If the current use classification is ~~((subsequently))~~ removed before the land has been classified for at least ten assessment years under chapter 84.34 RCW, a combination of compensating tax imposed under chapter 84.33 RCW and additional tax ~~((shall be)),~~

interest, and penalty imposed under chapter 84.34 RCW is due. RCW 84.33.145 explains the way in which these taxes are to be calculated.

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-305 Due date of additional tax, ((~~applicable~~) interest, and penalty upon withdrawal or removal.

(1) **Introduction.** This section specifies the date upon which the additional tax, ((~~applicable~~) interest, and, if appropriate, penalty are due when land is withdrawn or removed from classification under chapter 84.34 RCW. This section also explains the consequences of failure to timely pay these charges.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Removal" means that all or a portion of land classified under the provisions of chapter 84.34 RCW must be removed from classification because the land is no longer being used for the purpose for which classification was granted or for any other classified use within the current use program. The change in use may occur because of the sale or transfer of the classified land, the request by the owner to remove the land from the current use program, the determination by the assessor that the classified land no longer meets the criteria for classification under chapter 84.34 RCW, or any of the other occurrences listed in WAC 458-30-295.

(b) "Withdrawal" or "withdrawn" occurs when the owner of land classified under the provisions of chapter 84.34 RCW has filed a notice of request to withdraw all or a portion of the land from classification. In order to qualify for withdrawal, the parcel(s) of land must have been classified for a minimum of ten years and the owner must have filed a notice of request to withdraw with the assessor at least two years prior to the assessment year when the parcel will be valued at the assessed value as determined in accordance with the county's approved revaluation cycle. Land is withdrawn from classified status by a voluntary act of the owner.

(3) **Result of a sale or transfer.** If a parcel of land is withdrawn or removed from classification because of a sale or transfer, the additional tax, applicable interest, and penalty, if owed, are due and payable at the time of the sale or transfer.

(4) **General rule - ((~~withdrawal or removal due to all other circumstances~~) payable within thirty days.** ((~~Except for a sale or transfer, the~~) Additional tax, ((~~applicable~~) interest, and penalty, if owed, are due no later than thirty days after the date the ((~~county~~) treasurer mails the written notice to the owner regarding the amounts owed, except in the case of a sale or transfer. This notice ((shall also state)) will list the amount of additional tax, interest, and penalty owed, as well as the date ((upon)) on which the amounts ((owed are due)) must be paid.

((~~5~~)) (3) **Exception to general rule - date of sale or transfer.** If classified land is to be withdrawn or removed as the result of a sale or transfer, additional tax, interest, and penalty, if owed, must be paid at the time of sale or transfer.

(4) **Failure to timely pay - delinquency.** Any additional tax, ((~~applicable~~) interest, or penalty that is unpaid on its due date is delinquent. Interest ((~~shall be~~) is) charged on the total amount due at the same rate ((~~as~~) that is) applied by law to delinquent property taxes (see RCW 84.56.020). Interest accrues from the date ((of the delinquency)) the amount was due until the date the total amount is paid in full.

((~~6~~)) (5) **Additional tax, ((~~applicable~~) interest, and penalty constitute a lien.** When land is withdrawn or removed from classification ((is withdrawn or removed from a parcel of land)), the amount of additional tax, ((~~applicable~~) interest, and ((~~or~~) penalty ((shall)) becomes a lien on the ((parcel of)) land ((as of)) that attaches on the date of withdrawal or removal. This lien ((shall have)) has priority to and ((shall)) must be fully paid and satisfied before any recognition, mortgage, judgment, debt, obligation, or responsibility to or with which this land may become charged or liable. The lien may be foreclosed at the same time and in same manner ((provided by law for foreclosure of)) as liens for delinquent real property taxes ((as set forth in)) are foreclosed under RCW 84.64.050.

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-310 County recording authority—County financial authority—Duties. (1) **Introduction.** This section explains the conditions under which documents will be accepted by the county recording authority under ((the provisions of)) chapter 84.34 RCW. It also describes the duties of the treasurer in the withdrawal or removal process.

(2) **County recording authority—Limited documents may be accepted.** The county recording authority ((shall)), usually the auditor, will not ((accept for recording)) record any instrument of conveyance involving ((a parcel of)) land classified ((according to)) under chapter 84.34 RCW unless:

(a) ((Any)) The required additional tax, ((~~applicable~~) interest, and ((~~or~~) penalty has been paid to the treasurer and the treasurer has affixed a stamp showing this payment on the affidavit;

(b) The notice of continuance on or attached to the ((real estate excise tax)) affidavit is signed by the new owner or transferee; or

(c) The land is to be removed from classification ((and the removal results solely from)) because of one of the ((exceptions)) circumstances listed in RCW 84.34.108((~~5~~) to the imposition of) (6) and is exempt from additional tax, ((~~applicable~~) interest, and penalty. ((See also WAC 458-30-300 that implements this statute.))

(3) **Treasurer's duties.** The treasurer has a number of responsibilities relative to land classified under chapter 84.34 RCW and to land that is to be withdrawn or removed from classification.

(a) **Withdrawal.** Upon receipt of a request for withdrawal from classification, the assessor will prepare a statement listing the amount of additional tax and interest due as a result of the withdrawal and the date on which this sum must be paid. The assessor will send a copy of this statement to the

treasurer's office. The treasurer's office will collect the total amount of additional tax and interest listed on the date specified.

(b) Removal. As soon as possible after determining that land must be removed from classification, the assessor will prepare a notice of removal of classification and additional tax calculations. This form lists the reason(s) for the removal of classification and the assessor's calculations of the total amount of additional tax, interest, and penalty due. RCW 84.34.108 requires the treasurer to mail to the owner a notice of the total amount due and the date on which this amount must be paid.

(c) Collection and distribution. The additional tax, interest, and, if any, penalty imposed under RCW 84.34.080 or 84.34.108 must be paid in full to the treasurer's office thirty days after the date the statement was mailed to the owner. When classified land is sold or transferred and real estate excise tax must be paid, the treasurer will affix a stamp on the affidavit as proof that the additional tax, interest, and, if any, penalty have been paid. The additional tax collected will be distributed to various taxing districts in the same manner as current taxes applicable to the land would be distributed. The treasurer will distribute the interest and penalty, if any, collected to the county's current expense fund.

(d) The treasurer will treat any additional tax, interest, and penalty not paid on the due date as delinquent property taxes.

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-325 Transfers between classifications—Application for reclassification. (1) **Introduction.** This section discusses the process ~~((by which classified))~~ used when land is reclassified ((under another)) into a different classification ((of)) under chapter 84.34 ((RCW)) or ((under chapter)) 84.33 RCW.

(2) ~~((Definitions. For purposes of this section the following definitions apply:~~

(a) ~~"Reclassification" means the process by which land classified under chapter 84.34 or 84.33 RCW is changed from one classification to another classification established by chapter 84.34 RCW or into forest land as described in chapter 84.33 RCW. The process of reclassification is a voluntary act taken on the part of an owner of classified land when the land must either be removed from classification or transferred to another classification to remain eligible under chapter 84.34 RCW or 84.33 RCW. For example, land classified as farm and agricultural land under RCW 84.34.020(2) may be reclassified as either timber or open space land under the provisions of chapter 84.34 RCW or as forest land under the provisions of chapter 84.33 RCW.~~

(b) ~~"Removal" means that all or a portion of land classified under the provisions on chapter 84.34 RCW must be removed from classification because the land is no longer being used for the purpose for which classification was granted or for any other classified use within the current use program. The change in use may occur because of the sale or transfer of the classified land, the request by the owner to~~

~~remove the land from the current use program, the determination by the assessor that the classified land no longer meets the criteria for classification under chapter 84.34 RCW, or any of the other occurrences listed in WAC 458-30-295.~~

~~(3))~~ **General information - when reclassification is required.** ~~((When the current use program was revised in 1992, the statutes were changed to allow a transfer or reclassification))~~ In 1992 the legislature created a way for owners to change the classification of their land classified under chapter 84.34 or 84.33 RCW. The name given to this process was "reclassification." It is now possible to switch between the different classifications of chapter 84.34 RCW and forest land under chapter 84.33 RCW. The following circumstances may cause an owner of classified land to seek reclassification ((to be sought)):

(a) The classified land is no longer being used for the purpose for which it was granted classification;

(b) The owner or new owner of classified land has decided to change the use of classified land;

(c) The classified land no longer meets the requirements of the classification under which it was ((granted classification)) originally classified; for example, farm and agricultural land that ((does not)) no longer produces the minimum income required by RCW 84.34.020 (2)(b) and (c) must either be reclassified or removed from the current use program;

(d) The new owner is an heir or devisee of a deceased owner who held classified land and the new owner either does not want to meet or cannot meet the requirements of the classification under which ((it)) the land was ((granted classification)) originally classified; or

(e) The assessor has determined ((that)) the classified land is no longer eligible under the existing classification and the land must either be reclassified or removed from ((classification)) the current use program.

~~((4))~~ **(3) Reclassification process if land is subject to removal.** Within thirty days of receiving notice from the assessor that ((the)) classified land is to be removed from the current use program, the owner must submit an application for reclassification ((to)) into another classification under chapter 84.34 or 84.33 RCW if the owner wants the land to remain classified. The removal notice ((shall)) should include a statement ((that informs)) informing the owner of the classified land ((that he or she may seek)) about the reclassification option. If ((the)) an application for reclassification is submitted within thirty days, the ((classified)) land ((shall)) is not to be removed from classification until the application for reclassification is approved or denied.

~~((5))~~ **(4) Reclassification ((when)) process if an owner seeks the change of classification.** An owner of classified land ((classified under 84.34 RCW)) may seek ((reclassification of that)) to have the land reclassified under a different current use classification under chapter 84.34 RCW or may seek classification or designation as forest land under chapter 84.33 RCW. ((The owner of classified land may seek)) Reclassification may be sought because ((of a desire)) the owner wants to change the use of ((the)) classified land or because ((he or she does not want to meet or cannot meet)) the owner no longer wants to satisfy or cannot satisfy the

requirements of the classification under which the land is currently classified.

(a) If an owner wishes to have land reclassified, the owner must submit an application for reclassification to the assessor of the county in which the land is located. This ~~(form shall)~~ application will be ~~((designed))~~ prescribed by the department and supplied to ~~((county))~~ assessors.

(b) Within seven days of ~~((receipt of))~~ receiving this request, the assessor ~~((shall))~~ must forward a copy of ~~((this))~~ the application for reclassification to the appropriate granting authority. The assessor ~~((shall))~~ will retain a copy of all applications for reclassification.

(c) ~~((The status of classified land for which))~~ When an application for reclassification is ~~((sought shall))~~ submitted, the classified status of the land will not be changed until the application ~~((for reclassification))~~ is approved or denied.

~~((6))~~ **(5) Application procedure.** An application for reclassification ~~((shall be handled))~~ is processed in the same manner as an initial application for classification, which may include payment of an application fee if the county requires one. All classification requirements of RCW 84.34.035 for farm and agricultural land, RCW 84.34.037 for open space land, RCW 84.34.041 for timber land, and chapter 84.33 RCW for forest land must be satisfied in order to reclassify land. (These requirements are also described in WAC 458-30-225, 458-30-230, 458-30-232, 458-30-242, and chapter 458-40 WAC.)

(a) ~~((When evaluating an application for reclassification, the granting authority will follow the same procedures it has for processing an initial application for classification under chapter 84.34 or))~~ The granting authority must follow the same application procedures in processing a request for reclassification that it applies to initial applications for classification under chapter 84.34 RCW or for designation as forest land under chapter 84.33 RCW.

(b) An application for reclassification may be approved or denied, in whole or in part.

(i) The granting authority ~~((shall))~~ must notify the applicant in writing of the extent to which the application for reclassification is approved or denied.

(ii) The applicant ~~((shall have))~~ has the same appeal rights in relation to a denial of an application for reclassification as ~~((he or she))~~ the applicant has in regards to an initial application for classification.

(iii) If an application for reclassification is denied, the assessor ~~((shall))~~ will remove the land from classification and ~~((shall))~~ will calculate ~~((the))~~ additional tax, ~~((applicable))~~ interest, and penalty in ~~((the manner set forth in WAC 458-30-300))~~ accordance with RCW 84.34.108.

~~((7))~~ **(6) Reclassifications exempt from additional tax.** No additional tax, ~~((applicable))~~ interest, ~~((and))~~ or penalty are due when ~~((the))~~ reclassification is a result of any of the following transfers between classifications:

(a) Reclassification from farm and agricultural land under RCW 84.34.020(2) to: Timber land under RCW 84.34.020(3), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(b) Reclassification from timber land under RCW 84.34.020(3) to: Farm and agricultural land under RCW

84.34.020(2), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(c) Reclassification from open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land; or

(d) Reclassification from forest land under chapter 84.33 RCW to open space land under RCW 84.34.020(1).

~~((8))~~ **(7) Income ~~((criteria))~~ production requirements of land to be reclassified.** The income ~~((criteria))~~ production requirements relating to the following reclassifications may be deferred for a period of up to five years from the effective date of reclassification when:

(a) Land classified as open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) or timber land under RCW 84.34.020(3) is reclassified as farm and agricultural land under RCW 84.34.020 (2)(b) ~~((and))~~ or (c); or

(b) Land classified or designated as forest land under chapter 84.33 RCW is reclassified as farm and agricultural land under RCW 84.34.020 (2)(b) ~~((and))~~ or (c).

~~((9))~~ **(8) Valuation of reclassified land.** The ~~((assessed))~~ value of ~~((land that has been))~~ reclassified ~~((shall reflect))~~ land will be based on the new classification as of January 1 of the assessment year following ~~((the))~~ approval of the request for reclassification. For example, if an application for reclassification from farm and agricultural land to open space/farm and agricultural conservation land is submitted on February 15, 1993, and approved effective June 1, 1993, the land ~~((shall))~~ will be valued and assessed as open space/farm and agricultural conservation land on January 1, 1994, and the owner ~~((shall))~~ is required to pay taxes on this new assessed value in 1995.

WSR 00-11-037

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed May 10, 2000, 1:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-03-038 and 00-03-037.

Title of Rule: WAC 308-91-090, reciprocity and proration and WAC 308-77-045, 308-77-155, 308-77-165, 308-77-170, 308-77-180, 308-77-240, 308-77-265, 308-77-270, and 308-77-280, special fuel tax rules.

Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: Chapters 46.87 and 82.38 RCW.

Summary: Amending WAC 308-91-090 Leased and rented vehicles, 308-77-155 On board computers or recording devices, 308-77-165 Export sales, 308-77-170 Metric measurement, 308-77-180 Appeals, 308-77-240 Records for refund claims, 308-77-265 Tax exempt losses, and 308-77-280 Natural gas, propane—Decal as evidence of payment of

annual license fees; and repealing WAC 308-77-045 Expiration of license and 308-77-270 Repealer.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Thao Pham-Manikhoth, 2424 Bristol Court S.W., 664-1844; Implementation and Enforcement: Betty Mickelson, 2424 Bristol Court S.W., 664-1843.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above mentioned requirements.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on June 27, 2000, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Mark C. Roberts by June 26, 2000, TTY (360) 664-8885 or (360) 902-3759.

Submit Written Comments to: Mark C. Roberts, Rules Coordinator, Prorate and Fuel Tax Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by June 26, 2000.

Date of Intended Adoption: July 25, 2000.

May 10, 2000

Thao Pham-Manikhoth, Administrator
Prorate and Fuel Tax Services

AMENDATORY SECTION (Amending WSR 94-13-012, filed 6/2/94, effective 7/3/94)

WAC 308-91-090 Leased and rented vehicles. ~~((+))~~
How are leased or rented vehicles registered? The registration of leased or rental passenger vehicles will be conducted under ~~((either))~~ the provisions of chapter 46.16 RCW ~~((or under the provisions, currently identified as Article XI—registration of rental vehicles, of the international registration plan (IRP) as now written or hereafter amended. Rental or leased vehicles under this section include:))~~. Trucks, tractors, and truck-tractors; trucks of one-way fleets (less than 26,000 pounds gross weight); trailers and semitrailers (exceeding 6,000 pounds gross weight), and utility trailers (not exceeding 6,000 pounds gross weight)~~((— and passenger ears (for the purpose of these rules, motorhomes and travel trailers are treated the same as passenger ears)))~~ may be registered under the provisions of Article XI of the International Registration Plan (IRP). In addition to the certificate of registration (cab card) or a photocopy ~~((thereof))~~, a copy of the rental/lease agreement must be carried in the rental/leased

vehicle or if it is a nonpowered vehicle, the vehicle providing the motive power for the combination. Refer to WAC 308-91-030 for the definition of terms used in this section.

~~((2))~~ Owners of rental vehicles engaged in the business of renting passenger cars in this state may request the approval of the department to apportion the registrations of the rental fleet under the provisions of the IRP by making application to the department at least thirty days prior to the start of each calendar year. Applications will be submitted on forms furnished by the department.

~~(a)~~ To determine the percentage of total fleet vehicles that shall be registered in this state, divide the gross revenue received in the preceding year for use of such rental vehicles arising from passenger car rental transactions occurring in this state by the gross revenue received in the preceding year for the use of such rental vehicles arising from passenger car rental transactions occurring in all jurisdictions in which such vehicles were operated (the rental transaction location is deemed to be where the vehicle first comes into possession of the user). The resulting percentage shall be applied to the total number of passenger cars in the fleet and that figure shall be the minimum number of rental passenger cars that shall be fully licensed in the state of Washington during the calendar year.

~~(3)~~ Owners of rental vehicles engaged in the business of renting passenger cars in this state who do not make application under the provisions of subsection (2) of this section or comply with the requirements of subsection (2) of this section must register all such vehicles under the provisions of chapter 46.16 RCW.

~~(4)~~ In the absence of an agreement or arrangement to the contrary, rental or leased vehicles are not eligible for vehicle license reciprocity in the state of Washington except for the classes of vehicles and circumstances indicated below:

~~(a)~~ Passenger cars and motorhomes currently and properly registered in another jurisdiction will be granted vehicle license reciprocity in this state if:

~~(i)~~ The vehicle was rented by the vehicle operator from a location outside of the state of Washington; or

~~(ii)~~ The vehicle was dropped off in Washington by the previous renter and is being rented for a one-way trip out of Washington.

~~(b)~~ Trailers and semitrailers with a gross vehicle weight in excess of 6,000 pounds, trucks, truck tractors, tractors, and road tractors that are currently and properly registered in other jurisdictions will be granted vehicle license reciprocity in this state if:

~~(i)~~ The vehicle is rented from a location within another jurisdiction; and

~~(ii)~~ The vehicle registration certificate (cab card) or a photo copy thereof and a copy of the rental agreement is carried in the rental vehicle or in the vehicle providing the motive power for a combination of vehicles.

~~(5)~~ Normally the lessee of a vehicle is responsible for its licensing under proportional registration subject to the following exceptions:

~~(a)~~ Household goods carriers, wherein the agent is the lessor and the company is the lessee, may file and register as dual applicants. Under this procedure, the lessor's fleet is prorated in its name and cab cards are issued in the name of both

the lessor and lessee. The application is based on the lessor's vehicles and the mileage accumulated by the lessor under its name and that of the lessee. The application should be filed in the name of the lessee and the lessor. For equipment owned and operated by owner operators, other than service representatives, and used exclusively to transport cargo for the household goods carrier, the vehicle shall be registered by the carrier in the base jurisdiction of the carrier, but in both the owner operator's name and that of the carrier as lessee, with the apportionment of fees according to the records of the carrier.

(b) Optional for rental vehicles referred to in subsection (1) of this section.)

AMENDATORY SECTION (Amending WSR 94-11-029, filed 5/9/94, effective 6/9/94)

WAC 308-77-155 On board computers or recording devices. Can I use on board computers or recording devices to record mileage? Yes, the use of on board computers or recording devices for the production of mileage records required by ((chapter 82.38)) RCW 82.32.140 shall be governed by the requirements or procedures adopted by the International Fuel Tax Agreement (IFTA).

AMENDATORY SECTION (Amending WSR 98-24-011, filed 11/19/98, effective 1/1/99)

WAC 308-77-165 Export sales. (1) ((Export sales shall be reported as "export sales, exported by purchaser" and supported by Schedule 10, Uniform Motor Vehicle Fuel Tax Multiple Schedule of Disbursements (Form FT 441-841), a separate schedule for each state or foreign jurisdiction of destination. This Schedule 10 should be submitted with the tax report. The department shall furnish the government agency of the state or foreign jurisdiction of destination a copy of this Schedule 10 to give information on the movement of untaxed fuel across state lines.

(2) In the case of a delivery onto a federally recognized Indian reservation or onto Indian country, the invoice must identify the state within the contiguous United States, Hawaii, Alaska, District of Columbia, U.S. possession, or Canadian Province in which the delivery took place.) **How are tax exempt export transactions reported?** Tax exempt export transactions must be supported by a special fuel tax multiple schedule of disbursements. A separate schedule is required for each state of destination. The department will furnish the government agency of the state or foreign jurisdiction of destination a copy of this schedule to give information on the movement of untaxed fuel across state lines. In the case of a delivery onto a federally recognized Indian reservation or onto Indian country, the schedule must identify the state within the contiguous United States, Hawaii, Alaska, District of Columbia, U.S. possession, or Canadian Province in which the delivery took place.

(2) **If I am not licensed or not required to file monthly tax returns, may I obtain a refund for tax paid export transactions?** Yes, you may apply for a refund of the special

fuel tax previously paid on special fuel sold tax exempt under this section.

AMENDATORY SECTION (Amending Order 548 DOL, filed 8/1/79)

WAC 308-77-170 Metric measurement. ((Any requirement imposed by chapter 82.38 RCW or these rules regarding quantity measurement for inventory sales, purchases, use, or other purpose may, at the option of the licensee, be recorded in SI liters in lieu of United States gallons.)) **Can I report using metric measurements?** No, tax reports submitted to the department must show all figures converted from liters to gallons ((at the rate of 3.785 liters per gallon)) (3.785 liters per gallon) and from kilometers to miles (1.6093 kilometers per mile).

AMENDATORY SECTION (Amending Order 548 DOL, filed 8/1/79)

WAC 308-77-180 ((Audit assessment conference.)) Appeals. ((In any case of an account under audit where substantial agreement has not been reached between the taxpayer and the field auditor, the taxpayer may request a conference with the field audit supervisor or his designee prior to finalization and submission of the audit report. Such conference is informal in nature, and is intended to clarify the issues in dispute, resolving them where possible, and in any event effecting agreement as to the facts and figures involved. In those cases where agreement cannot be reached at this level as to the tax interpretations applied, the report will be finalized and submitted to Olympia, from where, following review and approval of the recommendations of the report, an assessment will be issued.)) (1) **What are the appeal procedures?** Any person issued a notice of assessment under this chapter for taxes, any penalties, and/or interest may contest the notice by petitioning the department for an informal hearing in lieu of proceeding directly to a formal hearing. A petition for an informal or formal hearing must be in writing and received by the department within thirty days after receipt of the notice of assessment. A petition will state the specific reasons why reassessment is sought and the amount of taxes, any penalties and/or interest that the petitioner believes to be due.

(2) **What happens after the department receives my petition for an informal hearing?** Upon receipt of your petition for an informal hearing, the department will establish the time and place for a hearing and notify you by mail at least ten days prior to the scheduled date. If you are unable to attend the scheduled hearing, you may request the department to reschedule it. You may appear in person or may be represented by any person you have authorized to present the case.

(3) **What happens if I fail to appear for my informal or formal hearing without prior notification?** Failure to appear may result in the loss of your administrative appeal rights.

(4) **What happens following my informal hearing?** The department will make a written determination in accordance with the Revised Code of Washington, rules, and policies established by the department.

(5) What if I do not agree with the department's informal hearing determination? You may, within thirty days after the receipt of the determination, appeal in writing and request a formal hearing by an administrative law judge. This process is governed by the Administrative Procedure Act, chapter 34.05 RCW. Your appeal must indicate the portions of the determination you feel are in error and state the reasons for believing the decision should be amended. You will be given at least ten days written notice of the time and location that has been established for the formal hearing. Following the formal hearing, an initial order by the administrative law judge will be issued and served upon you. If you are unable to attend the hearing on the date or time scheduled, you may request the department to reschedule the hearing.

(6) Can I appeal the initial order of the administrative law judge? Yes. The initial order of the administrative law judge must be appealed within twenty days of service. The appeal must specify the portions of the initial order to which exception is taken. The petition will be reviewed and a final order issued by the director.

AMENDATORY SECTION (Amending Order 548 DOL, filed 8/1/79)

WAC 308-77-240 Records for refund claims. ((Claimants shall maintain records which are sufficient to substantiate the accuracy of the claims. Such records shall reflect all special fuel receipts, the gallons of fuel used in each type of equipment (both refundable and nonrefundable), other uses, loss and gain and inventories of fuel on hand. The records must indicate the date of receipt or disbursements and identify the equipment into which the fuel is delivered or the purpose for which the fuel is used. Failure of the claimant to maintain the required records or to permit examination by representatives of the department shall constitute a waiver of all rights to the refund.

The following rules shall govern records maintained to support claims for refund:

Special fuel purchased in small containers (tanks, cans, bottles, etc.) for nonhighway use (boats, tractors, mobile homes, trailers, etc.) and identified thus on purchase invoice will require no further records.

Invoices covering special fuel purchased, tax included, exclusively for use in motor vehicles will not be required in support of nonrefundable use but they shall be retained in the files of the claimant to account for fuel used in motor vehicles.

Where a claim covering the operation of a motor vehicle is entirely over private property and subject to refund, no record will be required other than that necessary to establish the source and number of gallons of special fuel used:)) **(1) What records does the department require each claimant to retain?** Each claimant must retain records that reflect all special fuel receipts, the gallons of fuel used in each type of equipment (both refundable and nonrefundable), other uses, loss and gain, and inventory on hand. The records must indicate the date of receipt or disbursements and identify the equipment into which the fuel is delivered or the purpose for which the fuel is used. Each claimant must also keep on

highway and off highway mileage records for each licensed vehicle.

If the claimant maintains electronic invoices, paper copies of these invoices must be produced, upon request of the department. Failure of the claimant to maintain the required records or to comply with the department's request for examination of the records will waive all rights to a refund.

(2) What additional records must be maintained to support a refund claim for fuel withdrawn from bulk storage? Fuel purchased and delivered into bulk storage must have detailed withdrawal records that account for taxable and nontaxable use.

AMENDATORY SECTION (Amending Order 548 DOL, filed 8/1/79)

WAC 308-77-265 ((Special fuel lost or destroyed.) Tax exempt losses. ((A refund of special fuel tax previously paid may be claimed by notifying the department in writing as to the full circumstances and the amount of the loss. Recovery for such loss or destruction must be susceptible to positive proof enabling the department to conduct such investigation and to require such information as may be deemed necessary:)) **(1) What is considered a tax-exempt loss?** Special fuel lost or destroyed in this state while being transported in the equipment of a licensee or in the equipment of a common or contract carrier for a licensee will be considered as a taxable distribution. Credit for or a refund of the special fuel tax paid may be taken when the licensee or the common or contract carrier furnishes acceptable proof of the exact quantity of fuel lost provided the documents in support of the loss are submitted to the department for approval as provided in RCW 82.38.180.

(2) What is acceptable proof of loss? Acceptable proof of loss will consist of the following:

(a) An affidavit by a person having direct knowledge of the circumstances of the loss, explaining the origin and destination of the shipment, the circumstances surrounding the loss, quantity of fuel lost, fuel salvaged, disposition of the salvaged fuel, and procedure(s) used in the determination of the quantity of fuel lost;

(b) A signed statement by a federal or jurisdictional official who has authority to investigate and/or deal with fuel losses or a witness to the loss;

(c) A bill of lading or other shipping document(s); and

(d) A statement by the licensee establishing ownership of the fuel at time of loss.

(3) Are deductions for losses from bulk storage allowed? Yes, special fuel that has been proven lost or destroyed, prior to distribution from a licensee's bulk storage plant, is allowed as a deduction.

(4) How long shall I retain my evidence substantiating my loss? Documentary evidence substantiating losses shall be retained by the licensee for five years.

(5) May I claim a deduction for unproven losses? No, unproven losses will be considered as a distribution and subject to the fuel tax.

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(6) Am I liable for fuel taxes if one of my employees or agents cause a loss of fuel? Yes, charges for losses made by employees or agents of the licensee who fail to satisfactorily account for fuel shall be invoiced inclusive of the fuel tax. Other losses shall be substantiated by proof acceptable to the department.

AMENDATORY SECTION (Amending Order DOL 630, filed 6/30/81)

WAC 308-77-280 Natural gas, propane—Decal as evidence of payment of annual license fees. (1) ~~((All vehicles licensed in Washington as well as all vehicles proportionally registered in Washington which are powered by natural gas or liquefied petroleum gas commonly called propane, shall display at all times a decal issued by the department as evidence that the annual fee prescribed in RCW 82.38.075 has been paid in lieu of the fuel tax imposed by RCW 82.38.030. This decal shall be displayed in a conspicuous place on the exterior of the vehicle on the rear bumper or near the fuel tank inlet.~~

~~(2) Persons engaged in converting vehicles to be powered by natural gas or propane may, at the completion of the conversion, fill the vehicle tank once with this fuel without requiring the decal. The converted vehicle must display the decal as herein required before further fuel acquisitions can be made.~~

~~(3) Vehicles displaying a valid temporary registration permit which has been issued pending the completion of vehicle registration may be allowed to purchase fuel without displaying a decal.)~~ Do I pay fuel tax when I purchase natural gas or liquefied petroleum gas (propane) for my licensed vehicle? No, once you have licensed your vehicle as being powered by natural gas or propane, you will pay an annual license fee in lieu of the fuel tax.

(2) What proof is required to purchase natural gas or propane for my vehicle? A decal will be issued that must be displayed on your vehicle that allows the purchase of natural gas or propane. This decal must be displayed in a conspicuous place on the vehicle near the fuel supply tank.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-77-045 Expiration of license.
- WAC 308-77-270 Repealer.

WSR 00-11-039
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 99-01—Filed May 10, 2000, 2:57 p.m.]

Continuance of WSR 00-02-081.
Preproposal statement of inquiry was filed as WSR 99-10-041 and 99-23-102.

Title of Rule: Dangerous waste regulations, chapter 173-303 WAC.

Purpose: To continue the adoption date from April 30, 2000, to May 10, 2000.

Date of Intended Adoption: May 10, 2000.

May 10, 2000
Tom Fitzsimmons
Director

WSR 00-11-041
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed May 11, 2000, 8:18 a.m.]

The Department of Licensing hereby withdraws WSR 00-09-019 filed with your office on April 11, 2000.

Deborah McCurley, Administrator
Title and Registration Services

WSR 00-11-043
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION
[Filed May 11, 2000, 1:29 p.m.]

Supplemental Notice to WSR 98-24-123.

Preproposal statement of inquiry was filed as WSR 98-05-056.

Title of Rule: Clarification of commission jurisdiction of landlord water charges to tenants, Commission Docket No. UW-991634.

Purpose: Clarify that the commission does not regulate entities or persons that provide water only to their tenants as part of the business of renting or leasing.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

Summary: This rule would amend the existing rule to clarify that the commission may not regulate entities or persons that provide water only to their tenants as part of the business of renting or leasing. The rule thus provides clarification of a jurisdictional boundary.

Name of Agency Personnel Responsible for Drafting: Danny P. Kermodé, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1253; 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: Some landlords purchase water through a single meter, called a master meter and provide that water to their tenants. Sometimes the monthly rent for an apartment or space includes the cost of the water. Some landlords, how-

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ever, charge individual tenants for their water separately either by billing the tenant directly or by using a billing and collection service. The charges are calculated using either submeters or an allocation method.

The commission does not have the legal authority to assert jurisdiction over landlords who rebill water usage past the master meter that services their tenants. The proposed rule clarifies that landlords that provide water to their tenants, as part of the business of renting or leasing, are not public utilities and therefore are not jurisdictional.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule merely clarifies a jurisdictional boundary. The rule does not impose any costs.

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 August 9, 2000, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine by July 31, 2000, (360) 664-1133, or TTY (360) 586-8203.

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 June 14, 2000. Please include Docket No. UW-991634 in your communication.

Date of Intended Adoption: August 9, 2000.

May 11, 2000
Carole J. Washburn
Secretary

AMENDATORY SECTION (Amending Order R-467, Docket No. UW-980082, filed 11/30/99, effective 12/31/99)

WAC 480-110-255 Jurisdiction. (1) The commission only regulates investor-owned water companies that:

(a) Own, operate, control, or manage one or more water systems; except that control or management does not include management by a satellite management agency as defined in chapter 70.116 RCW if the satellite management agency is not an owner of the water company.

(b) Meet jurisdictional thresholds of one hundred or more customers, or receive average revenue of four hundred twenty-nine dollars per customer per year.

If a water company serves customers	and receives average annual revenue per customer	commission regulation
99 or less	less than \$429	No
99 or less	\$429 or more	Yes
100 or more	less than \$429	Yes
100 or more	\$429 or more	Yes

(2) The commission does not regulate the following providers of water service:

- (a) Cities, towns, or counties.
- (b) Public utility districts.
- (c) Water districts.
- (d) Local improvement districts.

(e) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service only to their owners or members.

(f) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service to nonmembers unless they serve one hundred or more nonmembers, or charge nonmembers more than four hundred twenty-nine dollars average annual revenue per nonmember.

(g) Entities or persons that provide water only to their tenants as part of the business of renting or leasing.

This may include:

- (i) Apartment buildings.
- (ii) Mobile home parks.
- (iii) Manufactured home rental communities.
- (iv) Office complexes.
- (v) Commercial or industrial parks.

(3) To determine jurisdiction, the commission considers only those customers receiving water. The commission does not consider customers who do not receive water, such as customers who have paid:

- (a) Water-availability letter fees.
- (b) Standby charges.
- (c) System-readiness fees.
- (d) Ready-to-serve charges.

(4) To calculate the average annual revenue per customer, the commission considers only the charges that water-receiving customers pay on a monthly basis, other than contributions in aid of construction. For example, this includes money paid for flat-rate service or the metered base-charge and all usage charges.

(a) The commission does not include charges paid by customers who do not receive water, such as:

- (i) Water availability letter fees.
- (ii) Standby charges.
- (iii) System-readiness fees.
- (iv) Ready-to-serve charges.

(b) The commission does not consider contributions in aid of construction in determining jurisdiction. These contributions can be money, services or property. Payments can be made in a lump sum or financed over time. Examples of contributions in aid of construction include payments for:

- (i) Connection to system.
- (ii) Meter installation.
- (iii) System buy-in.
- (iv) Facilities charges.
- (v) Assessments for capital plant and equipment.

(5) The following example shows how to calculate the average annual revenue per customer for two hypothetical customers. The data for each customer are provided at the end of the example:

- (a) Select the most recent twelve consecutive months.

Example: February 1999 through January 2000.

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(b) For each customer who received water service during the twelve-month period, add the amount the customer paid to the water company for items other than contribution in aid of construction items.

Example: Customer A paid \$340.
Customer B paid \$283.

(c) For each customer who received water service during the twelve-month period, add the number of months the customer received water service.

Example: Customer A received water service for twelve months.
Customer B received water service for nine months.

(d) Total the amount paid by customers during the twelve-month period.

Example:

	<u>Paid to Water Company During the Twelve-Month Period</u>
Customer A	\$340
Customer B	+ \$283
Total Paid During Twelve-Month Period	\$623

(e) Total the number of months each customer received water service.

Example:

	<u>Number of Months Received Water Service During the Twelve-Month Period</u>
Customer A	12
Customer B	+ <u>9</u>
Total Months Received Water Service During the Twelve-Month Period	21

(f) Calculate the "Average Monthly Revenue Per Customer": Divide the "Total Paid During the Twelve-Month Period" by the "Total Months Received Water Service During the Twelve-Month Period."

Example:

Total Paid During the Twelve-Month Period	\$623
Total Months Received Water Service During the Twelve-Month Period	+ <u>21</u>
Average Monthly Revenue Per Customer	\$29.67

(g) Calculate the "Average Annual Revenue Per Customer": Multiply the "Average Monthly Revenue Per Customer" times 12 months.

(A) Average Monthly Revenue Per Customer	\$29.67
Months in a Year	x <u>12</u>
(B) Average Annual Revenue Per Customer	\$356.04

**DATA USED IN THE EXAMPLE
TO CALCULATE
AVERAGE ANNUAL REVENUE PER CUSTOMER**

**Example—
Customer A**

	<u>Standby Charge</u>	<u>Ready-to-Serve Charge</u>	<u>Connection Charge</u>	<u>Facilities Charge</u>	<u>Meter Base Charge</u>	<u>Meter Usage Charge</u>	<u>Total Paid</u>
<u>Receive Water Service</u>	No	No	Yes	Yes	Yes	Yes	
<u>Contribution in Aid of Construction</u>	No	No	Yes	Yes	No	No	
<u>Year</u>	<u>Month</u>						
1997	February				\$20	\$4	\$24
1997	March				\$20	\$5	\$25
1997	April				\$20	\$2	\$22

1997	May					\$25	\$5	\$30
1997	June					\$25	\$6	\$31
1997	July					\$25	\$12	\$37
1997	August					\$25	\$6	\$31
1997	September					\$25	\$4	\$29
1997	October					\$25	\$4	\$29
1997	November					\$25	\$3	\$28
1997	December					\$25	\$2	\$27
1998	January					<u>\$25</u>	<u>\$2</u>	<u>\$27</u>
		\$0	\$0	\$0	\$0	\$285	\$55	\$340

Number of months service	12	
Not Receiving Water		\$0
Receiving Water - Contribution in Aid of Construction		\$0
Receiving Water - Other than Contribution in Aid of Construction		<u>\$340</u>
Total customer paid during period		\$340

**DATA USED IN THE EXAMPLE
TO CALCULATE
AVERAGE ANNUAL REVENUE PER CUSTOMER**

**Example—
Customer B**

	<u>Standby Charge</u>	<u>Ready-to-Serve Charge</u>	<u>Connection Charge</u>	<u>Facilities Charge</u>	<u>Meter Base Charge</u>	<u>Meter Usage Charge</u>	
<u>Receive Water Service</u>	No	No	Yes	Yes	Yes	Yes	
<u>Contribution in Aid of Construction</u>	No	No	Yes	Yes	No	No	
							<u>Total Paid</u>
<u>Year</u>	<u>Month</u>						
1997	February	\$7					\$7
1997	March	\$7					\$7
1997	April		\$12				\$12
1997	May			\$300	\$4,500	\$25	\$4,830
1997	June					\$25	\$29
1997	July					\$25	\$28
1997	August					\$12	\$37
1997	September					\$10	\$35
1997	October					\$15	\$40
1997	November					\$5	\$30
1997	December					\$2	\$27
1998	January					<u>\$25</u>	<u>\$27</u>
		\$14	\$12	\$300	\$4,500	\$225	\$5,109

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Number of months service

9

	Not Receiving Water	\$26
	Receiving Water - Contributions in Aid of Construction	\$4,800
	Receiving Water - Other than Contribution in Aid of Construction	<u>\$283</u>
	Total customer paid during period	\$5,109

(h) To ensure that all customers are treated equitably, the commission will impute the same rates to any customers receiving free or reduced service that apply to other customers receiving comparable service on the same system.

terms and conditions that must be provided by an applicant, and that will be made public by the commission.

Proposal Changes the Following Existing Rules: Many proposed changes include language and format. The proposed rule describes the terms and conditions that must be provided by an applicant, and that will be made public by the commission during its review under WAC 480-80-335.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency does not believe that any increase in cost will result from adopting these rules.

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 Wednesday, July 12, 2000, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine by Monday, July 10, 2000, 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 Wednesday, June 14, 2000. Please include Docket No. U-991928 in your communication.

Date of Intended Adoption: July 12, 2000.

May 11, 2000
Carole Washburn
Secretary

**WSR 00-11-044
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed May 11, 2000, 1:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-02-011.

Title of Rule: WAC 480-80-335 Utilities general—Tariff—Special contracts for electric, water, and natural gas utilities, Commission Docket No. U-991928.

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 proposed rule describes and defines the essential terms and conditions of a special contract for the sale of regulated utility services subject to the approval of the commission under WAC 480-80-335. The essential terms and conditions of a special contract under this section will be made available to the public.

Statutory Authority for Adoption: RCW 80.01.040 General, 80.04.160 Utility.

Statute Being Implemented: RCW 80.28.010, [80.28.]020, [80.28.]050, [80.28.]100, [80.28.]120, and [80.28.]270.

Summary: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Fred Ottavelli, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503, (360) 664-1297; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503, (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: The proposed rule addresses how the Washington Utilities and Transportation Commission regulates special contracts for electric, water, and natural gas utilities. This rule review complies with Executive Order 97-02 and reviews the chapter for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost and fairness. The proposed rule incorporates and formalizes policies. In addition, the proposed rule describes the essential

AMENDATORY SECTION (Amending Order 291, Docket No. U-88-2337-R, filed 10/28/88)

WAC 480-80-335 Special contracts for electric, water, and natural gas ((utilities)) companies. (1) Contracts to be filed. Electric, water, and natural gas companies must file with the commission all contracts for the retail sale of regulated utility services ((by electric, water, or natural gas utilities)) to end-use customers ((which contain or)) that:

(a) State ((rates)) charges or conditions ((which)) that do not conform to any ((applicable)) existing tariff; or ((which))

(b) Provide for utility services ((which are)) not specifically addressed in the ((utility's published)) company's existing tariffs ((shall be filed with the commission)).

(2) ((This rule shall apply prospectively to all contracts, as defined in subsection (1), executed after (the effective date of this rule).)) Significant modification of a previously executed contract will be treated as a new contract for purposes of this section.

(3) Essential terms and conditions of all contracts filed pursuant to this section ((have the same effect as)) are consid-

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ered a part of the company's filed tariffs and are subject to enforcement, supervision, regulation, ~~((and))~~ control, and public inspection as such. The provisions of this chapter ~~((shall))~~ will apply except for those provisions governing the filing, notice, and form of tariffs, including those stated in WAC 480-80-060 through 480-80-320.

(4) ~~((Each such contract shall be filed with the commission not less than thirty days prior to the proposed effective date of the contract, and shall become effective according to its terms the thirty first day from the date of its filing unless earlier approved, suspended, or rejected by the commission: Provided, That upon application and for good cause shown, the commission may approve the contract as of an effective date prior to the date that the contract would have become effective in accordance with this rule.))~~ Filing and effective dates. The contract will become effective on the effective date stated on the contract or thirty days after the filing date, whichever occurs later, unless suspended or rejected by the commission. The commission, for good cause shown, may approve an earlier effective date. In no event may a contract become effective on a date that precedes commission approval. The request for an earlier effective date must include a complete explanation of why an earlier effective date is appropriate.

(5) Each ~~((contract))~~ application filed for commission approval ~~((shall be accompanied by such documentation as may be necessary to))~~ of a contract must:

- (a) Include a complete copy of the proposed contract;
- (b) Show that the contract does not result in discrimination ~~((between))~~ among customers receiving like and contemporaneous service under the same or substantially similar circumstances ~~((and provides for the recovery of))~~;
- (c) Demonstrate, at a minimum, that the contract charges recover all costs ~~((associated with the provision of the service. In addition, the utility shall file the following information in conjunction with each contract submitted for commission approval:~~

~~((a) A statement summarizing the))~~ resulting from providing the service during its term, and, in addition, provide a contribution to the company's fixed costs;

(d) Summarize the basis of the ~~((rate or))~~ charge(s) proposed in the contract and ~~((an explanation of))~~ explain the derivation of the proposed ~~((rate or))~~ charge(s) including all cost computations involved;

~~((b) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract;))~~ and

~~((e) A statement indicating))~~ (e) Indicate the basis for ~~((the use of))~~ using a contract rather than a filed tariff for the specific service involved. If the basis for using a contract is the availability of an alternative service provider, identify that provider.

(6) All contracts ~~((shall))~~ must be for a stated time period. The commission may approve terms and conditions ~~((which))~~ that prescribe the ~~((rate or rates))~~ charge(s) to be applied during the time period, if such ~~((rates))~~ charge(s) are found to be appropriate. Unless otherwise provided by the commission, such approval ~~((shall))~~ will not be determinative with respect to the expenses and revenues of the ~~((utility))~~ company for subsequent ratemaking considerations.

(7) Filings under this section may be submitted with portions designated "confidential" pursuant to WAC 480-09-015. However, any filing that designates the essential terms and conditions of the contract as "confidential" shall be rejected by the commission as not in compliance with the public inspection requirement of RCW 80.28.050. Essential terms and conditions are:

- (a) Identity of the customer;
- (b) Nature and characteristics of the service provided, including interruptible, firm, or peak delivery;
- (c) Duration of the contract, including any options to renew;
- (d) Charge(s) for service, including minimum charge provisions;
- (e) Geographic location where service will be provided; and
- (f) Additional obligations specified in the contract, if any.

WSR 00-11-045
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed May 11, 2000, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-05-040.

Title of Rule: License designation for Puget Sound scallop trawl fishery.

Purpose: Identify license requirement for the operation of this fishery.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Designate a commercial fishing license type for Puget Sound scallop trawl gear.

Reasons Supporting Proposal: The 1999 legislation that designated Puget Sound commercial shrimp fisheries as a limited entry fishery designated the Puget Sound shrimp trawl fishery license as the license required under the limited entry provision for shrimp beam trawl gear. This license had also been designated as the license required for scallop trawl gear in Puget Sound. As this license is no longer available for the scallop trawl fishery, a different license needs to be designated for this fishery and gear.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2826; Implementation: Lew Atkins, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2325; and Enforcement: Bruce Bjork, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2373.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will provide a license designation that will allow the Puget Sound scallop trawl fishery to operate. This

PROPOSED

will replace the previously designated license which was used to designate a limited entry license for Puget Sound shrimp beam trawling in 1999.

Proposal Changes the Following Existing Rules: Modifies existing rule to redefine the license designation for the Puget Sound scallop trawl fishery.

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

Small Business Economic Impact Statement

1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule: None.

2. Kinds of Professional Services That a Small Business Is Likely to Need in Order to Comply with Such Requirements: None.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor and Increased Administrative Costs: None.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No.

5. Cost of Compliance for the 10% of Businesses that are the Largest Businesses Required to Comply with the Proposed Rules Using One or More of the Following as a Basis for Comparing Costs: No additional costs.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: No costs incurred by rule.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: A public hearing process will occur as part of the Fish and Wildlife Commission meeting process.

8. A List of Industries That Will Be Required to Comply with the Rule: Puget Sound scallop trawlers.

A copy of the statement may be obtained by writing to Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulic rules.

Hearing Location: Best Western Hotel, 15901 West Valley Road, Tukwila, WA 98188, on August 11-12, 2000, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 25, 2000, TDD (360) 902-2207, or (360) 902-2226.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2944, by August 10, 2000.

Date of Intended Adoption: August 11, 2000.

May 10, 2000

Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

WAC 220-52-069 Scallop fishery—Puget Sound. It is unlawful to fish for or possess scallops taken for commercial purposes from Puget Sound except as provided for in this section:

(1)(a) Rock scallops and weathervane scallops. It is unlawful at any time to take or possess rock or weathervane scallops taken for commercial purposes from Puget Sound unless a person has first obtained a scallop brood stock permit issued by the department. The permit will specify the species, location, time, and quantity of scallops that can be taken for brood stock or culture purposes.

(b) Licensing:

(i) A shellfish dive fishery license is a license that allows a permittee to retain rock and weathervane scallops for brood stock purposes.

(ii) Shrimp trawl—Puget Sound and food fish trawl—Puget Sound fishery licenses are licenses that allow a permittee to retain weathervane scallops for brood stock purposes.

(2) Pink scallops and spiny scallops.

(a) General provisions:

(i) Pink and spiny scallops may be harvested from Puget Sound at any time.

(ii) The minimum commercial pink or spiny scallop size is 2 inches in length from the hinge to the outer margin of the shell.

(iii) Persons fishing for pink or spiny scallops must have approval of the Washington state department of health. Scallops may only be taken from areas approved by the department of health and any fisher taking pink or spiny scallops must have on board the harvesting vessel a valid department of health shellfish toxin sampling agreement.

(iv) No other shellfish except octopus and squid or food fish may be retained while scallop fishing or possessed aboard the scallop fishing vessel.

(b) Trawl gear provisions:

(i) Trawlers may only use single beam trawls not exceeding ten feet in width and having mesh size no smaller than two inches in the intermediate portion and cod end of the trawl.

(ii) Trawling for scallops is prohibited in waters less than 120 feet below mean lower low water.

(iii) Trawling for scallops is prohibited in the following areas:

(A) All waters closed to bottomfish trawl in WAC 220-48-015.

(B) Shrimp Districts 1 and 3 as defined in WAC 220-52-051.

(C) Sea Urchin Districts 1 and 2 closed waters defined in WAC 220-52-073 (1)(a)(i), (ii), and (1)(b)(ii).

(iv) Licensing: A ((shrimp)) food fish trawl—Puget Sound fishery license is the license required to operate the gear provided for in this section.

(c) Shellfish diver gear provisions:

(i) Diving for scallops is prohibited in Sea Urchin Districts 1 and 2 closed waters as defined in WAC 220-52-073 (1)(a)(i), (ii), (1)(b)(i), and (ii).

(ii) Licensing: A shellfish dive fishery license is the license required to take scallops with shellfish diver gear.

WSR 00-11-050
WITHDRAWAL OF PROPOSED RULES
SENTENCING GUIDELINES COMMISSION

[Filed May 12, 2000, 1:27 p.m.]

You are hereby notified that our request for continuance of adoption date of the rule establishing community custody ranges, which was filed in your office on March 21, 2000, requesting a continuance to May 20, 2000, was erroneously filed.

The Sentencing Guidelines Commission is hereby withdrawing CR-102, WSR 00-07-124.

Please be advised that a new form showing the adoption on May 12, 2000, will be duly filed.

Ida Rudolph Leggett
 Acting Executive Director

WSR 00-11-051
PROPOSED RULES
SENTENCING GUIDELINES COMMISSION

[Filed May 12, 2000, 1:28 p.m.]

Continuance of WSR 99-22-094.

Preproposal statement of inquiry was filed as WSR 99-18-124.

Title of Rule: Community custody ranges.

Purpose: Establishing community custody ranges to be included in sentences for eligible felonies committed on or after July 1, 2000.

Statutory Authority for Adoption: RCW 9.94A.040(6) (rule-making authority under chapter 34.05 RCW).

Statute Being Implemented: E2SSB 5421, section 3, chapter 196, Laws of 1999, amending RCW 9.94A.040(5).

Summary: CR-102 continuance of adoption date was filed in error.

Name of Proponent: Sentencing Guidelines Commission, governmental.

Date of Intended Adoption: May 12, 2000.

May 12, 2000
 Ida Rudolph Leggett
 Executive Director

WSR 00-11-062
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed May 15, 2000, 10:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-05-038.

Title of Rule: New WAC 388-539-0200 AIDS—Health insurance premium payment program and repealing WAC 388-539-001, 388-539-050, 388-539-100, and 388-539-150.

Purpose: The department is replacing several sections of rule with a single section, written to comply with the Governor's Executive Order 97-02 on regulatory reform. The new consolidated rule reflects long-standing program policy, adopts a new upper income limit, is more readable, and has been reviewed in consultation with the regulated community.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.09.757.

Summary: The department is replacing several sections of rule with a single consolidated section. The proposed rule adopts a new upper income limit and reflects long-standing program policy.

Reasons Supporting Proposal: To ensure that department rules reflect current and accurate department policy, to eliminate confusion by consolidating related rules and to comply with the Governor's Executive Order 97-02 on regulatory reform.

Name of Agency Personnel Responsible for Drafting: L. Mike Freeman, MAA/RIP, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1350; Implementation and Enforcement: Sharon Black, MAA/COB, 817 S.E. 8th Avenue, Olympia, WA 98501, (360) 725-1210.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule continues the implementation of a program authorized by the Washington state legislature. The program allows the Medical Assistance Administration to assist persons who are seriously ill with AIDS by paying their health insurance premiums. The purpose of the program is to preserve those persons' assets and so forestall Medicaid eligibility.

Proposal Changes the Following Existing Rules: The rule proposed clarifies the previous rules and program operational policy, providing greater detail about long-standing policy. The proposed rule places one additional restriction on the regulated community in regard to an upper income limit. This limit is consistent with the limit the Department of Health places on its program for persons living with HIV. Otherwise, the proposed rule does not impose additional restrictions on the regulated community or increase the costs to clients, contractors or the department.

No small business economic impact statement has been prepared under chapter 19.85 RCW. MAA reviewed the proposed rule and concluded that the rule will not place "a more than minor impact on businesses."

RCW 34.05.328 applies to this rule adoption. MAA reviewed the proposed rule and determined that it meets the definitions of "a significant legislative rule." Therefore, MAA has analyzed the probable costs and the probable benefits of the proposed rule, taking into account both the qualitative and quantitative benefits and costs. MAA's analysis revealed that no new costs will be imposed, existing costs will not be increased, and benefits to businesses will not be decreased. A statement of probable costs and probable benefits may be obtained from the person listed above.

PROPOSED

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: Not sooner than June 30, 2000.

May 11, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Chapter 388-539 WAC

~~((ACQUIRED HUMAN IMMUNODEFICIENCY SYNDROME INSURANCE PROGRAM))~~ HIV/AIDS RELATED SERVICES

NEW SECTION

WAC 388-539-0200 AIDS—Health insurance premium payment program (1) The purpose of the AIDS health insurance premium payment program is to help individuals who are not eligible for MAA's medical programs and who are diagnosed with AIDS, pay their health insurance premiums.

(2) To be eligible for the AIDS health insurance premium payment program, individuals must:

(a) Be diagnosed with AIDS as defined in WAC 246-100-011;

(b) Be a resident of the state of Washington;

(c) Be responsible for all, or part of, the health insurance premium payment (without MAA's help);

(d) Not be eligible for one of MAA's other medical programs;

(e) Not have personal income that exceeds three hundred seventy percent of the federal poverty level; and

(f) Not have personal assets, after exemptions, exceeding fifteen thousand dollars. The following personal assets are exempt from the personal assets calculation:

(i) A home used as the person's primary residence; and

(ii) A vehicle used as personal transportation.

(3) MAA may contract with a not-for-profit community agency to administer the Aids health insurance premium payment program. MAA or its contractor determines an individual's initial eligibility and redetermines eligibility on a periodic basis. To be eligible, individuals must:

(a) Cooperate with MAA's contractor;

(b) Cooperate with eligibility determination and redetermination process; and

(c) Initially meet and continue to meet the eligibility criteria in subsection (2) of this section.

(4) Individuals, diagnosed with AIDS, who are eligible for one of MAA's medical programs may ask MAA to pay their health insurance premiums under a separate process.

The client's community services office (CSO) is able to assist the client with this process.

(5) Once an individual is eligible to participate in the AIDS health insurance premium payment program, eligibility would cease only when one of the following occurs. The individual:

(a) Is deceased;

(b) Voluntarily quits the program;

(c) No longer meets the requirements of subsection (2) of this section; or

(d) Has benefits terminated due to the legislature's termination of the funding for this program.

(6) MAA sets a reasonable payment limit for health insurance premiums. MAA sets its limit by tracking the charges billed to MAA for MAA clients who have AIDS. MAA does not pay health insurance premiums that exceed fifty percent of the average of charges billed to MAA for its clients with AIDS.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-539-001	Purpose.
WAC 388-539-050	Definitions.
WAC 388-539-100	Eligibility.
WAC 388-539-150	Premium payment.

WSR 00-11-086

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

(By the Code Reviser's Office)

[Filed May 16, 2000, 11:43 a.m.]

WAC 220-48-005, 220-48-015, 220-48-016, 220-48-017, 220-48-019, 220-48-028, 220-48-029, 220-48-031, 220-48-032, 220-48-061 and 220-48-071, proposed by the Department of Fish and Wildlife in WSR 99-22-055 appearing in issue 99-22 of the State Register, which was distributed on November 17, 1999, 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 00-11-087**WITHDRAWAL OF PROPOSED RULES****DEPARTMENT OF
FISH AND WILDLIFE**

(By the Code Reviser's Office)

[Filed May 16, 2000, 11:44 a.m.]

WAC 220-16-480 and 220-56-335, proposed by the Department of Fish and Wildlife in WSR 99-22-105 appearing in issue 99-22 of the State Register, which was distributed on November 17, 1999, 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 00-11-093**PROPOSED RULES****DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed May 16, 2000, 3:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-056.

Title of Rule: Repealing WAC 388-86-035 Family planning services. New chapter 388-532 WAC, Family planning services.

Purpose: The department is establishing a new chapter for family planning services, chapter 388-532 WAC. The existing WAC 388-86-035 is being rewritten to be filed in the new chapter and to meet the mandates of the Governor's Executive Order 97-02 on Regulatory Reform. No policy changes have been made in the rewritten rule. WAC 388-87-035 is being repealed to avoid duplication of the new chapter.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.09.800.

Statute Being Implemented: RCW 74.09.800.

Summary: See Purpose above.

Reasons Supporting Proposal: To comply with the Governor's Executive Order 97-02 on regulatory reform and concentrate department rules in one area for ease of use and rewrite existing policy in clear language.

Name of Agency Personnel Responsible for Drafting: Ann Myers, DPS/RIP, P.O. Box 45533, Olympia, WA 98504, (360) 725-1345; Implementation and Enforcement: Mary Neukom, DPS/FPS, 805 Plum Street S.E., Olympia, WA 98501, (360) 725-1664.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new family planning chapter (chapter 388-532 WAC) will concentrate all the department's rules on this subject in one area, making it easier for staff and other users to

find information. The existing policy is being written in clearer language to make it easier to understand; it defines "family planning," and lists some family planning services available to eligible clients.

WAC 388-86-035 Family planning services is being repealed because it will duplicate the new chapter.

Proposal Changes the Following Existing Rules: The department is repealing WAC 388-86-035 Family planning services in order to consolidate the rules on this subject in new chapter 388-532 WAC, Family planning services.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has reviewed the proposed amendments and repeals and concludes that no new costs will be imposed on the small businesses affected by them.

RCW 34.05.328 does not apply to this rule adoption. The department has analyzed the proposed rules and concludes that they are not "significant legislative rules."

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: June 28, 2000.

May 12, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Chapter 388-532 WAC**FAMILY PLANNING SERVICES**NEW SECTION

WAC 388-532-050 Family planning definitions. "Family planning services" means services, including the use of contraceptive techniques, that a client uses to plan the number and spacing of the client's children.

NEW SECTION

WAC 388-532-100 Family planning services. (1) The department informs eligible clients about available family planning services. This service includes, but is not limited to, information about the synthetic progestin capsule implant form of contraception.

(2) For eligible clients, the department provides the following services when needed in conjunction with family planning:

- (a) Physicians' services;
- (b) Advanced registered nurse practitioners' (ARNP) services;
- (c) Clinic or hospital services;
- (d) Laboratory services; and

- (e) Contraceptive supplies and/or prescription drugs.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-86-035 Family planning.

WSR 00-11-099
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
 [Filed May 18, 2000, 9:30 a.m.]

Continuance of WSR 00-04-093, 00-07-062, and 00-09-068.

Title of Rule: Amending Regulation III, Sections 4.01, 4.03, 4.04, and 4.05, rescinding Regulation III, Section 4.06; and adopting Regulation III, Section 4.09.

Purpose: Continue hearing from May 11, 2000 to June 8, 2000.

Hearing Location: PSCAA Offices, 110 Union Street, #500, Seattle, WA 98101, on June 8, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist (206) 689-4010 by June 1, 2000, TDD (800) 833-6388 or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, PSCAA, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by May 30, 2000.

Date of Intended Adoption: June 8, 2000.

May 16, 2000
 James Nolan
 Director - Compliance

WSR 00-11-106
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed May 18, 2000, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-088.

Title of Rule: Amending WAC 388-530-1750 Drugs and pharmaceutical supplies for clients with any third-party coverage.

Purpose: To clarify program requirements and to comply with the Governor's Executive Order 97-02, which mandates that all rules be reviewed for clarity, necessity, fairness, etc.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.035.

Statute Being Implemented: RCW 74.08.090, 74.09.035.

Summary: These amendments update and clarify the process of reimbursing pharmacy providers for drugs or pharmaceutical supplies supplied to Medical Assistance Administration clients who have third-party insurance coverage, including clients who are eligible for both Medicare and medical assistance.

Reasons Supporting Proposal: To update rule content to reflect current department policy and business practices and to comply with the Governor's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, MAA/DCS, 925 Plum Street S.E., Olympia, WA 98501, (360) 725-1342; Implementation and Enforcement: Sonja Gleizes, MAA/DCS, 623 8th Avenue S.E., Olympia, WA 98501, (360) 725-1180.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule clarifies how the department reimburses pharmacy providers when a client has any third party coverage that may pay for some or all expenses. It reflects current MAA policy to reimburse pharmacy providers for coinsurance and deductible amounts for drugs supplied to dual-eligible Medicare and Medicaid clients. The purpose of the rule is to inform providers about current MAA policy, and to make [sure] that policy is clearly understood. Its anticipated effect is a clearer understanding of MAA policy.

Proposal Changes the Following Existing Rules: The rule identified above is amended by adding language to clarify that MAA reimburses providers for coinsurance and deductible amounts for drugs Medicare covers, but MAA does not cover. This is not a change in policy, it is merely clarification of existing policy.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendments and concludes that no new costs will be imposed on businesses affected by them.

RCW 34.05.328 does not apply to this rule adoption. The rule does not meet the definition of "a significant legislative rule."

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: June 28, 2000.

May 12, 2000
 Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-21-031, filed 10/9/96, effective 11/9/96)

WAC 388-530-1750 Drugs and pharmaceutical supplies for clients with any third-party coverage. (1) Except as specified under contract, ~~((MAA shall))~~ the medical assistance administration (MAA) does not reimburse providers for any drugs ~~((/supplies))~~ or pharmaceutical supplies provided to clients who have pharmacy benefits under MAA-contracted managed care plans. The managed care plan ~~((shall be))~~ is responsible for payment.

(2) ~~((For the purposes of the section;))~~ The following definitions apply to this section:

(a) "Closed pharmacy network" means an arrangement made by an insurer which restricts prescription coverage to an exclusive list of pharmacies. This arrangement prohibits the coverage and/or payment of prescriptions provided by a pharmacy that is not included on the exclusive list.

(b) "Private point-of-sale (POS) authorization system" means an insurer's system, other than the MAA POS system, which requires that coverage be verified by or submitted ~~((for authorization by))~~ to the insurer's agent for authorization at the time of service and at the time the prescription is filled.

(3) ~~((MAA clients who have a third-party resource which is a managed care entity or other insurance requiring the use of "closed pharmacy networks" or "private point-of-sale authorization systems" shall not have prescription provider claims paid until the prescription provider submits an explanation of benefits from the private insurance which demonstrates that the prescription provider has complied with the terms of coverage. If the private insurer has paid:))~~ This subsection applies to MAA clients who have a third-party resource that is a managed care entity other than an MAA-contracted plan, or have other insurance that requires the use of "closed pharmacy networks" or "private point-of-sale authorization." MAA will not pay pharmacies for prescription drug claims until the pharmacy provider submits an explanation of benefits from the private insurance that demonstrates that the pharmacy provider has complied with the terms of coverage.

(a) If the private insurer pays a fee based on the incident of care, the ~~((prescription))~~ pharmacy provider ~~((shall))~~ must file a claim with ~~((the department))~~ MAA consistent with ~~((the department's))~~ MAA's billing requirements~~((; or))~~.

(b) If the ~~((prescription))~~ private insurer pays the pharmacy provider a monthly capitation fee for all prescription costs related to the client, the ~~((prescription))~~ pharmacy provider ~~((may))~~ must submit a claim to ~~((the department))~~ MAA for the amount of the client ~~co((-))~~payment, ~~co((-))~~insurance, and/or deductible. ~~((The department shall))~~ MAA pays the provider the lesser of:

(i) The ~~((lesser of the))~~ billed amount; or
 (ii) ~~((The department's))~~ MAA's maximum allowable fee for the prescription.

(4) For clients eligible for both Medicare and ~~((Medicaid, providers shall))~~ medical assistance, MAA reimburses providers for:

(a) ~~((Be reimbursed for drugs not covered by Medicare, but covered by MAA;))~~ An amount up to MAA's maximum

allowable fee for drugs Medicare does not cover, but MAA does cover; or

(b) ~~((Not be reimbursed for drugs covered by Medicare))~~ Deductible and/or coinsurance amounts up to Medicare's or MAA's maximum allowable fee, whichever is less, for drugs Medicare and MAA cover; or

(c) Deductible and/or coinsurance amounts for clients under the qualified Medicare beneficiary (QMB) program for drugs Medicare does cover but MAA does not cover.

WSR 00-11-107

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed May 18, 2000, 3:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-21-094.

Title of Rule: Chapter 388-800 WAC, Chemical dependency assistance programs.

Purpose: The purpose of this rule is to describe client eligibility and available services for (1) the medical-based alcohol/drug detoxification program; and (2) the Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program.

Statutory Authority for Adoption: RCW 74.08.090, 74.50.080.

Statute Being Implemented: Chapter 74.50 RCW.

Summary: The chapter has been rewritten and reorganized from its previous chapter 388-240 WAC version, using simple language and question/answer format to clearly describe chemical treatment assistance services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Friedman, 1949 South State Street, Tacoma, 98405, (253) 593-2663.

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: This rule describes the eligibility criteria and services provided for individuals seeking medical-based alcohol/drug detoxification program, and the Alcoholism and Drug Addition Treatment and Support Act (ADATSA) program.

Proposal Changes the Following Existing Rules: The elimination of the ninety-calendar day limit for ADATSA outpatient treatment within the allowable one hundred eighty days of total treatment in any two-year period.

The deletion of the requirement for eligible individuals to contribute toward the cost of care for ADATSA residential treatment services.

Repeal of chapter 388-240 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DASA did not prepare

a small business economic impact statement because no new costs will be imposed on small businesses.

RCW 34.05.328 applies to this rule adoption. The proposed amendments make significant amendments to the DASA program. A copy of the CBA may be obtained by contacting the person listed above.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on July 11, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 30, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by July 11, 2000.

Date of Intended Adoption: No sooner than July 12, 2000.

May 16, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 00-12 issue of the Register.

WSR 00-11-109

WITHDRAWAL OF PROPOSED RULES WESTERN WASHINGTON UNIVERSITY

[Filed May 19, 2000, 9:04 a.m.]

Western Washington University hereby gives notice of the withdrawal of the proposed health and safety amendments, specifically WAC 516-52-010 Control of dogs, WSR 00-08-065.

It is anticipated a Notice of Proposed Rule Making (CR-102) will be filed on this chapter in June 2000.

Gloria McDonald
Administrative Secretary
Rules Coordinator

WSR 00-11-112

PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed May 19, 2000, 11:18 a.m.]

Continuance of WSR 00-08-107.

Preproposal statement of inquiry was filed as WSR 00-05-100.

Title of Rule: Red raspberry grades and standards.

Purpose: To (1) establish a grade and standards for fresh raspberries that are destined for freezing, puree, juice stock and other processing uses; (2) establish standards for red raspberry puree stock and juice stock red raspberries; (3) establish container marking requirements for red raspberries; and (4) specify how red raspberries may be used, processed

and sold. Red raspberries destined for fresh market are exempt from this rule.

Date of Intended Adoption: May 22, 2000.

May 19, 2000
William Brookreson
Deputy Director

WSR 00-11-113

PROPOSED RULES GAMBLING COMMISSION

[Filed May 19, 2000, 1:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-125 with a published date of April 5, 2000.

Title of Rule: New section WAC 230-12-074 Sales on license premises only—Exceptions.

Purpose: A charitable organization will be leasing part of its bingo premises to a commercial card room, which plans to operate house-banked card games. The charitable organization would like to be able to sell pull-tabs to the card room patrons. The charitable organization's gambling activities will be physically separate from the card room activities. This rule sets forth the criteria for charitable and nonprofit organizations to sell punch board/pull-tabs to patrons of a card room adjoining their premises.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654 ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654 ext. 301.

Name of Proponent: Staff, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: West Coast Bellevue Hotel, 625 116th Avenue N.E., Bellevue, WA 98004, (425) 455-9444, on July 14, 2000, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by July 1, 2000, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, Washington 98504-2400, fax (360) 438-8652, by July 1, 2000.

Date of Intended Adoption: July 14, 2000.

May 19, 2000
Susan Arland
Rules Coordinator

NEW SECTION

WAC 230-12-074 Sales on licensed premises only—
Exceptions. (1) All gambling activities must be under the complete control of the licensed operator and conducted on the premises set forth in the license application as approved by the commission, with the following exceptions:

(a) Raffle ticket sales; and
(b) Amusement games operated on a Class A licensed premises.

(2) A bona fide charitable or nonprofit organization licensed to conduct bingo and punch board/pull-tab games may sell punch boards/pull-tabs to customers of a licensed card room provided that the following conditions are met:

(a) The premises of the nonprofit licensee and the card room licensee share a common wall;

(b) Any door, counter or window allowing customer access through the common wall between the two premises is under the control of the nonprofit licensee and must be capable of being securely closed and locked;

(c) All punch board/pull-tab games shall be maintained and sold only on the premises of the nonprofit licensee, however, pull-tab players may take purchased punch boards/pull-tabs into the card room area;

(d) Punch board/pull-tab sales shall only be conducted by employees of the bingo/punch board/pull-tab licensee; and

(e) Signs shall conspicuously be posted at the door, window or counter separating the two premises clearly notifying the customers of the identity of the licensee selling the punch board/pull-tabs.

(3) A licensed operator shall not be deemed to have violated this rule solely because the pull-tab players may take pull-tabs from the licensee's premises, if the pull-tabs are selected and purchased and prizes determined and paid on the licensed operator's premises.

WSR 00-11-114
PROPOSED RULES
GAMBLING COMMISSION
[Filed May 19, 2000, 1:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-05-031 with a published date of March 1, 2000.

Title of Rule: Sales and purchases of gambling equipment, WAC 230-02-412, 230-04-110, 230-04-115, 230-04-120, 230-04-124, 230-04-203, 230-12-335, 230-30-212, and 230-30-213.

Purpose: This rule package requires that licensees, such as distributors, only sell gambling equipment to persons who can legally possess it. Furthermore, a new rule was written to streamline and clearly define gambling equipment in one rule, rather than several rules.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654 ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654 ext. 301.

Name of Proponent: Staff, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: West Coast Bellevue Hotel, 625 116th Avenue N.E., Bellevue, WA 98004, (425) 455-9444, on July 14, 2000, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by July 1, 2000, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, Washington 98504-2400, fax (360) 438-8652, by July 1, 2000.

Date of Intended Adoption: July 14, 2000.

May 19, 2000
Susan Arland
Rules Coordinator

NEW SECTION

WAC 230-02-412 Gambling equipment defined. For purposes of this title, gambling equipment means any device, expendable supply or any other paraphernalia used in conjunction with or to facilitate gambling. Gambling equipment includes, but is not limited to:

- (1) Amusement games;
- (2) Punch boards and pull-tabs;
- (3) Devices for dispensing pull-tabs;
- (4) Electronic devices for conducting, facilitating or accounting for the results of gambling activities, including:
 - (a) Components of a tribal lottery system;
 - (b) Electronic devices for reading and displaying outcomes of pull-tabs defined by WAC 230-02-260; and
 - (c) Accounting systems that are a part of, or directly connected to, a gaming system including:
 - (i) Bet totalizers; or
 - (ii) Progressive jackpot meters;
- (5) Bingo equipment, as defined in WAC 230-02-250;
- (6) Equipment or machinery utilized for the manufacture of gambling equipment when such equipment is designed primarily for such purpose;

(7) Devices and supplies used to conduct card games, fund-raising events, recreational gaming activities, or Class III gaming activities, as defined in the Indian Gaming Regulatory Act at U.S.C. 25 chapter 29 § 2703 and in Tribal-State compacts, including, but not limited to:

- (a) Gaming chips;
- (b) Cards;
- (c) Dice;
- (d) Card shuffling devices;
- (e) Graphical game layouts for table games;
- (f) Ace finders or no-peak devices;
- (g) Roulette wheels; and
- (h) Tables manufactured exclusively for gaming purposes.

AMENDATORY SECTION (Amending WSR 97-21-043, filed 10/10/97, effective 11/10/97)

WAC 230-04-110 Licensing of manufacturers.

Except as authorized by WAC 230-04-115, a license must be obtained from the commission prior to manufacturing, selling, or supplying gambling equipment to any person(s) within this state, or for use within this state. The following ((definitions and)) requirements apply to certification and licensing of manufacturers:

Information required on an application.

(1) ~~((For purposes of this title, "gambling equipment" includes at least the following devices:~~

- ~~(a) Punch boards and pull tabs;~~
- ~~(b) Devices for the dispensing of pull tabs;~~
- ~~(c) Bingo equipment, as defined by WAC 230-02-250;~~

and

~~(d) Any gambling equipment, patented or otherwise restricted gaming schemes, or paraphernalia for use in connection with licensed gambling activities, recreational gaming activities, or Class III tribal gaming activities, including table games, chips, cards, and dice.~~

(2) The applicant shall include upon the application form supplied by the commission, the following information, as well as all other information and materials required elsewhere in these rules:)) The following information shall be submitted on an application form supplied by the commission:

- (a) The full name and address of the applicant;
- (b) The full name and address of each location where such devices are manufactured or stored;
- (c) The name, home address, and share of ownership of all owners of the manufacturing business if the business is not a corporation. If the business is a corporation, the name, address, and share of ownership of the officers, the directors, and substantial interest holders;
- (d) A full description of each separate type of gambling equipment or device that an applicant seeks to manufacture or to market in this state;
- (e) The brand name under which each type of gambling device or equipment is sold;
- (f) If the applicant is incorporated under laws other than the laws of Washington state, then the full name and business

and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300; and

(g) A list of all distributors receiving gambling equipment and all businesses or organizations located within the state of Washington in which the applicant has any financial interest and the details of that financial interest. For the purpose of this subsection, the term financial interest shall include all arrangements through which a person directly or indirectly receives any portion of the profits of the licensed manufacturer and indebtedness between the licensee and any other person, other than a regulated financial institution, in excess of five thousand dollars.

Information to be included with an application.

~~((3) An applicant must demonstrate the ability to comply with all manufacturing, quality control, and operational restrictions imposed on authorized gambling equipment, patented or otherwise restricted gaming schemes, or equipment that it seeks to manufacture or market for use within the state of Washington. The licensing process shall include an on-site review of the applicant's manufacturing equipment and process for each separate type of authorized gambling device, equipment, or scheme to ensure capability to comply with all regulatory requirements of this title and state/tribal compacts;~~

(4)) (2) The following information shall be included as an attachment to the application form:

(a) A list of all affiliated businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant, either directly or indirectly, own or control:

- (i) As a sole proprietor; ~~((or))~~
- (ii) As a partner; ~~((or))~~
- (iii) More than fifty percent of the voting stock of a privately held or closed corporation; or
- (iv) At least five percent of the voting stock of a publicly traded corporation.

(b) A list of all businesses or corporations licensed to conduct gambling activities or to supply gambling-related equipment, supplies, or services in which the applicant, officers, directors, or substantial interest holders of the applicant have any interest;

(c) A list of all jurisdictions in which the applicant or any of the officers, directors, or substantial interest holders of the applicant have been licensed regarding gambling((-)related activities at any level during the preceding ten years;

(d) A statement regarding whether the applicant or officers, directors, or substantial interest holders have ever had a license for gambling-related activities denied, revoked, or suspended by any jurisdiction for a period longer than thirty days. All details of such must be provided as a part of the application; and

(e) A statement acknowledging that all records related to the ownership or operation of the business shall be made available for review at the time and place requested by commission staff. ~~((In addition to other records requested, the following shall be available:~~

~~((+))~~

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Additional information may be required from applicant.

(3) The following records shall also be available for inspection by commission staff:

(a) Personal financial records of all substantial interest holders;

~~((b))~~ (b) All records related to the scope of activity, including sales of product, purchases of raw materials and parts, and any contracts, franchises, patent agreements, etc., related to sales or purchases; and

~~((c))~~ (c) Records related to any financial or management control of or by customers and suppliers.

Applicant to demonstrate ability to comply with rules.

(4) An applicant must demonstrate the ability to comply with all manufacturing, quality control, and operational restrictions imposed on authorized gambling equipment, patented or otherwise restricted gaming schemes (also referred to as proprietary games), or equipment that it seeks to manufacture or market for use within the state of Washington. The licensing process shall include an on-site review of the applicant's manufacturing equipment and process for each separate type of authorized gambling device, equipment, or scheme to ensure capability to comply with all regulatory requirements of this title and state/tribal compacts:

Notifying commission staff of changes on an application.

(5) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form, including changes that occur after the license has been issued; and

Applicant to comply with all laws and rules.

(6) The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of this commission.

AMENDATORY SECTION (Amending WSR 95-12-052, filed 6/2/95, effective 7/3/95)

WAC 230-04-115 Licensing of manufacturers—
Exception—Special sales permit. The director may grant a special sales permit authorizing a manufacturer to sell to a ~~((distributor))~~ licensee or a tribal government, on a limited basis, authorized gambling equipment, patented or otherwise restricted gaming scheme, or paraphernalia.

Criteria for a special sales permit.

(1) A special sales permit may be issued when demand for a particular type of equipment, scheme, or paraphernalia is anticipated to be below the level of economic feasibility of obtaining a license ~~((or the type of product is not one for which licensing under WAC 230-04-110 is necessary to protect the public interest. Application for a special sales permit shall be processed in the following manner:~~

~~((1) An application shall be submitted on a form obtained from the commission setting forth the following information:))~~

Information required on an application.

(2) The following information shall be submitted on an application form supplied by the commission:

(a) Description of product(s), including trade name(s);

(b) Anticipated scope of sales, in quantity and dollar value;

(c) The name and address of the ~~((distributor))~~ licensee(s) that will broker the equipment;

(d) All information necessary to determine the qualification of the manufacturer; and

(e) A list of all jurisdictions in which the applicant business or any of the officers, directors, or substantial interest holders is currently licensed to conduct business related to gambling~~((; and~~

~~((f) The application shall be accompanied by a nonrefundable processing fee of two hundred dollars. Applicants may be assessed additional fees after an estimate of investigation costs have been established));~~

Initial investigation by staff.

~~((2))~~ (3) Upon receipt of all moneys requested by the commission, a limited investigation shall be initiated, the scope of which shall be established using the following criteria:

(a) Anticipated demand for such equipment;

(b) The nature of the equipment, including other sources of such equipment;

(c) The availability of information from appropriate sources to verify the qualification of such manufacturer;

(d) Annual sales compared to the anticipated cost of a comprehensive licensing investigation;

(e) Whether the equipment, after installation, will require an ongoing relationship with the manufacturer;

(f) Security issues related to the manufacturing, installation, and ongoing service of the equipment; and

(g) Other factors deemed relevant;

Requirements not met for a special sales permit.

~~((3))~~ (4) At any time during the investigation process, the director may determine that a license is required under WAC 230-04-110. Upon notification of such, the applicant may withdraw their permit application without prejudice. If the applicant elects to proceed with an application for a manufacturer's license, all fees will be credited toward the appropriate license fee;

Duration of a special sales permit.

~~((4))~~ (5) A special sales permit shall be valid for a period of one year from the date of issuance: Provided, That the director may void a permit upon written notice and require a license be obtained under WAC 230-04-110 prior to further sales;

Fee for special sales permit.

(6) The fee for a special sales permit shall be as set forth in WAC 230-04-203.

AMENDATORY SECTION (Amending WSR 97-21-043, filed 10/10/97, effective 11/10/97)

WAC 230-04-120 Licensing of distributors. Prior to selling, renting, or otherwise supplying gambling equipment, supplies, or related paraphernalia, including service of such, to any person within the state of Washington or for use within the state of Washington, a distributor shall first obtain a license from the commission. The following ~~((definitions and))~~ requirements apply to certification and licensing of distributors:

Information required on an application.

(1) ~~((For purposes of this title, a license is required to sell, rent, or otherwise provide to any person the following items and/or services:~~

- ~~(a) Punch boards and pull-tabs;~~
- ~~(b) Devices for the dispensing of pull-tabs;~~
- ~~(c) Bingo equipment, as defined by WAC 230-02-250;~~
- ~~(d) Any gambling equipment or paraphernalia for use in connection with licensed gambling activities, recreational gaming activities, or Class III gaming activities, including table games, chips, cards, and dice; and~~
- ~~(e) Organizing and conducting recreational gaming activities on behalf of persons as defined by WAC 230-02-505.~~

~~(2) The applicant shall include upon the application form supplied by the commission, the following information, as well as all other information and materials required elsewhere in these rules:))~~ The following information shall be submitted on an application form supplied by the commission:

- (a) The full name and address of the applicant;
- (b) The business name and address of each location operated by the distributor or where records or inventory will be located;
- (c) The name, home address, and share of ownership of all owners of the business if the business is not a corporation. If the business is a corporation, the name, address, and share of ownership of the officers, the directors, and substantial interest holders;
- (d) A full description of each separate type of gambling equipment or related supplies that the distributor intends to market in this state or for use in this state;
- (e) The brand name under which each type of gambling equipment will be sold;
- (f) If the applicant does not maintain a business office within the state or is incorporated in another state or county, then the full name and business and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300; and
- (g) A list of all manufacturers of gambling equipment and all businesses or organizations located in the state of Washington in which the applicant has any financial interest and the details of that financial interest. For the purposes of this subsection, the term financial interest shall include all arrangements through which a person directly or indirectly receives any portion of the profits of the licensed distributor and indebtedness between any other person and the applicant,

other than a regulated financial institution, in excess of five thousand dollars.

Information to be included with an application.

~~((3))~~ (2) The following information shall be included as an attachment to the application form:

(a) A list of all affiliated businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant, either directly or indirectly, own or control:

- (i) As a sole proprietor; ~~((or))~~
- (ii) As a partner; ~~((or))~~
- (iii) More than fifty percent of the voting stock of a privately held or closed corporation; or
- (iv) At least five percent of the voting stock of a publicly traded corporation.

(b) A list of all businesses or corporations licensed to conduct business related to gambling activities in which the applicant, officers, directors, or substantial interest holders of the applicant have any interest;

(c) A list of all jurisdictions in which the applicant or any of the officers, directors, or substantial interest holders of the applicant have been licensed for gambling-related activities at any level during the preceding ten years;

(d) A statement regarding whether the applicant or officers, directors, or substantial interest holders of the applicant have ever had a license for gambling-related activities denied, revoked, or suspended by any jurisdiction for a period longer than thirty days. All details of such must be provided as a part of the application; and

(e) A statement acknowledging that all records related to the ownership or operation of the business shall be made available for review at the time and place requested by commission staff. ~~((In addition to other records requested, the following shall be available:))~~

Additional information may be required from applicant.

~~((4))~~ (3) The following records shall also be available for inspection by commission staff:

- (a) Personal financial records of all substantial interest holders;
- ~~((5))~~ (b) All records related to the scope of activity, including suppliers, customers, and any contracts related to sales or purchases; and
- ~~((6))~~ (c) Records related to any financial or management control of or by customers and suppliers.

Notifying commission staff of changes on an application.

(4) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form, including changes that occur after the license has been issued; and

Applicant to comply with all laws and rules.

(5) The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of this commission.

AMENDATORY SECTION (Amending Order 369, filed 12/1/98, effective 1/1/99)

WAC 230-04-124 Licensing of manufacturer, distributor, gambling service supplier, and linked bingo prize provider representatives—Exceptions. Except as allowed by this section, all individuals representing or acting as an agent of a licensed manufacturer, distributor, gambling service supplier or linked bingo prize provider shall be licensed by the commission prior to selling, promoting or ((supplying to)) providing any person gambling equipment, paraphernalia or related services ((in connection with licensed gambling activities, a representative or agent of a licensed manufacturer, distributor, gambling service supplier, or linked bingo prize provider shall first obtain a license from the commission)). This includes individuals that manage or supervise individuals selling, promoting, or providing products or services for which a license is required. A licensed manufacturer, distributor, gambling service supplier or linked bingo prize provider shall not allow an unlicensed person to represent them in transactions restricted by this section and shall take all measures necessary to prevent an unlicensed person from doing so. The following ((definitions and)) restrictions, procedures and exceptions apply to representative licenses:

Exceptions - representative license not required.

(1) The following individuals do not require a separate representative's license:

(a) A sole owner, partner, major officer or board member and/or owner of a substantial interest in an entity ((licensed as a manufacturer, distributor, gambling service supplier, or linked bingo prize provider shall not be required to be additionally licensed as a representative to engage in the selling or supplying of the entity's products or services));

(b) Office, clerical or warehouse personnel who have contact with ((the public and)) customers or potential customers only by telephone ((or)) at the manufacturer's, distributor's, gambling service supplier's, or linked bingo prize provider's own premises when working under the immediate and direct supervision of an owner, partner, ((or)) major officer ((shall also be exempt from this licensing requirement. A manager or supervisor who is not a sole owner, partner or a major officer or owner of a substantial interest and whose duties and responsibilities include the supervision of selling, supplying and/or the promotion of products or services shall be licensed as required by this rule prior to performing such functions. A manufacturer, distributor, gambling service supplier, or linked bingo prize provider shall not allow an unlicensed person to represent them in such transactions and shall take all measures necessary to prevent an unlicensed person from doing so)), or a licensed manager or supervisor; and

(c) Resident agents required by WAC 230-12-300 when such agents are not involved in selling or providing products or services for which a license is required.

Signature of employer required.

(2) The manufacturer, distributor, gambling service supplier, or linked bingo prize provider for which the representative will work shall sign the application acknowledging that the applicant will be representing them with their full knowledge and consent.

Requirements.

(3) An applicant for a license as a distributor representative, gambling service supplier representative, or linked bingo prize provider representative shall:

Training.

(a) Complete a training course for any activity being managed, as required and provided by the commission within thirty days after the first day worked; and

Represent only one employer at a time - exceptions.

(b) Represent only one licensed manufacturer, distributor, gambling service supplier, or linked bingo prize provider at a time and shall not represent a manufacturer: Provided, That this rule shall not prevent a licensed representative from representing a manufacturer, distributor, and/or linked bingo prize provider when all businesses are owned by the same person: Provided further, That this rule shall not bar the distributor's representative from representing his own distributor who is also licensed as a manufacturer.

Conflict of interest.

(4) If a licensed gambling service supplier representative has any interest in a licensed manufacturer or distributor and they provide services to any punch board, pull-tab, or bingo operator, they shall inform the commission, the operator, and the manufacturer or distributor of the relationship. Such manufacturer or distributor shall be prohibited from selling punch boards, pull-tabs, or disposable bingo cards to such operator.

AMENDATORY SECTION (Amending Order 377, filed 11/30/99, effective 12/31/99)

WAC 230-04-203 Fees—Commercial stimulant and other business organizations. All persons seeking to operate gambling activities ((at business locations)) shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
I. CARD GAMES		
Class B	Up to five tables of limited card games - hearts, rummy, pitch, pinochle, and/or cribbage (Fee to play charged)	\$ 166
Class C	Tournament only, no more than ten consecutive days per tournament.	\$
C-5	Up to five tables	\$ 166
C-10	Up to ten tables	\$ 300

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LICENSE TYPE	DEFINITION	FEE
C-15	Up to fifteen tables	\$ 500
Class D	General - Up to five tables (No fee to play charged)	\$ 53
Class E	*General (Fee to play charged)	
E-1	One table only	\$ 398
E-2	Up to two tables	\$ 685
E-3	Up to three tables	\$ 1,142
E-4	Up to four tables	\$ 2,287
E-5	Up to five tables	\$ 3,440
Additional tables up to a maximum of fifteen may be authorized for an additional per table fee of \$1000.		
*In addition to the above initial license fee, the commission will assess all applicants/licenseses the actual costs that exceed the license fee for conducting the initial investigation and inspection, any follow-up reviews or investigations involved in the approval of activities and schemes.		
Class F	Enhanced cardroom activities endorsement - Includes alternative fee collections (per hand; pot rake)((;)) and use of player-supported jackpot schemes (and increased betting limits)).	
	Annual license fee	\$1,500
2. CARD GAMES - HOUSE-BANKED		
All tables within a card room operating any house-banked card game shall be licensed under this license class.		
	*Annual license fee	\$6,000
	Per table fee (up to fifteen tables)	\$1,500
*The commission will assess all applicants the actual costs for conducting the initial license investigation and premises inspection. Any post licensing follow-up reviews, inspections, internal control evaluations or subsequent phases of operation shall also be charged actual costs. Licensees will be evaluated and charged for these additional authorizations/phases on an individual case by case basis.		
3. COMMERCIAL AMUSEMENT GAMES		
(Fee based on annual gross gambling receipts)		
* Class A	Premises only	** \$ 285/\$ 130
Class B	Up to \$ 50,000	\$ 398
Class C	Up to \$ 100,000	\$ 1,024
Class D	Up to \$ 250,000	\$ 2,287
Class E	Up to \$ 500,000	\$ 4,012
Class F	Up to \$1,000,000	\$ 6,883
Class G	Over \$1,000,000	\$ 8,610
* Allows a business that is qualified under WAC 230-04-138 (1)(f), (g), (h), (i), or (j) to enter into a contract with a class "B" or above commercial amusement game licensee to locate and operate amusement games upon their premises.		
** Provides for a fee reduction of (\$150) \$155 when: Renewing an annual license; applying for an additional license(s) at the same premises; and/or applying for multiple licenses at the same premises.		
4. PUNCH BOARDS/ PULL-TABS		
(Fee based on annual gross gambling receipts)		
		VARIANCE*
Class A	Up to \$ 50,000	\$5,000 \$ 544
Class B	Up to \$ 100,000	\$5,000 \$ 971

LICENSE TYPE	DEFINITION	FEE
Class C	Up to \$ 200,000	\$10,000 \$ 1,832
Class D	Up to \$ 300,000	\$10,000 \$ 2,663
Class E	Up to \$ 400,000	\$10,000 \$ 3,440
Class F	Up to \$ 500,000	\$10,000 \$ 4,153
Class G	Up to \$ 600,000	\$10,000 \$ 4,812
Class H	Up to \$ 700,000	\$10,000 \$ 5,416
Class I	Up to \$ 800,000	\$10,000 \$ 5,967
Class J	Up to \$ 1,000,000	\$20,000 \$ 6,765
Class K	Up to \$ 1,250,000	\$25,000 \$ 7,509
Class L	Up to \$ 1,500,000	\$25,000 \$ 8,201
Class M	Up to \$ 1,750,000	\$25,000 \$ 8,771
Class N	Up to \$ 2,000,000	\$25,000 \$ 9,290
Class O	Over \$ 2,000,000	Nonapplicable \$ 10,208
* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: Provided, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.		
5. PUNCH BOARD AND PULL-TAB SERVICE BUSINESS		
	(See WAC 230-04-133) *Initial application fee	\$ 206
	Additional associate	\$ 129
	Renewal	\$ 51
*Includes up to two associates.		
6. DISTRIBUTOR (Fee based on annual gross sales of gambling related supplies and equipment)		
(a)	Class A Nonpunch board/pull-tab only	\$ 571
	Class B Up to \$ 250,000	\$ 1,142
	Class C Up to \$ 500,000	\$ 1,715
	Class D Up to \$1,000,000	\$ 2,287
	Class E Up to \$2,500,000	\$ 2,977
	Class F Over \$2,500,000	\$ 3,667
In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.		
(b)	FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR	
	Class A Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$ 226
	Class B Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$ 571
7. GAMBLING SERVICE SUPPLIER		
	(See WAC 230-04-119)	\$ 594
In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.		
An annual fee of \$129 shall be charged for each new contract initiated by the gambling service supplier.		
8. LINKED BINGO PRIZE PROVIDER		
	(See WAC 230-04-126)	\$ 3,815

LICENSE TYPE	DEFINITION	FEE
9. MANUFACTURER	(Fee based on annual gross sales of gambling related supplies and equipment)	
Class A	Pull-tab dispensing devices only	\$ 571
Class B	Up to \$ 250,000	\$ 1,142
Class C	Up to \$ 500,000	\$ 1,715
Class D	Up to \$1,000,000	\$ 2,287
Class E	Up to \$2,500,000	\$ 2,977
Class F	Over \$2,500,000	\$ 3,667

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification, quality control inspection for additional activities or product lines, compliance suitability evaluations, and renewal of licenses when travel cost is incurred to complete the investigation.

LICENSE TYPE	DEFINITION	FEE
10. PERMITS		
AGRICULTURAL FAIR/SPECIAL PROPERTY BINGO		
Class A	One location and event only (See WAC 230-04-191)	\$ 26
Class B	Annual permit for specified different events and locations (See WAC 230-04-193)	\$ 166
RECREATIONAL GAMING ACTIVITY (RGA)	(See WAC 230-02-505 and 230-25-330)	\$ 53
MANUFACTURER'S SPECIAL SALES PERMIT	(See WAC 230-04-115)	*\$ 200

*The two hundred dollar fee is nonrefundable, whether the sales permit is approved or not. In addition, an applicant may be assessed additional fees incurred to process and determine suitability.

LICENSE TYPE	DEFINITION	FEE
11. CHANGES		
NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320)	\$ 26
BUSINESS CLASSIFICATION	(Same owners)	\$ 53
LICENSE CLASS	(See WAC 230-04-260) New class fee, less previous fee paid, plus	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26
OWNERSHIP OF STOCK	(See WAC 230-04-340)	\$ 53
LICENSE TRANSFERS	(See WAC 230-04-125, 230-04-340, and 230-04-350)	\$ 53

LICENSE TYPE	DEFINITION	FEE
12. SPECIAL FEES		
INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND INSPECTION SERVICES STAMPS	(See WAC 230-08-017)	As required
QUALITY CONTROL INSPECTION FEES	(See WAC 230-30-030)	As required
REPLACEMENT OF IDENTIFICATION STAMPS	(See WAC 230-30-017)	\$ 26
EXCEEDING LICENSE CLASS	(See WAC 230-04-260)	As required
REVIEW, INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-12-315)	As required
SPECIAL SALES PERMITS	(See WAC 230-04-115)	As required

13. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$ 26
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NEW SECTION

WAC 230-12-335 Control of gambling equipment—Sales and purchases by and to licensees only—Authorized transfers of gambling equipment. It shall be the responsibility of all licensees to ensure that gambling equipment is closely controlled and possessed only by authorized persons. Gambling equipment possessed by unauthorized persons is subject to seizure and forfeiture. It shall be the responsibility of all licensees to report all unauthorized possession of such equipment to the commission. The following restrictions and exceptions apply to the transfer of gambling equipment:

Restrictions.

(1) Prior to selling gambling equipment to or purchasing such from any person, a licensee shall ensure that the person receiving or selling the equipment possesses a valid gambling license: Provided, That class F and house-banked card room applicants may possess gambling equipment during the pre-licensing process after receiving approval from commission staff.

Authorized transfers of gambling equipment.

(2) In addition to normal business transactions between manufacturers, distributors and operators, the following transfers of gambling equipment are authorized:

(a) Gambling equipment may be transferred as a part of a sale of a business when such sale is contingent on the buyer receiving a gambling license prior to the completion of the transaction. A complete record shall be made of all gambling equipment transferred in this manner, including commission identification and inspection services stamp numbers. Such

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transfers, including a copy of the inventory record, shall be reported to the commission.

(b) Licensed operators or distributors whose license has been revoked, expired, or voluntarily surrendered may sell or otherwise transfer gambling equipment to a licensed manufacturer or distributor. Transfers of gambling equipment in this manner are subject to the following requirements:

(i) Such transfer shall be completed within thirty days of the date the license became invalid;

(ii) The transaction is for cash or credit against amounts owed a manufacturer by a distributor;

(iii) A complete inventory of all gambling equipment transferred in this manner, including commission identification and inspection services stamp numbers, shall be reported to the commission within ten days of the transaction by the operator or distributor selling the equipment; and

(iv) The licensed manufacturer or distributor receiving the equipment shall prepare a credit memorandum as required by WAC 230-08-025(2). A copy of the inventory record and notice of sale reported to the commission shall be attached and maintained as a part of this record.

(c) A bona fide charitable or nonprofit organization may sell or otherwise transfer gambling equipment used for fundraising events to another charitable or nonprofit organization authorized to possess such equipment. Such transfers shall be limited as set forth in WAC 230-25-110. A complete inventory of all gambling equipment transferred in this manner shall be reported to the commission within ten days of the transaction by the charitable or nonprofit organization selling or transferring the equipment.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-30-212 Punch boards, pull-tabs and related equipment may be sold with sale of business.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-30-213 Sale of punch boards, pull-tabs and pull-tab dispensing devices when license revoked, expired or voluntarily surrendered.

**WSR 00-11-120
PROPOSED RULES
DEPARTMENT OF LICENSING**

[Filed May 22, 2000, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-08-043.

Title of Rule: Chapter 308-96A WAC, Vehicle licenses.
Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.12.381.

Summary: Amending WAC 308-96A-306 Definitions—Disabled person special parking privileges.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718; Implementation and Enforcement: Lynda Henriksen, 1125 Washington Street S.E., Olympia, 902-3811.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above-mentioned requirements.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 301, 1125 Washington Street S.E., Olympia, WA 98507, on June 28, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by June 27, 2000, TTY (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, fax (360) 664-0831, by June 27, 2000.

Date of Intended Adoption: July 26, 2000.

May 10, 2000

Deborah McCurley, Administrator
Title and Registration Services

AMENDATORY SECTION (Amending WSR 99-21-034, filed 10/15/99, effective 11/15/99)

WAC 308-96A-306 Definitions—Disabled person special parking privileges. For the purposes of determining eligibility for special disabled person parking placards and license plates, the following definitions apply:

(1) "Licensed physician" means, for the purpose of determining the disability that limits the ability to walk and meets the criteria set forth in RCW 46.16.381(1), a health care provider licensed by the department of health to provide health care whose scope of practice includes those areas covered in the statute. Licensed physician includes chiropractic physicians, naturopaths, medical doctors, nurse practitioners, osteopathic physicians and podiatric physicians. Licensed

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physician does not include persons licensed in the professions of dentistry and optometry.

(2) "Permanent" means a licensed physician has certified that the qualifying disability condition is expected to last at least five years.

(3) "Permit" means the eligibility for the temporary or permanent placard or special license plate(s) and identification card.

(4) "Identification card" means the identification card referred to in RCW 46.16.381(3).

(5) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.16.381.

(6) "Privilege" means the right to utilize the benefits associated with the permit.

(7) "Expiration date" means:

(a) The last day of the month specified on a temporary placard; or

(b) Not less than five years from the month and year of issuance of a permanent placard, as specified by the department on the placard.

(8) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.16.381.

(9) "Signature" means any memorandum, mark, or sign made with intent to authenticate an application for a placard, or the subscription of any person thereto as provided in RCW 9A.04.110(23).

(10) "Application" means the form provided by the department that must be completed by the individual and physician or the form that must be completed by the organization.

WSR 00-11-127

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 22, 2000, 3:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-08-055.

Title of Rule: WAC 388-448-0001 Who is eligible for general assistance unemployable and 388-448-0005 The following criteria is used to determine if a child is deprived of parental support due to incapacity.

Purpose: The revision to WAC 388-448-001 is being done to meet the requirements of Title 388 WAC, migration and Executive Order 97-02. The revised section will be written in the same clear language format as the new sections that will follow it in chapter 388-448 WAC. WAC 388-448-0005 is being repealed. RCW 74.12.010 was amended to remove the deprivation requirement as a result of the passage of ESB

5798 (chapter 120, Laws of 1999) during the 1999 legislative session.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: Chapter 74.04 RCW.

Summary: Repeal of WAC 388-448-0005. WAC 388-448-0001 has been rewritten in the clear language format.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carla Gira, Program Manager, Lacey Government Center, 1009 College Street S.E., Lacey, WA 98503, (360) 413-3264.

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: The rule explains who is eligible for general assistance unemployable.

Proposal Changes the Following Existing Rules: WAC 388-448-0005 was repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

RCW 34.05.328 applies to this rule adoption. The rule meets the definition of a "significant legislative rule" but DSHS is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Lacey Government Center (behind Tokyo O'Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: No sooner than June 28, 2000.

May 11, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-448-0001 (~~Who is eligible~~) Establishing incapacity for general assistance(-) unemployable. (~~For be eligible for benefits under the general assistance unemployable (GA-U) program a client must be:~~

(+) For the purposes of this chapter, "we" and "us" refer to the department of social and health services. "You" means the applicant or recipient. In order for you to receive general assistance unemployable (GAU) benefits, we must first determine if you are incapacitated.

(1) We determine you are incapacitated if you are:

(a) Eligible for payments based on Social Security Administration (SSA) disability criteria; (~~or~~)

~~((2)) (b) Eligible for services from the division of developmental disabilities (DDD); ((or))~~

~~((3)) (c) Diagnosed as mentally retarded ((and the diagnosis is substantiated by)) based on a full scale score of seventy or lower on the Wechsler Adult Intelligence Scale (WAIS); ((or))~~

~~((4)) (d) At least sixty-five years ((of age or older; or (5) Released from inpatient psychiatric treatment and for ninety days following the date of release if:~~

~~(a) Participating in direct outpatient mental health treatment services; and~~

~~(b) The release was not against medical advice; or~~

~~(6)) old;~~

~~(e) Eligible for ((long-term care)) services from aging and adult services administration; or~~

~~((7) For ninety days after release from a medical institution where the person received long-term care services from the aging and adult services administration; or~~

~~(8)) (f) Approved by the Progressive Evaluation Process (PEP); ((or~~

~~(9) Still incapacitated at redetermination because their medical or mental condition has not clearly improved and no error is found in the previous incapacity determination)).~~

(2) We consider you to be incapacitated for ninety days following your release from:

(a) An inpatient psychiatric treatment facility if:

(i) You directly participate in outpatient mental health treatment; and

(ii) The release from in-patient treatment was not against medical advice.

(b) A medical institution where you received long-term care services from the aging and adult services administration.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carla Gira, Program Manager, Lacey Government Center, 1009 College Street S.E., Lacey, WA 98503, (360) 413-3264.

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: Eligibility rules for the general assistance unemployable program will be located in one WAC.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

RCW 34.05.328 applies to this rule adoption. The rule meets the definition of a "significant legislative rule" but DSHS is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Lacey Government Center (behind Tokyo O'Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: No sooner than June 28, 2000.

May 17, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 00-11-128
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed May 22, 2000, 3:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-08-056.

Title of Rule: WAC 388-400-0025 General eligibility requirements of the general assistance unemployable (GAU) program.

Purpose: This revision is being done to meet the requirements for the WAC migration of Title 388 WAC. Eligibility rules currently in WAC 388-235-1500 and 388-235-9000 are being incorporated into WAC 388-400-0025. The rules for general assistance unemployable eligibility requirements will be incorporated into one section, providing easy access for users.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: Chapter 74.04 RCW.

Summary: WAC migration and clearly written rules.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-400-0025 General assistance unemployable—General eligibility requirements. (1) ~~((To be eligible for))~~ You can get general assistance ~~((-))~~ unemployable ~~GA((-)U)((- a person must))~~ benefits if:

(a) ~~((Be))~~ You are incapacitated as required under WAC ~~((388-235-5000))~~ 388-448-0010 through ~~((388-235-6000))~~ 388-448-0120;

(b) ~~((Meet the age requirement of WAC 388-404-0010))~~ You are at least eighteen years old or, if under eighteen, a member of a married couple;

(c) ~~((Be))~~ You are in financial need according to GA~~((-))U~~ income and ~~((temporary assistance for needy families (TANF)))~~ resource rules in chapters 388-450, 388-470 and 388-488 WAC;

(d) You meet the general assistance citizenship/alien status requirements under WAC 388-424-0005(3);

(e) You provide a Social Security number as required under WAC 388-476-0005;

(f) You reside in the state of Washington as required under WAC 388-468-0005;

(g) You undergo a treatment and referral assessment as provided under WAC ((388-235-7000)) 388-448-0130 through ((388-235-7600)) 388-448-0150;

(h) You assign interim assistance as provided under WAC ((388-235-9200 and 388-235-9300);

(i) Not be eligible for or receiving benefits from other programs as specified under WAC 388-235-9000)) 388-448-0210.

(2) You cannot get GAU benefits if:

(a) You are eligible for temporary assistance for needy families (TANF) benefits;

(b) You are eligible for state family assistance (SFA) benefits unless you are not eligible under WAC 388-400-0010;

(c) You have the ability to, but refuse to meet a TANF or SFA eligibility rule;

(d) You are eligible for Supplemental Security Income (SSI) benefits;

(e) You are an ineligible spouse of an SSI recipient; or

(f) You were denied benefits or your benefits were terminated by the Social Security Administration (SSA) for failing to follow a SSI program rule or application requirement.

(3) The assistance unit ((for a person applying for or receiving GA-U)) will be established according to WAC 388-408-0010.

~~((3) A person in an institution may be eligible for GA-U as specified under WAC 388-235-1500))~~

(4) You may be eligible for GAU if you reside in a public institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it. Your eligibility will depend upon the type of institution you are in.

(a) If you reside in a public institution and are otherwise eligible for GAU, you may be eligible for general assistance if you are:

(i) A patient in a public medical institution; or

(ii) A patient in a public mental institution and are:

(A) Sixty-five years of age or older; or

(B) Twenty years of age or younger.

(b) You are not eligible for GAU when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement:

(i) In a work release program; or

(ii) Outside of the institution.

Purpose: This revision is being done to meet the requirements of Title 388 WAC, chapter 388-235 WAC will be repealed and will be rewritten to meet the standards of Executive Order No. 97-02. It will then be incorporated into chapter 388-448 WAC.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: Chapter 74.04 RCW.

Summary: Chapter 388-235 WAC is migrating to chapter 388-448 WAC and is written in clear language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carla Gira, Program Manager, Lacey Government Center, 1009 College Street S.E., Lacey, WA 98503, (360) 413-3264.

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 clearly explain the general assistance unemployable program eligibility and requirements.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small business.

RCW 34.05.328 applies to this rule adoption. The rule meets the definition of a "significant legislative rule" but DSHS is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Lacey Government Center (behind Tokyo O'Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on July 11, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 30, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by July 11, 2000.

Date of Intended Adoption: No sooner than July 12, 2000.

May 17, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 00-12 issue of the Register.

WSR 00-11-129

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 22, 2000, 3:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-08-051.

Title of Rule: Chapter 388-235 WAC, General assistance unemployable, and related rules.

WSR 00-11-134

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed May 23, 2000, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-026.

Title of Rule: Prequalification of contractors.

Purpose: Revisions to bring language in WAC 468-16-080, 468-16-100, and 468-16-150 into sync with RCW 47.28.030 as revised July 1999. Other minor revisions to clarify language.

Statutory Authority for Adoption: RCW 47.01.101, 47.28.030, 47.28.070.

Statute Being Implemented: RCW 47.28.070.

Summary: Revises existing rule to allow the use of a limited prequalification process and waiver of bid bonds and contract bonds when the department's estimate does not exceed \$80,000, effective July 1, 2005, the limit will rise to \$100,000.

Reasons Supporting Proposal: Revisions are necessary to bring the limits established by the WAC into compliance with the limits established by RCW 47.28.030 as amended in July 1999.

Name of Agency Personnel Responsible for Drafting: Ken Walker, 1D21 Transportation Building, (360) 705-7017; Implementation and Enforcement: John F. Conrad, 1C2 Transportation Building, (360) 705-7801.

Name of Proponent: Washington State Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed changes are required to bring the limits defined in the WAC into agreement with the limits in RCW 47.28.030 as amended in July 1999. Other minor revisions clarify titles. Chapter 468-16 WAC implements RCW 47.28.070 relating to prequalification of contractors for Washington state highway construction. The purpose of the rule is to assure that highway construction projects are awarded to competent and responsible contractors. The rule establishes an objective process for determining a contractor's qualifications for bidding on department work. It further provides for the enhancement of the contractor's bidding capacity through higher standards of performance.

Proposal Changes the Following Existing Rules: It raises the limits for using the limited prequalification procedures and waiver of bid and contract bonds to the higher limits established in RCW 47.28.030 as amended July 1999.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required. The cost of prequalification under the proposed rule change would impose no greater cost.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Commission Boardroom 1D2, Transportation Building, 310 Maple Park Drive, Olympia, WA 98504-7360, on June 30, 2000, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact TDD (800) 833-6388, by June 26, 2000.

Submit Written Comments to: Ken Walker, Manager Contract Ad and Award Office, P.O. Box 47360, Olympia, WA 98504-7360, fax (360) 705-6810, by June 26, 2000.

Date of Intended Adoption: June 30, 2000.

May 23, 2000

Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 168, filed 4/15/97, effective 5/16/97)

WAC 468-16-080 Qualification procedures for projects under ~~((fifty))~~ eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars. (1) Contractors may be qualified by region administrators for projects valued under ~~((fifty))~~ eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars. Submission of a limited prequalification questionnaire (DOT form 272-063) to the region administrator or designee is required, except when the contractor is currently prequalified with the department of transportation under the provisions of chapter 468-16 WAC.

(2) Procedures for letting region level projects valued under ~~((fifty))~~ eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars are published in Department Directives.

~~((3) A limited prequalification questionnaire and other requirements are prescribed in WAC 468-14-040.))~~

AMENDATORY SECTION (Amending Order 168, filed 4/15/97, effective 5/16/97)

WAC 468-16-100 Conditional qualification. (1) A firm may be conditionally qualified when it has been given a below standard (less than 100) performance rating on a final performance report. A firm may also be qualified conditionally by the secretary when performance has become below standard in either "quality of work" or "progress of work" on an interim report for a current project. The region administrator or designated assistant may, under the foregoing condition, request in writing that a contractor be placed in conditional status. A conditionally qualified contractor will be denied bidding proposals while in that status but may receive, at the discretion of the secretary, a bidding proposal for one project.

(2) The assistant secretary for field operations support shall advise the contractor and the region administrator or designated assistant when a contractor has been placed in conditional status.

(3) Should the contractor be the low successful bidder and be awarded a contract subsequent to being placed in conditional status, the issuance of further bidding proposals will be considered only when an interim report is submitted in accordance with WAC 468-16-160 or when a final performance report is submitted in accordance with WAC 468-16-150(12) and the rating thereon is standard or better.

(4) Normally a contractor may have only one active prime contract for the department while qualified conditionally.

(5) Return to fully qualified status of a conditionally qualified contractor will be effected by:

(a) A performance rating of standard or above on contracts completed during the current prequalification year; or

(b) An interim rating of standard or above on all concurrent contracts; or

(c) A standard or above rating on the first interim report for a project awarded subsequent to conditional qualification.

(6) Should the rating continue to be less than standard, the contractor's prequalification will be suspended in accordance with WAC 468-16-180.

AMENDATORY SECTION (Amending Order 168, filed 4/15/97, effective 5/16/97)

WAC 468-16-150 Prime contractor performance reports. (1) Performance reports described in this section, substantially in the format as that appearing at WAC 468-16-210, will be completed for prime contractors only for projects valued at one hundred thousand dollars or more. Each prime contractor's performance report will be classified as to the primary work class being rated. This shall be stated in Section I of the report by listing the major classes of work performed by the contractor e.g., clearing, grading, surfacing, etc.

(2) Performance will be rated under the following headings: Administration, management, and supervision; quality of work; progress of work; and equipment.

(3) The following adjectival ratings are established for performance reports:

(a) Superior	131-150
(b) Above standard	101-130
(c) Standard	100
(d) Below standard	70-99
(e) Inadequate	50-69

(4) The performance report shall be used in evaluating a contractor's prequalification status.

(5) The report shall contain a narrative section which verbally provides the details substantiating the numerical rating. The narrative section shall be based upon documentation prepared during the life of the project, such as the project engineer's diary, the inspector's daily report and other pertinent documents. This documentation shall constitute the major portion of the administrative record to be used for any hearings or litigation that may arise from the rating process.

(6) The performance report will be prepared and discussion held with the contractor by the project engineer. The report will include a numerical rating substantiated by a narrative report which describes the contractor's typical performance. The narrative will reference such documents as will substantiate the given numerical rating.

(7) The report will be endorsed by the region operations engineer or designated assistant who will provide a copy to the contractor.

(8) The contractor may appeal the rating to the region administrator in writing within twenty calendar days of the date the report is received by the contractor. If the report is not delivered to the contractor in person, it shall be forwarded by certified mail with a return receipt requested. The appeal must set forth the specific basis upon which it has been made.

(9) The region administrator or designated assistant will review all contractor performance reports after they have been endorsed and may modify the numerical or narrative rating if such is deemed appropriate. The contractor will be advised of any changes made. The region administrator will be required to make comments thereon only when the con-

tractor's overall performance rating has been rated inadequate, below standard, or superior.

(10) Performance reports, when completed at region level, will be submitted to the secretary, Attn: Manager, contractor prequalification office, not later than forty-five calendar days following final completion of the project.

(11) The region administrator or designated assistant shall review the appeal and provide a written response to the contractor by certified mail (return receipt requested) within twenty calendar days of its receipt. A copy of the appeal and the response thereto will be forwarded to the secretary, Attn: Contractor prequalification office.

(12) The contractor may further appeal to the secretary in writing setting forth the specific basis for the appeal. The contractor's appeal shall be made within ten calendar days of the date of receipt of the region administrator's response. When making an appeal, the contractor may also present information in person. The secretary will consider the appeal and respond to it by certified mail within sixty calendar days of its receipt. This determination shall be the final administrative act of the department.

(13) All prime contractor performance reports shall be reviewed by the office of the secretary for completeness, objectivity, and substantiation of numerical ratings. The secretary may modify the report as deemed appropriate as a result of the review. The rated contractor and region administrator shall be given a copy of the modified report. The contractor may appeal the modified report in the manner and within the time allotted in subsection (12) of this section to which the secretary shall respond as cited therein.

(14) A prime contractor performance report shall be considered a preliminary paper until all reviews and appeals have been accomplished and it shall have been stamped and initialed as having been "filed in the office of the secretary."

(15) DOT Form 421-010 is authorized.

WSR 00-11-136
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 23, 2000, 1:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-122.

Title of Rule: Chapter 296-127 WAC, Prevailing wage (scope of work descriptions).

Purpose: The purpose of this rule making is to permanently adopt the scope of work rules that are currently in effect as emergency rules under the authority of RCW 34.05.350. In order for the Department of Labor and Industries (L&I) to continue to administer and enforce the Prevailing Wage Act, chapter 39.12 RCW, the scope of work descriptions must be permanently converted into rules. For many years, L&I has used the scope of work descriptions, which detail the specific tasks required of fifty-five construction trades, to enforce the statutory mandate that "the prevailing rate of wage shall be the rate of hourly wage, usual bene-

fits and overtime paid in the locality... to the majority of workers, laborers or mechanics, in the same trade or occupation" (RCW 39.12.010). The prevailing wage rates for particular trades correspond with the scope of work descriptions. This rule-making order will convert the scope of work descriptions into permanent rules (WAC 296-127-01301 through 296-127-01391) to address an emergent need and as directed by the Governor's Executive Order 97-02 on regulatory improvement (by incorporating necessary policy into rule). This rule making will also amend WAC 296-127-013 to eliminate unnecessary or redundant requirements and reflect the addition of the new scope of work rules.

These rules arise from a prevailing wage enforcement action entitled *In re Anderson & Wood*, in which a contractor asserted that the scope of work descriptions were not properly promulgated as rules and, therefore, could not be used to require contractors to pay the corresponding prevailing wage rates. On December 15, 1999, the director of L&I agreed that the scope of work policies should be adopted as rules under the Administrative Procedure Act, chapter 34.05 RCW. Without the use of these scope of work descriptions to define the statutory terms "the same trade or occupation" and to therefore assure that the correct prevailing rate is paid for particular types of tasks, L&I is unable to enforce the prevailing wage laws. To address this L&I adopted the scope of work descriptions as emergency rules on March 21, 2000, in order to protect contractors, workers and the public from economic harm.

The Prevailing Wage Act requires contractors working on government projects to pay employees the prevailing or "market" rate. Using surveys to gather information, L&I establishes prevailing wages county by county for each trade or occupation employed on public works projects. State agencies, counties, municipalities and all political subdivisions of the state award public works contracts.

Contractors rely upon the scope of work descriptions to properly assign prevailing wage rates to the work required to complete their contract with the awarding agency. Prevailing wage disputes are frequently resolved informally simply by bringing the correct scope of work descriptions to the contractor's attention. If the perception exists that the scope of work descriptions are mere suggestions or guidance, rather than binding rules, contractors will lack certainty in bidding on projects and in the wages that they pay their workers.

Without firm scope of work descriptions, uninformed or out of area contractors may be tempted to use the uncertainty to their advantage, by submitting bids based on lower wage rates. Because public agencies are required to award contracts to the lowest bidder, responsible local contractors will lose work to contractors planning to pay incorrect prevailing wages. The result will undermine an important purpose of the Prevailing Wage Act, to stabilize and protect local wage standards. See e.g. *Everett Concrete v. Department of Labor & Industries*, 109 Wn.2d 819 (1988) (Washington State Supreme Court holds that the purpose behind Washington's prevailing wage law is to protect employees of contractors who bid on government work from substandard earnings and to preserve local wage standards).

The harm done to local contractors is real and irreparable. Once a contract is awarded to an out-of-state contractor, who has gained an unfair bidding advantage by deciding to pay a lower prevailing wage than appropriate for the actual work performed on the project, a local firm's opportunity is lost. These outcomes are unfortunate and costly. Enforceable prevailing wages, through use of the scope of work descriptions, are necessary to preserve stability in public work bidding, and to protect Washington contractors from unfair competition.

Washington workers' earnings and opportunities are also harmed by the lack of firm scope of work descriptions. Contractors who ignore prevailing wage requirements can use out-of-area workers willing to work for less than the prevailing wage for their craft, unfairly displacing local tradespeople. Even if local workers are used, the uncertainty presently surrounding the scope of work descriptions may result in pay to workers that is less than prevailing wages. Such workers may file a complaint with the department and proceed through the adjudicative process; however, without firm scope of work descriptions, there is a real chance that the workers' claims will not prevail. Even those disputes resolved in the workers' favor will mean the workers will wait years for proper wage payments and will not receive interest.

Prevailing wage surveys and resulting wage calculations are based on the department's classification plan, which is detailed in the scope of work descriptions. If the wage data reported to the department is based on incorrect worker classifications, the same incorrect information will be used in prevailing wage calculations. The result will be an artificial depression of the prevailing wage levels and a harmful erosion of local wage standards.

Erosion of local wage standards is an economic harm to the general public, as is the unfair competition for general contractors by providing an opportunity for certain contractors to submit low bids, which will supplant local contractors on large government projects. These harms will be avoided by adopting the scope of work descriptions as permanent rules.

In order to avoid the harms associated with not adopting the scope of work descriptions as permanent rules the department intends to adopt and simultaneously put these rules into effect on July 19, 2000, (coinciding with the expiration date of the emergency rules that are currently in effect).

AMENDED SECTION: WAC 296-127-013 Scope of work definitions, is being amended to reflect the inclusion of the new scope of work descriptions. Changes include:

(1) Amended this section to reflect that the director or his/her designee (currently the Industrial Statistician) will issue scope of work descriptions. The issuance of these descriptions will be done through rule as defined in chapter 34.05 RCW, the Administrative Procedure Act.

(2) Eliminated the wording, "industrial statistician may issue" referring to the issuance of scope of work descriptions because now the descriptions will be done through rule. Also, the wording, "shall be created" was added to clarify that the scope of work descriptions will be created using authoritative sources available to the department.

(4) Eliminated this section because the schedule for issuing scope of work descriptions will be done according to the rule-making procedures defined in chapter 34.05 RCW, the Administrative Procedure Act.

(5) Eliminated this section because chapter 34.05 RCW establishes the legal requirements for the effective date of rules.

(7) Eliminated this section because, as rule, the scope of work descriptions are made available by the Washington State Code Reviser. However, the department also provides copies of the rules upon request and the [they] can be obtained via the Internet.

(8) Eliminated this section because affected parties must be notified as required by chapter 34.05 RCW, the Administrative Procedure Act.

NEW SECTIONS: The following scope of work descriptions are being proposed for inclusion into chapter 296-127 WAC: WAC 296-127-01301 Certified asbestos abatement workers, 296-127-01303 Heat and frost insulators and asbestos workers, 296-127-01305 Boilermakers, 296-127-01306 Brick masons, 296-127-01308 Building service employees (janitors, waxers, and window washers), 296-127-01309 Cabinet makers, 296-127-01310 Carpenters, 296-127-01312 Carpenter tenders, 296-127-01313 Carpet and resilient floor layers, 296-127-01315 Cement masons, 296-127-01317 Drywall applicators (drywall nailers and sheetrock installers), 296-127-01318 Drywall finishers (tapers), 296-127-01320 Power line construction electricians, 296-127-01322 Electronic technicians, 296-127-01323 Inside wireman electrician, 296-127-01325 Electrical fixture maintenance workers, 296-127-01327 Elevator constructors, 296-127-01328 Fence erectors and fence laborers, 296-127-01329 Flaggers, 296-127-01331 Glaziers, 296-127-01332 Hod carriers, mason tenders, and mormarmen, 296-127-01333 Heating equipment mechanics, 296-127-01335 Inland boatmen, 296-127-01337 Insulation applicators, 296-127-01339 Ironworkers, 296-127-01340 Laborers in utilities construction, 296-127-01342 Clean-up laborers, 296-127-01344 Laborers, 296-127-01346 Landscape construction, 296-127-01347 Lathers, 296-127-01349 Marble setters, 296-127-01351 Millwrights, 296-127-01352 Metal fabricators, 296-127-01354 Operating engineers (equipment operators), 296-127-01356 Painters, 296-127-01358 Pile drivers, 296-127-01360 Plasterers, 296-127-01362 Playground and park equipment installers, 296-127-01364 Plumbers, pipefitters, and steamfitters, 296-127-01367 Refrigeration mechanic, 296-127-01369 Remote controlled cleaning, inspection and sealing of underground sewer and water systems, 296-127-01370 Roofers, 296-127-01372 Sheet metal workers, 296-127-01374 Sign makers and sign installers, 296-127-01375 Sprinkler fitters, 296-127-01376 Stone masons, 296-127-01377 Outside telephone line construction, 296-127-01378 Telecommunication technicians, 296-127-01379 Terrazzo (artificial marble) workers, 296-127-01382 Terrazzo workers' helpers, tile and marble setters' helpers (finishers), 296-127-01384 Tile setters, 296-127-01386 Traffic control stripers, 296-127-01387 Power line clearance tree trimming, 296-127-01389 Utilities construction (underground sewers and water lines), and 296-

127-01391 Water well drillers, exploration drillers, water well pump installers, and equipment oilers.

Statutory Authority for Adoption: Chapter 39.12 RCW, RCW 43.22.270, and 43.22.051.

Statute Being Implemented: Chapter 39.12 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Greg Mowat, Tumwater, (360) 902-5310; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 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: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because this rule does not impose any new costs on business.

RCW 34.05.328 applies to this rule adoption. Significant rule-making criteria does apply to these rule amendments because they do not meet the exempt criteria outlined in RCW 34.05.328(5). However, this rule making incorporates necessary policy (and current practice) into rule as directed by the Governor's Executive Order 97-02 on Regulatory Improvement.

Hearing Location: Seattle hearing at 300 West Harrison Street, Labor and Industries Building, 4th Floor Conference Room, Seattle, WA, on June 27, 2000, at 1:00 p.m.

Spokane hearing at 2000 North Green Street, District Administration Building of Community Colleges of Spokane, Trustees Boardroom, Spokane, WA, on June 28, 2000, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by June 23, 2000, at (360) 902-6411.

Submit Written Comments to: Josh Swanson, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail swaj235@lni.wa.gov, fax (360) 902-5292, by June 28, 2000. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: July 19, 2000.

May 23, 2000

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 92-01-104, filed 12/18/91, effective 1/31/92)

WAC 296-127-013 Scope of work ((definitions)) descriptions. (1) In order to determine applicable prevailing wage rates, the ((~~industrial statistician~~)) director or his/her designee will issue scope of work descriptions for each trade and occupation recognized as being involved in public work.

(2) The ~~((industrial statistician may issue))~~ scope of work descriptions~~((;))~~ shall be created using authoritative sources available to the department, such as:

- (a) Washington state apprenticeship and training council approved apprenticeship standards;
 - (b) Collective bargaining agreements;
 - (c) Dictionaries of occupational titles;
 - (d) Experts from organized labor, licensed contractors, and contractors' associations;
 - (e) Recognized labor and management industry practice.
- (3) The applicable prevailing wage rates for workers employed on public works projects shall be determined by the scopes of work performed by those workers, and not by their specific job titles.

(4) ~~((Scope of work descriptions may be established or revised:~~

~~(a) On the first business day of February and the first business day of August each year along with the prevailing wage publication; or~~

~~(b) In response to an administrative or judicial finding, or at any time necessary to correct an error.~~

~~(5) All scope of work descriptions shall become effective thirty days after their establishment or revision.~~

~~(6))~~ The applicable scope of work description for a public works contract is the scope of work description that is in effect on the date that the bids are due to be submitted to the contract awarding agency. If the contract is not awarded within six months of the bid due date, then the applicable scope of work description shall be that which is in effect on the date that the contract is awarded. The same scope of work description shall remain in effect for the duration of the contract.

~~((7) The department shall make scope of work descriptions available to all interested parties upon request.~~

~~(8) The department shall notify trade associations, labor organizations, and public agencies, reasonably known to be affected, prior to adopting new scope of work descriptions or changes or additions to existing scope of work descriptions, and shall provide sixty days from the date of issuance for comment.)~~

(5) In the event a dispute arises regarding a scope of work description following the award of a public works contract, the aggrieved party may request an arbitration hearing pursuant to the provisions of RCW 39.12.060, WAC 296-127-060, 296-127-061, and 296-127-062.

NEW SECTION

WAC 296-127-01301 Certified asbestos abatement workers. For the purpose of the Washington state public works law, chapter 39.12 RCW, the department of labor and industries has established the work classification of certified asbestos abatement workers.

Asbestos abatement work may be performed by any worker who is certified as an asbestos remover and encapsulator, except when the work performed is incidental to the normal scope of work of another trade or occupation. Incidental asbestos work includes only that work of short duration which is indistinguishable from the work of another established classification.

This classification does not include work falling within the scope of work for asbestos workers. That work is primarily related to the installation of insulation material around mechanical systems.

Certified asbestos abatement workers perform all of the work, including any cleanup required in connection with the abatement of asbestos, coming within the purpose and scope of chapter 49.26 RCW and chapter 296-65 WAC. WAC 296-65-003 provides definitions which establish the scope of this work.

NEW SECTION

WAC 296-127-01303 Heat and frost insulators and asbestos workers. For the purpose of the Washington state public works law, chapter 39.12 RCW, heat and frost insulators and asbestos workers apply insulation materials to mechanical systems to reduce loss or absorption of heat, prevent moisture condensation and to deaden sound and prevent vibration.

The work includes, but is not limited to:

- The preparation and physical distribution on the job site of asbestos, cork, plastic, magnesia or similar insulation materials.

- Insulation of mechanical systems, plumbing, heating systems, any insulation connected with air handling systems, refrigeration piping and related vessels, boilers, tanks, flues breechings, evaporators, turbines, fittings, valves, ducts, flues, vats and all insulation connected with steam, condensate, feedwater and/or chilled water, or insulation of any mechanical system for sound control.

- All cleanup required in connection with heat and frost insulators and asbestos worker's work.

NEW SECTION

WAC 296-127-01305 Boilermakers. For the purpose of the Washington state public works law, chapter 39.12 RCW, boilermakers assemble, erect, repair and clean boilers, tanks, vats and pressure vessels according to blueprint specifications, using hand tools and portable power tools and equipment.

The work includes, but is not limited to:

- Locating and marking of reference points for columns or plates on foundations, using master straightedge, squares, transit and measuring tape.

- Using rigging or cranes to lift parts to specified positions.

- Aligning structures or plate sections, using plumb bobs, levels, wedges, dogs or turnbuckles.

- Drilling, reaming, chipping, caulking and grinding of structures and sections and bolting or welding them together.

- Setting of drums and headers and installation of tubes.

- And all the cleanup required in connection with boiler-makers work.

NEW SECTION

WAC 296-127-01306 Brick masons. For the intents and purposes of the Washington state public works law,

chapter 39.12 RCW, the job description for brick masons is as follows:

- Prepare and lay building materials such as brick, concrete block, cinder block, terra cotta block, marble and granite block, and related materials to construct, repair and waterproof structures, such as walls, partitions, arches, sewers, chimneys or smokestacks, piers, abutments, walks and curbstones.
- Measure distance from reference points and mark guidelines on working surface to lay out work.
- Spread soft layer of mortar that serves as base and binder for brick (or block), using trowel.
- Apply mortar to end of brick and position brick in mortar bed.
- Tap brick with trowel to level, align, and embed in mortar, allowing specified thickness of joint. Remove excess mortar from face of brick, using trowel.
- Finish mortar between brick with pointing tool or trowel.
- Break bricks to fit spaces too small for whole brick, using edge of trowel or brick hammer.
- Determine vertical and horizontal alignment of courses, using plumb bob, gaugeline and level. Fasten brick or terra cotta veneer to face of structures, with tie wires embedded in mortar between bricks, or in anchor holes in veneer brick.

NEW SECTION

WAC 296-127-01308 Building service employees (janitors, waxers, and window washers). For the purpose of the Washington state public works law, chapter 39.12 RCW, the work of building service employees includes, but is not limited to:

(1) Janitors. Empty trash and damp wipe containers. Dust chairs, sides of desks, top of filing cabinets, panelled walls, doors, ledges and picture frames within easy reach. Damp wipe desk tops, telephones and desk fixtures. Damp mop floors. Vacuum upholstered furniture and draperies. Wash vinyl furniture with cleaning solution. Wash doors and other surfaces and spot wash painted walls. Clean door glass and inside partition glass. Vacuum and shampoo carpets.

(2) Utility janitors. Performs the following duties in addition to those performed by janitors: Waxing of floors (when not performed by traveling waxers), high wall and ceiling washing requiring the use of a ladder, and minor repairs and maintenance necessary to the operation of the building.

(3) Waxers. Waxing of floors.

(4) Window washers. Washing of all windows, other than inside partition glass and door glass, washing of painted walls, (when not done as a prerequisite to repainting) and wall paper cleaning.

(5) And all the cleanup required in connection with building service employees.

NEW SECTION

WAC 296-127-01309 Cabinet makers. For the purpose of the Washington state public works law, chapter 39.12

RCW, cabinet makers set up and operate a variety of wood-working machines and use various hand tools to fabricate and repair wooden cabinets, sashes, doors, and furniture in a shop or plant.

The work includes, but is not limited to:

- Study blueprints or drawings of articles to be constructed or repaired and plan sequences of cutting or shaping operations to be performed.
- Mark outline or dimensions of parts on paper or lumber stock, according to blueprint or drawing specifications. Match materials for color, grain or texture.
- Set up and operate woodworking machines, such as: Power saws, jointer, mortiser, tenoner, molder and shaper to cut and shape parts from woodstock.
- Trim component parts of joints to assure snug fit, using hand tools, such as: Planes, chisels, or wood files. Bore holes for insertion of screws or dowels by hand or using boring machine. Glue, fit and clamp parts and subassemblies together to form a complete unit, using clamps or clamping machine. Drive nails or other fasteners into joints at designated places to reinforce joints.
- Sand and scrape surfaces and joints of articles to prepare articles for finishing. Dip, brush or spray assembled articles with protective or decorative materials, such as stain, varnish, or paint.
- Install hardware such as: Hinges, catches and drawer pulls.

NEW SECTION

WAC 296-127-01310 Carpenters. For the purpose of the Washington state public works law, chapter 39.12 RCW, carpenters construct, erect, install and repair structures, structural members and fixtures made of wood, plywood, wall-board and materials that take the place of wood, such as plastic, metals, composites, and fiberglass, using carpenter hand tools and power tools.

The work includes, but is not limited to:

- Build rough wooden structures, such as concrete forms, scaffolds, wooden bridges, trestles, coffer dams, tunnel and sewer support; welding and burning.
- Install ladders, handrails, walkways, platforms and gangways.
- Install door and window bucks (rough frames in which finished frames are inserted) in building frame work and brace them with boards nailed to frame work.
- Install subflooring in buildings.
- Nail plaster grounds (wood or metal strips) to studding.
- Fit and nail sheathing on outer walls and roofs on buildings.
- Construct, erect, install and repair commercial, industrial and residential structures.
- Select specified type of lumber or other materials.
- Prepare layout, using rule, framing square and calipers.
- Mark cutting and assembling lines on materials, using pencil, chalk, and marking gauge.
- Shape materials to prescribed measurements, using saws, chisels and planes.
- Assemble, cut and shape materials and fasten them together with nails, dowel pins, or glue.

- Verify trueness of structure with plumb bob and carpenter's level.
- Apply decorative paneling to walls.
- Erect frame work for structures and lay subflooring.
- Cover subfloor with building paper to keep out moisture and lay hardwood, parquet and wood-strip-lock floors by nailing floors to subfloor or cementing them to mastic or asphalt base.
- Build stairs and layout and install partitions and cabinets.
- Install metal roof decking and metal siding, regardless of the fastening method, or what it is fastened to.
- Install all other types of siding, regardless of composition, fastening method, or what it is fastened to.
- Fit and install prefabricated wooden cabinets, window frames, door frames, doors, weather stripping, interior and exterior trim, and finish hardware, such as locks, letter drops and kick plates.
- Apply acoustical tile to ceilings and walls of buildings to reduce reflecting of sound and to decorate rooms.
- Cement tile to masonry surface.
- Nail channels or wood furring strips to surfaces to provide mounting for tile.
- Place building paper between tile and furring strip to keep out moisture.
- Nail, screw, or staple tile to wooden furring strips.
- Nail or screw moulding to walls to support and seal joint between ceiling tile and wall. Hang dry lines to wall mauling.
- Drive hanger inserts into reinforced concrete ceiling, suspend and bend hanger wires at points touching dry lines.
- Thread wires through holes in main runners and cut and attach cross supports to suspended runners and wall mauling.
- Cut tiles for fixtures and borders and insert tiles into supporting frame work.

NEW SECTION

WAC 296-127-01312 Carpenter tenders. For the purpose of the Washington state public works law, chapter 39.12 RCW, carpenter tenders are laborers who assist carpenters engaged in construction, erection, installation and repair of wooden structures and fixtures. Carpenter tenders perform a variety of routine tasks which do not require the use of carpenter tools, such as:

- Cleaning materials, equipment, tools and work areas.
- Moving and lifting building materials, tools and supplies.
- Handling materials, tools and supplies to carpenters.
- Dismantling temporary wooden structures.
- Assisting carpenters in stripping forms and shoring.
- Cleaning and moving forms.

NEW SECTION

WAC 296-127-01313 Carpet and resilient floor layers. For the purpose of the Washington state public works law, chapter 39.12 RCW, carpet and resilient floor layers do the measuring, cutting, sewing, taping, fitting, laying and installing of oil cloth, matting, linen, carpet, synthetic turf,

linoleum, vinyl, plastic, rubber, cork, mastic, asphalt, mastic-pave, tile and chalkboard, nonslip or abrasive materials, resilient, decorative seamless surface coatings (except terrazzo, magnesite and latex built-up floors) and all other resilient coverings on floors, walls, counters, table tops and ceilings when cemented, tacked or otherwise applied to a base, whether used as shock-absorbing, sound-absorbing, or decorative coverings.

The work includes, but is not limited to:

- Handling of the materials at the site of installation.
- Sweeping, scraping, sanding, or chipping dirt and irregularities from base surfaces and filling cracks with putty, plaster, or cement grout to form smooth, clean foundations.
- All necessary preparation work and finish work, such as drilling holes for sockets and pins, installation of underlayment, sanding and filling, fitting of metal edgings, metal corners and caps and fitting devices for attachment of such materials.
- Spreading of adhesive cement over floor to cement foundation material to the floor. Laying covering on cement. Rolling finished floor to smooth it out and press cement into base and covering.
- All the cleanup required in connection with carpet and resilient floor layers work.

NEW SECTION

WAC 296-127-01315 Cement masons. For the purpose of the Washington state public works law, chapter 39.12 RCW, cement masons perform all work where finishing tools are used.

The work includes, but is not limited to:

- The setting of screeds, the rodding (buildings), shaping, smoothing and finishing of the surfaces of freshly poured concrete floors, walls, sidewalks, curbs, steps and stairways, the finishing of extruded barrier rails, or any other concrete surface requiring finishing, using hand tools or power tools, including floats, trowels, screeds and straightedge.
- The removing of rough or defective spots from concrete surfaces, using grinder or chisel and hammer and patching holes with fresh concrete or epoxy compound preparatory to sacking. (The finishing of a large surface of patched holes.)
- The moulding of expansion joints and edges, using edging tools, jointers and straightedge.
- The application of penetrating sealer and primer protective coatings to concrete floors and steps for the first twenty-four hours after pouring, when part of the finishing process.
- The installation of seamless composition floors and the installation and finishing of epoxy based coatings or polyester based linings to all surfaces, when the coatings or linings are applied by spraying or troweling.
- Sandblasting or waterblasting for architectural finish or preparatory to patching.
- The setting of all forms one board high.
- The cutting of joints with concrete saw for the control of cracks in buildings and contiguous to buildings.
- The setting of concrete curb, gutter and sidewalk forms as a composite crew with laborers.

- All cleanup work required in connection with the above work.

NEW SECTION

WAC 296-127-01317 Drywall applicators (drywall nailers and sheetrock installers). For the purpose of the Washington state public works law, chapter 39.12 RCW, dry-wall applicators install plasterboard or other wallboards to ceilings and interior walls of buildings, using hand tools and portable power tools.

The work includes, but is not limited to:

- Installing horizontal and vertical metal studs for attachment of wallboard on interior walls.
- Cutting angle iron and channel iron to specified size and suspending angle iron grid and channel iron from ceiling, using wire.
- Cutting wallboard to size.
- Cutting openings for electrical and other outlets.
- Nailing wallboard to wall and ceiling supports.
- Trimming rough edges from wallboard to maintain even joints.
- Nailing prefabricated metal pieces around windows and doors and between dissimilar materials to protect drywall edges.

NEW SECTION

WAC 296-127-01318 Drywall finishers (tapers). For the purpose of the Washington state public works law, chapter 39.12 RCW, drywall finishers perform all the preparatory work and finishing work involved in covering interior walls and ceilings with decorative or protective finish materials.

The work includes, but is not limited to:

- Handling of all materials after the initial unloading at the job site, including the distribution to the points of application.
- Erecting, moving and dismantling of all scaffolding.
- All preparatory work of taping, sealing, finishing and sanding of joints between plasterboard or other wallboard.
- Spotting, caulking, pointing and sealing of cracks and holes in walls and ceilings.
- Applying protective coverings prior to the application of the finish materials.
- Spackling of surfaces and application of texture finishes where adhesive materials are used.
- Applying all primers, sealers, decorative or protective finish materials, regardless of the method of application.
- Installing metal moulding at corners instead of sealant and tape.
- Removing all drywall material scraps and all cleaning work, including scraping of floors.

NEW SECTION

WAC 296-127-01320 Power line construction electricians. For the purpose of the Washington state public works law, chapter 39.12 RCW, power line construction electricians erect, maintain and repair transmission poles (whether built of wood, metal or other material), fabricated metal transmis-

sion towers, outdoor substations, switch racks, or similar electrical structures, electric cables and related auxiliary equipment for high-voltage transmission and distribution power lines used to conduct energy between generating stations, substations and consumers.

The work includes, but is not limited to:

- The moving of men, tools, or equipment. The sorting, loading and moving of materials from the first drop. The handling, assembling and erecting of all necessary materials.
- The trenching, digging, and backfilling of vaults, holes for poles and anchors (by hand or mechanical equipment), guying, fastening to the stub-in on concrete footings or pads, assembling of the grillage, grounding of all structures, the stringing and installation of transformers.
- Constructing, repairing and maintaining highway and street lighting systems and highway and street traffic signal systems.
- Trimming trees and brush prior to the construction of new power lines, during repair of damaged lines, or as part of routine maintenance of the lines (tree trimmers).
- All the cleanup required in connection with line construction electrician work.

All the classifications listed below work under the supervision of linemen and assist linemen.

(1) Groundmen. Performs the following tasks:

- Manual digging of pole holes, anchor holes and trenches.
 - Assists in framing of poles, pulling guys.
 - Assembles and erects fixtures.
 - Tamping and compacting.
 - Driving of 1/2 to 3/4 ton pickup truck.
- (2) Head groundman. Performs the following tasks:
- Manual digging of pole holes, anchor holes, and trenches.
 - Assists in framing of poles, pulling guys.
 - Assembles and erects fixtures.
 - Tamping and compacting.
 - Driving of 1/3 to 3/4 ton pickup truck for material or man haul.

(3) Line equipment operators. They operate caterpillars, trucks equipped with winch and/or boom, hydraulically operated backhoes with or without front end loaders, mounted booms, and any other equipment that does not come within the scope of heavy equipment operators.

(4) Heavy line equipment operators. They operate any piece of equipment which, in accordance with manufacturer's recommended specifications is capable of operating with one hundred or more aggregate feet of boom, be it crane, backhoe, clam shell, drag line, or shovel.

NEW SECTION

WAC 296-127-01322 Electronic technicians. For the purpose of the Washington state public works law, chapter 39.12 RCW, the scope of work for electronic technicians is as follows:

- (1) The installation, operation, inspection, maintenance, repair and service of:
 - (a) Radio, television and recording systems and devices.

(b) Systems for paging, intercommunication, public address, wired music, clocks, security and surveillance systems and mobile radio systems.

(c) Fire alarm and burglar systems.

(2) The installation of nonmetallic conduits and incidental shielded metallic conduits of no longer than ten feet nor larger than one inch, when installed for the specific purpose of carrying low voltage wiring.

(3) Pulling wiring through the type of conduit described under subsection (2) of this section, when the wiring is installed for the specific purpose of carrying low voltage electricity.

(4) All the cleanup required in connection with electronic technician's work.

NEW SECTION

WAC 296-127-01323 Inside wireman electrician. For the purpose of the Washington state public works law, chapter 39.12 RCW, inside wireman electricians plan the layout, install and repair conduit, wiring, electrical fixtures, apparatus, and control equipment in buildings and adjacent yards to provide electricity for power and lighting.

(1) They assemble, install and maintain all electrical lighting, electric heating and cooling equipment, standby motor generators, electric heat pumps, under-floor duct and luminous ceilings.

They install, repair and maintain highway and street lighting systems and highway and street traffic signal systems.

The work includes, but is not limited to:

- The handling and moving of any electrical materials, equipment and apparatus on the job site.

- Welding, burning, brazing, bending, drilling and shaping of all copper, silver, aluminum, angle iron and brackets to be used in connection with the installation and erection of electrical wiring and equipment.

- Measuring, cutting, bending, threading, forming, assembling and installing of electrical conduit, using such tools as hacksaw, pipe threader and conduit bender.

- Pulling wiring through conduit.

- The installation of conduit and interduct raceways for fiber optic cable and the pulling of fiber optic cable through these raceways, except telephone conduit and cable.

Cutting holes in floors and walls for electrical conduit:

- With point and hammer.

- Core-drilled.

- Chasing and channeling necessary to complete any electrical work, including the fabrication and installation of duct and manhole forms incidental to electrical installation.

- Splicing wires by stripping insulation from terminal leads with knife or pliers, twisting or soldering wires together and applying tape or terminal caps.

- Installation and maintenance of lighting fixtures.

- Connecting wiring to lighting fixtures and power equipment.

Assembling and installing of conduit switches, relays, junction boxes, circuit breaker panels, and related accessories and controls.

- Testing continuity of circuit to insure electrical compatibility and safety of components.

- All cleanup required in connection with electrical work.

(2) The following power line construction classifications may assist journeymen wireman in the installation, repair and maintenance of highway and signal lighting systems and highway and street traffic signal systems:

(a) Groundmen.

- Performs the following tasks:

- Manual digging of pole holes, anchor holes and trenches.

- Assembles and erects fixtures.

- Assists in framing of poles, pulling guys.

- Tamping and compacting.

- Driving of 1/2 or 3/4 ton pickup truck.

(b) Head groundman.

- Performs the following tasks:

- Manual digging of pole holes, anchor holes and trenches.

- Assists in framing of poles, pulling guys.

- Assembles and erects fixtures.

- Tamping and compacting.

- Driving of 1/3 or 3/4 ton pickup truck for materials or man haul.

(c) Line equipment operators. Operate caterpillars, trucks equipped with winch and/or boom, hydraulically operated backhoes with or without front end loaders, mounted booms, and any other equipment that does not come within the scope of heavy equipment operators.

(d) Heavy equipment operators. Operate any piece of equipment which, in accordance with manufacturer's recommended specifications is capable of operating with one hundred or more aggregate feet of boom, be it crane, backhoe or clam shell, drag line, or shovel.

NEW SECTION

WAC 296-127-01325 Electrical fixture maintenance workers. For the purpose of chapter 39.12 RCW, Washington state prevailing wage law, the prevailing wage for electrical fixture maintenance worker is required for the following work:

Cleaning of all types of lighting fixtures, luminous ceilings, all types of diffused areas and ceiling lighting. The work also includes replacement of lamps, ballasts, sockets and the installation of energy efficiency upgrades. This work must be limited to nonresidential fixture bodies, but may also include replacement or retrofitting of remote located ballasts with approved products.

Work beyond that which is described above must be paid at another electrical classification such as inside wireman electrician or residential electrician. Electrical fixture maintenance worker does not include installation of new fixtures or branch circuits, movement or relocation of existing fixtures, or alteration of existing branch circuits.

NEW SECTION

WAC 296-127-01327 Elevator constructors. For the purpose of the Washington state public works law, chapter 39.12 RCW, elevator constructors assemble and install electric and hydraulic freight and passenger elevators, escalators, and dumbwaiters.

The work includes, but is not limited to:

- Studies blueprints and lays out location of framework, counterbalance rails, motor pump, cylinder, and plunger foundations.
- Drills holes in concrete or structural steel members with portable electric drill, secures anchor bolts or welds brackets to support rails and framework, and verifies alignment with plumb bob and level.
- Cuts prefabricated sections of framework, rails, and other elevator components to specified dimensions, using acetylene torch, power saw, and disc grinder.
- Installs cables, counterweights, pumps, motor foundations, escalator drives, guide rails, elevator cars, and control panels.
- Positions electric motor and equipment on top of elevator shaft, using hoists and cable slings.
- Connects electrical wiring to control panels and electric motors.
- Installs safety and control devices.
- All cleanup required in connection with the installation of elevators.

NEW SECTION

WAC 296-127-01328 Fence erectors and fence laborers. For the purpose of the Washington state public works law, chapter 39.12 RCW, fence erectors and fence laborers erect and repair metal and wooden fences and fence gates around industrial establishments (schools, playgrounds, etc.), residences, farms and along highways using power tools and hand tools.

The work of the fence erectors includes, but is not limited to:

(1) Fence erector.

- Lays out fence line, using tape measure, and marks for postholes.
- Digs postholes with mechanical posthole digger or power-driven auger.
- Aligns posts, using line or by sighting along edges of posts.
- Verifies vertical alignment of posts with plumb bob or spirit level.
- Attaches fence-rail support to post, using hammer and pliers.
- Cuts metal tubing, using pipe cutter, and inserts tubing through rail support.
- Completes top fence rail of metal fence by connecting tube sections, using metal sleeves.
- Attaches rails or tension wire along bottoms of posts to form fencing frame.
- May weld metal parts together, using portable gas welding equipment.

- Stretches wire, wire mesh, barbed wire, or chain link fencing between posts and attaches fencing to frame.
- Assembles gate and fastens in position, using hand tools.
- Saws required length of lumber to make rails for wooden fence.
- Nails top and bottom rails to fence posts, or inserts them in slots on posts.
- Nails pointed slats to rails to construct picket fence.
- Erects alternate panel, basket weave, and louvered fences.

(2) Fence laborer. In addition to assisting the fence erector in the performance of the tasks described above, the work of the fence laborer includes, but is not limited to:

- Digs holes for posts with spade or posthole digger.
- Blasts rock formations with dynamite to facilitate digging of holes.
- Sets metal or wooden posts in upright position in holes.
- Mixes concrete by hand or by use of a cement mixer.
- Pours concrete around base of posts or tamps soil into holes to embed posts.
- All the cleanup required in connection with the erection of fences.

NEW SECTION

WAC 296-127-01329 Flaggers. For the intents and purposes of the Washington state public works law, chapter 39.12 RCW, the scope of work for flaggers is as follows:

- Controls and directs pedestrian and vehicular traffic through construction projects using sign, hand and flag signals, warning paddles and radio communication.
- Informs drivers of detour routes through construction sites. Distributes signs, markers, flares, barricades, cones and other traffic control devices along construction sites in designated patterns.
- Is responsible for the safety of the workers and the public on construction sites.
- Must have completed a Washington state approved flagging course, or the equivalent.

NEW SECTION

WAC 296-127-01331 Glaziers. For the purpose of the Washington state public works law, chapter 39.12 RCW, glaziers select, cut, prepare, handle, install or remove all window glass, plate glass, and all other types of glass, including structural glass, mirror glass, tempered and laminated glass, safety or protection glass, all types of insulating glass units, all plastics or other similar materials when used in place of glass and when set or glazed with putty, moulding rubber, cement, lead and all types of mastic, or other materials used in place of same.

Glaziers install the above materials in windows, louvers, doors, partitions, skylights, and on building fronts, walls, ceilings and tables, whether the materials are set in wood, stone, cement, or metal of all types.

The work includes, but is not limited to:

- Install mirrors of all types.

- Mark outline or pattern on glass and cut glass, using glasscutter. Break off excess glass by hand or with notched tool.

- Fasten glass panes into wood sash with glazier's points and spread smooth putty around edge of panes with knife to seal joints.

- Install metal window and door frames into which glass panels are to be fitted, such as fixed or sliding patio doors and vented, fixed or sliding windows.

- Bolt metal hinges, handles, locks, and other hardware to prefabricated glass doors. Set glass doors in frame and fit hinges.

- Install metal-framed glass enclosures for showers, bath tubs, and skylights where the glass installation and frame assembly is a single operation.

- Install mirror or structural glass on building fronts, walls, ceilings, or tables, using mastic, screws or decorative moulding.

- All the cleanup required in connection with glazing work.

NEW SECTION

WAC 296-127-01332 Hod carriers, mason tenders, and mortarmen. For the purpose of the Washington state public works law, chapter 39.12 RCW, hod carriers, mason tenders and mortarmen assist bricklayers and masons.

The work includes, but is not limited to:

- The mixing, packing, wheeling and tempering of mortar and fire clay.

- The mixing, handling and conveying of all other materials used by bricklayers and masons (e.g., brick, tile, stone and cast stone), whether done by hand or any other process (e.g., operation of forklifts, hoisting equipment and pumping equipment).

- Building of scaffolds, trestles, boxes and swinging staging.

- Hanging of cables and placing of putlogs.

- Carrying bricks and mortar in a hod.

- Cleaning and clearing of all debris.

NEW SECTION

WAC 296-127-01333 Heating equipment mechanics. For the purpose of the Washington state public works law, chapter 39.12 RCW, heating equipment mechanics replace the gas and oil burners in furnaces or replace complete furnaces, but they do not install the original furnaces.

The work includes, but is not limited to:

- Removal of old burner.

- Installation of new burner.

- Connection of fuel lines.

- Installation of instrumentation lines.

- Installation of new fan.

- Firing off.

- Setting burner on correct ratio.

- All cleanup required in connection with the installation of heating equipment.

NEW SECTION

WAC 296-127-01335 Inland boatmen. For the purpose of the Washington state public works law, chapter 39.12 RCW, inland boatmen man the tugs and launches (but not outboard-powered skiffs) engaged in construction, dredge tending, pile driving, diver tending and geodetic surveying.

NEW SECTION

WAC 296-127-01337 Insulation applicators. For the purpose of the Washington state public works law, chapter 39.12 RCW, insulation applicators install all the insulation material in floors, walls, sound rated partitions and ceilings.

They also install insulation materials on roofs, when the material must be measured, cut and nailed to the inside or outside of an existing roofing system.

The insulation materials installed by insulation applicators include, but are not limited to:

- Batt insulation, semi-rigid and rigid insulation, blown spray and foam-type insulation, regardless of method of installation, attachment or connection.

- All the cleanup required in connection with insulation applicators.

NEW SECTION

WAC 296-127-01339 Ironworkers. For the purpose of the Washington state public works law, chapter 39.12 RCW, ironworkers perform all work in connection with field fabrication and/or erection, installation, removal, wrecking and dismantling of structural, architectural and reinforcing iron and steel, ornamental lead, bronze, brass, copper and aluminum, and plastics or other materials when used in place thereof.

The work performed by ironworkers includes, but is not limited to:

- Steel and metal houses and packaged buildings.

- Bridges, viaducts, cableways, tramways, monorails.

- Locks, gates, metal forms, railings (including pipe).

- Steel towers, energy producing windmill type towers, nuclear reactors.

- Frames in support of boilers.

- The installation of metal siding and metal roof decking, regardless of the fastening method, or what it is fastened to.

- All reinforcing work in connection with field fabrication, handling, burning, welding and tying of all materials used to reinforce concrete structures.

- The signaling, rigging, hoisting, aligning, bolting, riveting, or welding of structural-steel members.

- The unloading, loading, distributing, stockpiling, hoisting, rigging, and handling of materials used by ironworkers and all cleanup work.

Work process:

(1) Structural:

(a) Erecting:

- Connecting

- Fitting

- Hooking on

- Bolting up

- Torquing
- Signaling
- Preengineered buildings
- Sheeting
- (b) Rigging:
 - Cranes
 - Derricks
 - Land rigs
 - Cable splicing
- (c) Maintenance of equipment:
 - Dismantling
 - Field rigging
 - Moving field equipment
- (2) Welding:
 - (a) Acetylene welding
 - (b) Electric arc welding
 - (c) Cutting and burning
 - (d) Heliarc.

NEW SECTION

WAC 296-127-01340 Laborers in utilities construction. For the purpose of the Washington state public works law, chapter 39.12 RCW, the work for laborers includes, but is not limited to:

- (1) Pipe layer.
 - Shoring, building of manholes and catch basins.
 - Sealing, doping and wrapping of the pipe after the joints have been welded and before the pipe is lowered into the trench or ditch.
 - Joining ductile iron pipe by using screws, bolts, fittings, caulking or any other method for making joints in the industry, when the pipe will not be under pressure. Lowering the pipe into the trench or ditch.
- (2) Topman. Assists the pipe layer from the surface, he does not work in the trench or ditch.
- (3) General laborer.
 - Performs all other laborers' work which is not done by pipe layers and topmen.
 - Responsible for all cleanup required in connection with utilities construction work.

NEW SECTION

WAC 296-127-01342 Clean-up laborers. For the intents and purposes of the Washington state public works law, chapter 39.12 RCW, the scope of work for clean-up laborers is as follows:

- Performs general clean-up in buildings during construction when too much rubbish has accumulated.
- Cleans areas where the next phase of construction will take place.
- Performs final clean-up after the construction has been completed.

NEW SECTION

WAC 296-127-01344 Laborers. For the intents and purposes of the Washington state public works law, chapter 39.12 RCW, laborers perform a variety of tasks such as:

- Erect and repair guard rails, median rails, guide and reference posts, sign posts and right of way markers along high-ways.
- Mix, pour and spread asphalt, gravel and other materials, using hand tools, and mix, pour, spread and rod concrete.
- Lift, carry and hold building materials, tools and supplies.
- Measure distances from grade stakes, drive stakes and stretch tight line.
- Bolt, nail, align and block up under forms.
- Signal operators of construction equipment to facilitate alignment, movement and adjustment of machinery to conform to grade specifications.
- Level earth to fine grade specifications, using pick and shovel.
- Mix concrete, using portable mixer.
- Position, join, align, wrap and seal pipe sections.
- The placement and testing of plastic conduit for electrical cable, when the conduit is buried underground.
- Erect scaffolding, shoring and braces.
- Mop, or spread bituminous compounds over surfaces for protection (outside buildings).
- Spray material such as water, sand, steam, vinyl, or stucco through hoses to clean, coat or seal surfaces.
- Apply caulking compounds by hand or with caulking gun to seal crevices.
- The application of penetrating sealer and primer protective coatings to concrete floors and steps when safe to walk on.
- Installation of plastic panels on the inside of existing window frames for insulation (instead of storm windows). The panels are held in place magnetically (with metal brackets) and with self-taping screws.
- The cleaning and grinding of concrete floors and walls by high pressure waterblasting or sandblasting preparatory to the application of waterproofing.
 - The removing of rough or defective spots from concrete surfaces, using grinder or chisel and hammer and patching holes with fresh concrete or epoxy compound when not preparatory to sacking (finishing a large surface of patched holes).
 - The setting of concrete curb, gutter and sidewalk forms as a composite crew with cement masons.
 - The laying of concrete, granite and brick pavers in beds of sand.
 - General clean-up required after damage caused by water or fire.
- All cleanup work required in connection with the above work. Clean tools, equipment, materials and work areas:
 - (1) When the clean-up is performed for more than one trade (usually employed by general contractor).
 - (2) When assisting those trades for which laborers have been specifically designated as tenders, e.g., carpenter tender, cement finisher tender, etc.

NEW SECTION

WAC 296-127-01346 Landscape construction. For the purposes of the Washington state public works law, chapter 39.12 RCW, landscape construction involves the beautifi-

cation of a plot of land by changing its natural features through the addition or modification of lawns, trees, bushes, etc.

(1) Landscape construction includes:

- Constructing or maintaining lawns, yards, gardens or other landscaped surfaces.
 - Mixing and spreading mulches, ground covers, soil amendments, decorative bark or decorative rock.
 - Seeding, sodding or hydroseeding.
 - Applying chemicals or fertilizers.
 - Planting trees, shrubs or plants.
 - Installing, servicing or repairing above ground lawn or landscape sprinkler systems.
 - Installing, servicing or repairing underground lawn or landscape sprinkler systems to a maximum depth of three feet below finish grade.
 - Assembling or placing premanufactured trellis work, play equipment, benches or picnic tables.
 - Constructing rock walls to a maximum height of four feet.
 - Land clearing.
 - Spreading top soil to a maximum depth of six inches below finish grade.
 - Trenching to a maximum depth of three feet below finish grade.
 - Installing french drains or other subsurface water collection systems to a maximum depth of three feet below finish grade.
 - Hauling top soil, plants or other landscaping materials in trucks with only one rear axle.
- (2) Landscape construction does not include:
- Any activity or task (including those mentioned above) when performed preparatory to any nonlandscaping construction work.
 - Constructing roads, footpaths, trails or rock walls more than four feet high.
 - Custom fabrication of trellis work, play equipment, benches or picnic tables.
 - Constructing restrooms, shelters or similar structures.
 - Installing sewer systems, storm sewer systems, catch basins, vaults or drainage systems for impervious surfaces (such as parking lots).
 - Installing drainage systems or underground sprinkler systems more than three feet below final grade.
 - Land clearing, dozing, grading, excavating or hauling except as permitted above.
 - Tree falling or bucking.
 - Subgrade preparation.
 - The use of power equipment with more than ninety horsepower.
 - The use of trucks with more than one rear axle except hydroseeders.
 - Demolition of structures.
 - Asphalt or concrete work except incidental anchorage for play equipment, benches or picnic tables.
 - Welding.
 - Installing agricultural irrigation systems.
 - Encapsulation of landfills.

NEW SECTION

WAC 296-127-01347 Lathers. For the purpose of the Washington state public works law, chapter 39.12 RCW, a lather erects horizontal metal framework to which laths are fastened, using nails, bolts, and studgun. Drills holes in floor and ceiling and drives ends of wooden or metal studs into holes to provide anchor for furring or rockboard laths.

Cuts and shapes lath and other materials, using hand tools and power tools.

Nails, clips or fastens all types of wood, wire and metal laths, plasterboard, wallboard, rockboard, gypsum, sheetrock and acoustical materials which take the place of same to walls, ceilings, and partitions of buildings to provide supporting base for plaster, fireproofing or acoustical material.

Erects all metal plastering accessories which are covered and/or serve as ground, guard, stock or screed for plaster materials, including wire mesh.

The work includes, but is not limited to:

- Installs all carrying bars and purlins (pieces of horizontal timber), light iron and metal furring (thin strips of wood or metal to create air space) of all descriptions, such as rods, channels, flatiron, t-bar, h-bar and other ceiling bars or systems for the receipt of lath and board.
- Wires plasterer's channels to overhead structural framework to provide support for plaster or acoustical ceiling tile.
- Nails, plaster grounds (wood or metal strips) to studing to provide a guide for plasters.
- Handles, moves, hoists and stores on the job site all materials used by lathers and does all the cleanup required in connection with lather work.

NEW SECTION

WAC 296-127-01349 Marble setters. For the purpose of the Washington state public works law, chapter 39.12 RCW, marble setters cut, trim and set marble slabs in floors and walls of buildings and repair and polish slabs previously set in buildings.

The work includes, but is not limited to:

- Cutting, trimming and facing marble to specified size, using cutting, power sawing, and facing equipment and hand tools.
- Drilling holes in slabs and attaching brackets.
- Spreading mortar on bottom of slabs and on sides of adjacent slabs.
- Setting blocks in position, tamping them into place, and anchoring bracket attachments with wire.
- Filling joints with grout and removing excess grout from marble with a sponge.
- Cleaning and beveling cracks or chips on slabs, using power tools and hand tools.
- Heating cracked or chipped areas with blowtorch and filling defects with composition mastic that matches grain of marble.
- Polishes marble and other ornamental stone to high luster, using power tools or by hand.

NEW SECTION

WAC 296-127-01351 Millwrights. For the purpose of the Washington state public works law, chapter 39.12 RCW, millwrights install machinery and equipment according to layout plans, blueprints, and other drawings in industrial establishments, using hoists, lift trucks, hand tools and power tools. They read blueprints and schematic drawings to determine work procedures.

The work includes, but is not limited to:

- Dismantle machines, using hammers, wrenches, crow-bars, and other hand held tools.
- Move machinery and equipment, using hoists, dollies, rollers, and trucks.
- Assemble and install equipment, such as shafting, conveyors, and tram rails, using hand tools and power tools.
- Construct foundation for machines, using hand tools and building materials, such as wood, cement, and steel.
- Align machines and equipment, using hoists, jacks, hand tools, squares, rules, micrometers, and plumb bobs.
- Assemble machines and bolt, weld, rivet, or otherwise fasten them to foundation or other structures, using hand tools and power tools.

NEW SECTION

WAC 296-127-01352 Metal fabricators. For the purpose of the Washington state public works law, chapter 39.12 RCW, metal fabricators fabricate and assemble structural or ornamental metal products, such as frame work or shells for machinery, tanks, stacks, and metal parts for buildings and bridges.

The work includes, but is not limited to:

- Develop layout and plan sequences of operation.
- Design and construct templates and fixtures.
- Locate and mark bending and cutting lines onto work-piece.
- Operate a variety of machines and equipment to fabricate metal products, such as brakes, saws rolls, shears, flame cutters, drill presses, bending machines, welding machines, and punch and forming presses.
- Set up and operate machine tools associated with fabricating shops, such as radial drill presses, end mills and edge planers, to turn, drill and mill metal to specific dimensions.
- Weld, forge weld, braze, solder, rivet or bolt components together to assemble workpiece.

NEW SECTION

WAC 296-127-01354 Operating engineers (equipment operators). For the purpose of the Washington state public works law, chapter 39.12 RCW, operating engineers operate, repair and maintain all types of self-propelled mechanically, electrically, electronically, hydraulic, automatic or remote controlled equipment on construction projects.

The work includes, but is not limited to, the following types of construction and equipment:

- (1) Type of construction.
 - (a) Heavy and highway.

- Roads, streets, highways, grading and paving, excavation of earth and rock, viaducts, bridges, abutments, retaining walls, alleys, sidewalks, guard rails, fences, parkways, parking areas, athletic fields, railroads, airport grading, surfacing and drainage, pile driving, water supply, water development, reclamation, irrigation, drainage and flood control projects, water mains, pipe lines, sanitation and sewer projects, all common ditches, dams, aqueducts, canals, reservoirs, intakes, channels, levees, dikes, revetments, jetties, quarrying of breakwater or riprap stone, foundations pile driving piers, docks, locks, river and harbor projects, breakwaters, dredging, channel-cutoffs, duct lines, subways, shafts, tunnels, drilling, soil testing, clearing and grubbing, land leveling, quarrying, demolition and site clearing, tramways, soil stabilization, landscaping, beautification projects, hoisting or related work done by helicopters.

- Oil or gas refineries, nuclear power plants, industrial complexes and incidental structures.

- It shall also include any work relating to off-shore drilling and pipe lines.

(b) Building.

- Construction, erection, alteration, repair, modification, demolition, addition or improvement, in whole or in part, of any building structure.

- It shall include the installation, operation, maintenance and repair of equipment, and other facilities used in connection with the performance of such building construction.

(c) Material supply. Operations such as quarries, sand and gravel plants, screening plants, asphalt plants, ready-mix concrete or batch plants and prestressed concrete plants (excluding established plants) that are established at the job site.

(2) Type of equipment.

(a) Self-propelled.

- Asphalt machines, backhoes, blades, boring equipment, brooms, chippers, compactors, compressors, concrete saws, cranes, derricks, dozers, drilling equipment, hoists, lifts, loaders, motor graders, pavement breakers, paving machines, pumps, rollers, scrapers, screeds, shovels, tractors, and trenchers.

(b) Stationary.

- Asphalt plants, concrete batch plants, crushing plants, and screening plants.

NEW SECTION

WAC 296-127-01356 Painters. For the intents and purposes of the Washington state public works law, chapter 39.12 RCW, the job description for painters is as follows:

(1) Preparation of surfaces.

(a) Washing, cleaning and smoothing of surfaces, using sandpaper, brushes or steel wool.

(b) Removal of old paint or other coatings from surfaces, using paint remover, scraper, wire brush or by sandblasting.

(c) Filling of nail holes, cracks and joints with putty, plaster or other fillers.

(2) Color matching and mixing.

(3) Application of paint, varnish, stain, enamel, lacquer, vinyl, wallpaper and other materials of whatever kind or

quality applied to walls or ceilings with paste or adhesive using brushes, spray gun or paint rollers.

(4) Application of polyurethane elastomers, vinyl plastics, neoprene, resin, polyester and epoxy as waterproofing or protective coatings to any kind of surfaces (except roofs) when applied with brushes, spray guns or rollers.

(5) Application of sprayed on fire retardant foam.

(6) Texturing and decorating.

(7) Erecting of scaffolding or setting up of ladders to perform the work above ground level.

(8) Responsible for all the cleanup required in connection with painters work.

NEW SECTION

WAC 296-127-01358 Pile drivers. For the purpose of the Washington state public works law, chapter 39.12 RCW, the work of a pile driver includes, but is not limited to:

Pile driver (pile buck).

- The preparation, aligning, plumbing, setting, stressing, testing, pulling, welding, cutting off and capping of piling of any type including steel pile and concrete pile and the splicing, barking, heading and shoeing of piling and the rigging and signaling connected with all of the above.

- Operating engineer pile driver.

- Operating any power equipment used for pile driving, such as cranes equipped with drophammers and drums and hoists on A-frame type fixed leads on floating rigs.

NEW SECTION

WAC 296-127-01360 Plasterers. For the purpose of the Washington state public works law, chapter 39.12 RCW, plasterers apply gypsum, portland cement, stucco, imitation stone, and kindred materials and products to interior walls, ceilings, and partitions and to exterior walls of buildings, and finish those materials and products.

The work includes, but is not limited to:

- The spreading of plaster over laths, masonry, or any other base, using trowel and smoothing the plaster with darby and float for uniform thickness.

- The application of all the various manufacturer's brand names of "thin coat" or "plaster veneer."

- The application of all bonding agents and mastic.

- Roughing of undercoat with wire or metal scraper to provide bond for succeeding coats of plaster.

- The application of all malleable plastic materials and epoxy materials.

- The setting in place of plasterboard, insulationboard, "styro-foam and bead-board," ground, locks, patent dots, cork plates, brownstone and acoustical tile, fiberglass reinforcement and finished products.

- The plastering of joints, nail holes, and bruises on wall-board.

- The grouting and filling of door bucks, runners and similar installations.

- The application of scratchcoat, browncoat, and finish-coat of plaster to wood, metal, or board laths successively to all ceilings and walls when finished with terrazzo or tile, and the application of any plastic material to same.

- The fireproofing of all building assemblies with plaster materials, sprayed fiberglass or similar materials, whether applied to gypsum, metal lath or directly.

- All waterproofing work, such as the cutting and placing of nylon mesh and the plastering and finish of all exterior wall insulation and plaster finish systems.

- The application of crushed stone, marble or ceramic chips and broken glass where embedded in plaster, cement, plastic, or similar materials.

- The placing of acoustic blocks with any plastic material, regardless of thickness.

- The placing, by any method, of plaster or composition caps and ornaments.

- Creating decorative textures in finish coat by marking surface of coat with brush and trowel or by spattering it with small stones ("stucco") where plastering equipment and/or materials are used.

- The operation and control of all types of plastering machines, including power trowels and floats.

- All cleanup work.

NEW SECTION

WAC 296-127-01362 Playground and park equipment installers. For the intents and purposes of the Washington state public works law, chapter 39.12 RCW, the job description for playground and park equipment installers is as follows:

- Construction and placement of play equipment, benches and picnic tables in school grounds and parks.

- Responsible for all the cleanup required in connection with installation of playground and park equipment.

NEW SECTION

WAC 296-127-01364 Plumbers, pipefitters, and steamfitters. For the purpose of the Washington state public works law, chapter 39.12 RCW, plumbers, pipefitters and steamfitters assemble, install, and maintain piping systems, fixtures and equipment for the transportation of water, steam, gas, air, sewage, oil, fuels, liquids, gases, or similar substances.

The work includes, but is not limited to:

(1) Piping systems installed in structures (e.g., buildings, industrial plants, etc.).

(a) The handling and moving of any plumbing, pipefitting and steamfitting materials, supplies, and equipment on the job site.

(b) Cutting, threading, and bending pipe.

(c) Joining pipes by use of screws, bolts, fittings, solder, welding and caulking, or any other method of making joints in the pipefitting industry.

(d) Assembling, installing, and repairing valves, pipe fittings, and pumps.

(e) Testing the piping system.

(f) Installing and repairing plumbing fixtures, such as sinks, bathtubs, water heaters, and water softeners.

(g) Cutting holes in floors and walls for pipes:

- With point and hammer.

- Core-drilled.

(h) Responsible for all cleanup required in connection with plumbers, pipefitters and steamfitters work.

(2) Distribution lines (e.g., water mains, sewer mains, oil and gas lines, etc.).

(a) The handling and moving of any plumbing, pipefitting and steamfitting materials, supplies, and equipment on the job site.

(b) Steel pipe: Welding of pipe joints and joining pipes with screws, bolts, fittings, solder, caulking, or any other method for making joints in the industry.

(c) Ductile iron pipe: Joining pipes by using any method for making joints in the industry, when the pipe will be under pressure.

Assembling, installing, and repairing valves and pumps.

(d) Testing the piping system.

(e) Responsible for all cleanup required in connection with plumbers, pipefitters and steamfitters work.

NEW SECTION

WAC 296-127-01367 Refrigeration mechanic. For the purpose of Washington state public works law, chapter 39.12 RCW, refrigeration mechanics install industrial, commercial, residential, and marine refrigeration systems involved in cold storage, ice making, cooling, heating, air conditioning, humidifying, dehumidifying or dehydrating and charge (pump gas or fluid in the system), start, test, service, and repair the installed systems.

The work includes, but is not limited to:

- Lay out reference points for the installation of the structural and functional components, using tape, transit, plumb bob, level, and square.

- Lay out and drill holes and cut chases and channels, set and erect belts, inserts, stands, brackets, hangers, supports, sleeves, thimbles, conduits and hoses.

- Lay out, cut, thread, bend and connect pipe to functional components and water or power system of premises.

- Move, lift, and install all compressors, pumps, motors, controls, switches, gauges, valves, condensers, evaporators, and other fixtures and appurtenances included in such systems.

- Bolt, rivet, weld, braze and solder parts to structural and functional components.

- All clean-up work required in connection with refrigeration mechanics' work.

- Excluded is the installation of sheet metal duct work leading to and/or from units described above.

NEW SECTION

WAC 296-127-01369 Remote controlled cleaning, inspection and sealing of underground sewer and water systems. For the purpose of the Washington state public works law, chapter 39.12 RCW, this special method of repairing in-place, underground sewer and water pipes, includes the following work:

- Cleaning of interior pipe surface.
- Closed circuit television inspection.
- Electronic air testing of joints, cracks and breaks.

- Internal sealing of joints, cracks and breaks with chemical grout.

- All the above functions must be performed by remote control.

NEW SECTION

WAC 296-127-01370 Roofers. For the purpose of the Washington state public works law, chapter 39.12 RCW, roofers apply and install any and all types of roofing materials, other than sheet metal. The work of roofers includes, but is not limited to:

(1) The installation of slate and tile and all substitute materials taking the place of slate and tile, with necessary metal flashing to make water-tight.

All cementing in, on or around slate and tile roofs.

All laying of felt or paper beneath the slate and tile.

All dressing, punching and cutting of all roof slate or tile either by hand or machinery.

(2) The installation of all forms of plastic, slate, slag, gravel; asphalt and composition roofing; rock asphalt mastic when used for damp and waterproofing; prepared paper; compressed paper, and chemically prepared paper with or without coating.

The installation of all damp resisting preparations when applied on roofs with mop, three-knot brush, roller, swab or spray system.

(3) The installation of all forms of elastomeric and/or plastic (elasto-plastic) roofing systems, both sheet and liquid applied, whether single-ply or multi-ply.

All types of aggregates, blocks, bricks or stones used to ballast these elasto-plastic systems.

All types of aggregates used as a ballast for inverted roofing membrane assembly, or roof of similar construction where the insulation is laid over the roofing membrane.

All sealing and caulking of seams and joints on these elasto-plastic systems to insure water-tightness.

All liquid-type elasto-plastic preparation for roofing, damp or waterproofing when applied with a squeegee, trowel, roller or spray equipment.

All sheet-type elasto-plastic systems, whether single or multi-ply, for waterproofing.

All priming of surfaces to be roofed, damp or waterproofed, whether done by roller, mop, swab, three-knot brush, or spray systems.

All types of preformed panels used in waterproofing.

(4) The application of all types of spray-in-place foams such as urethane or polyurethane, and the coatings that are applied over them.

(5) The application of roof insulation, when the insulation material is applied as an integral part of the roofing system, whether the insulation material is applied as the first, last or any other layer in between.

(6) The handling, hoisting and storing of all roofing, damp and waterproofing materials.

(7) The tear-off and/or removal of any type of roofing, including roofing materials containing asbestos, all spudding, sweeping, vacuuming and/or cleanup of any and all areas of any type where a roof is to be relayed, and all other cleanup required in connection with roofing work.

NEW SECTION

WAC 296-127-01372 Sheet metal workers. For the purpose of the Washington state public works law, chapter 39.12 RCW, sheet metal workers perform the following work:

(1) The handling, conditioning, assembling, installing, servicing, repairing, altering and dismantling of the duct work for the heating, ventilation and air conditioning systems regardless of the materials used and the setting and the servicing of all equipment and all supports and reinforcements in connection therewith.

(2) The installation of expansion and discharge valves, air filters, and water filters in heating, ventilation and air conditioning systems.

(3) The testing and balancing of air-handling equipment and duct work.

(4) The handling, conditioning, assembling, installing, repairing and dismantling (except when a building is demolished) of cornices, gutters and down spouts.

(5) The installation of metal siding and metal roof decking, regardless of the fastening method, or what it is fastened to.

(6) The installation of furnaces and any and all sheet metal work in connection with or incidental to commercial kitchen equipment or refrigerating plants.

(7) The handling, moving, hoisting and storing of all sheet metal materials on the job site and all the cleanup required in connection with sheet metal work.

NEW SECTION

WAC 296-127-01374 Sign makers and sign installers. For the purpose of the Washington state public works law, chapter 39.12 RCW, sign makers and sign installers fabricate, install, repair, alter, maintain and dismantle commercial signs, bulletins and poster panels.

The work includes, but is not limited to:

(1) Electric and luminous tube signs.

- The manufacture of all luminous tubes, which includes the coating and processing of tubes and the bending, repairing and pumping for all tubes.

- The shop assembly and fabrication of signs and displays and the installation, alteration, repair and dismantling of all electric and neon sign displays.

- The wiring, assembly, service and electrical maintenance of all such displays.

- The installation and servicing of fluorescent lighting fixtures.

(2) Painted and photographed signs.

- The preparing of sign surfaces, patterns and layouts.

- Applying all decals.

- Preparing and pouncing of patterns and tracing all patterns.

- Designing, cutting out of all letters made of wood or like materials, such as plastic, masonite, wallboard, card-board.

- Priming, finishing and gilding of letters.

- Use of stencil knife, perforating wheel and friskit cutting.

- Applying and/or hanging of all cut-out letters.
- All pictorial work on signs, screen process work in its entirety including photography and operation of projector and mimeograph.

- Erecting commercial signs, bulletins and poster panels.

- Repainting of all signs, including painting of capping on bulletins and poster panels, by spraying and use of rollers.

- All work on banners, cloth, plastic, paper and card-board, walls, bulletins, windows, truck lettering and all lettering on any surface.

- The use of stencil knife on sandblasted signs.

- The layout and application of all vinyl letters.

(3) All the cleanup required in connection with sign making and installing.

NEW SECTION

WAC 296-127-01375 Sprinkler fitters. For the purpose of the Washington state public works law, chapter 39.12 RCW, sprinkler fitters perform the installation, adjustments and corrections, maintenance, repair and dismantling of all fire protection and fire control systems and the installation of all piping for tubing, appurtenances and equipment pertaining thereto.

The work includes, but is not limited to:

(1) Underground water mains, fire hydrants and hydrant mains, stand pipes and hose connections to sprinkler systems and overhead piping.

(2) Sprinkler tank heaters.

(3) Air lines and thermal systems used in connection with sprinkler and alarm systems and all tanks and pumps connected thereto.

(4) Co² and cardox systems, dry chemical systems, halon and foam systems and all other fire protection systems.

(5) Cutting holes in floors and walls for pipes:

- With point and hammer.

- Core-drilled.

(6) The unloading, handling and storing of all the above.

(7) All cleanup work.

Excluded are steam fire protection systems and stand pipes not connected to automatic sprinkler systems.

NEW SECTION

WAC 296-127-01376 Stone masons. For the purpose of the Washington state public works law, chapter 39.12 RCW, stone masons shape and set stone blocks to build stone structures, such as piers, walls and abutments, and lay walks, curbstones, or special types of masonry, such as alberene (acid-resistant soapstone) for vats, tanks, and floors, using mason's tools.

The work includes, but is not limited to:

- Shaping stone blocks preparatory to setting, using chisel, hammer, and other shaping tools.

- Spreading mortar over stone and foundation with trowel and setting stone in place by hand or with the aid of a crane.

- Aligning stone with plumbline and finishing joints between stone with a pointing trowel.

- Spreading mortar along mortar guides to insure joints of uniform thickness.
- Cleaning surface of finished structure and removing mortar, using muriatic acid and brush.

NEW SECTION

WAC 296-127-01377 Outside telephone line construction. For the purpose of the Washington state public works law, chapter 39.12 RCW, outside telephone line construction includes, but is not limited to, the following work:

- (1) Head groundman. Operates light equipment and drives vehicles.
- (2) Telephone equipment operator - light. Operates backhoes, trenching machines and small cable plows.
- (3) Telephone equipment operator - heavy. Operates bulldozers, trenchers, backhoes, cable plows and plows pulling other equipment.

NEW SECTION

WAC 296-127-01378 Telecommunication technicians. For the purpose of the Washington state public works law, chapter 39.12 RCW, telecommunications technicians install, inspect, maintain, repair and service telecommunication systems.

The work includes, but is not limited to:

- (1) Main distribution frame (MDF). The distribution frame where the permanent outside lines entering a building terminate and the subscriber's line multiple cabling and trunk multiple cabling originate. It is usually located on the ground floor of a building.
- (2) Intermediate distribution frames (IDF). Distribution frames which provide flexibility in allocating the subscriber's number to the line or equipment in the office which is to be associated with the particular line. These frames are located on each floor of a building.
- (3) Blocks. Subpanels. They are connecting devices where large feed cables terminate at the distribution frames.
- (4) Common equipment or key service unit. Consists of a backboard assembly, an equipment mounting frame, for connecting external telephones and Pacific Northwest Bell lines.
- (5) Instruments, terminals, sets. Communications equipment at either end of a circuit. Equipment at a subscriber's or user's terminal including such items as telephones.
- (6) Ancillary equipment. Add-on equipment such as bells, buzzers, speakerphones, headsets, automatic dialers, recorders, etc.
- (7) Telephone cable.
 - (a) Network channel service cable owned by the telephone companies.
 - (b) Riser cables between floors of a building.
 - (c) Distribution cables installed on each floor of a building in the floor or the ceiling.
 - (d) Inside wires between the telephone and the connection to the distribution cable.

NEW SECTION

WAC 296-127-01379 Terrazzo (artificial marble) workers. For the purpose of the Washington state public works law, chapter 39.12 RCW, terrazzo workers create durable and decorative surfaces on floors, walls and ceilings.

The work includes, but is not limited to:

- (1) Spreading a one-half inch mixture of sand, cement, and water with trowel to form a base over walls, ceilings, and concrete floors where terrazzo is to be applied.
- (2) The cutting and setting of metal or wooden strips into the terrazzo base so that the top edges form a design or pattern and define the level of the finished floor surface.
- (3) Spreading a mixture of cement terrazzo, magnesite terrazzo, polyacrylate terrazzo, epoxy matrix terrazzo, exposed aggregate, rustic or rough washed for the interior or exterior of buildings, over a terrazzo base with float and trowel to form the finished surface.
- (4) Spreading of any other kind of mixture of plastics composed of chips or granules of marble, granite, blue stone, enamel, mother-of-pearl, quartz, ceramic colored quartz and all other kinds of chips or granules when mixed with cement, rubber, neoprene, vinyl, magnesium chloride or any other resinous or chemical substances used for seamless flooring systems, and all other binding materials when used on any part of the interior and exterior of buildings and on fountains, swimming pools, etc.

NEW SECTION

WAC 296-127-01382 Terrazzo workers' helpers, tile and marble setters' helpers (finishers). For the purpose of the Washington state public works law, chapter 39.12 RCW, the scope of work for terrazzo workers' helpers, tile and marble setters' helpers includes, but is not limited to:

- Handling, moving, hoisting, storing and distributing sand, mortar, cement, lime, terrazzo, tile, marble, stone, slate or any other materials that may be used by terrazzo workers, tile layers, marble setters and stone masons.
- Performing all rigging.
- Installing and dismantling of scaffolding or staging.
- Mixing mortar and grout.
- All preparation prior to installation, such as helping with the bedding and cutting, priming, and the installation of ties and wire lath.
- Grinding, cleaning, washing, rubbing and polishing of all tile and marble.
- Applying protective coverings, such as soap compounds, paper products, varnishes and lacquers and all types of tapes and polyethylene coverings.
- Cleanup of the job site.

NEW SECTION

WAC 296-127-01384 Tile setters. For the purpose of the Washington state public works law, chapter 39.12 RCW, tile setters apply tile to floors, walls, ceilings, stair treads, promenade roof decks, garden walks, swimming pools, and all places where tiles may be used to form a finished surface for practical use, sanitary finish or decorative purpose.

PROPOSED

The tile is defined as all burned clay products, as used in the tile industry, either glazed or unglazed, and all composition materials and all substitute materials in single units up to and including 15" x 20" x 2" (except quarry tiles larger than 9" x 1 1/4"), and all mixtures in the form of cement, plastics and metals that are used as a finished surface.

The work includes, but is not limited to:

- Measuring and cutting metal lath to size for walls and ceilings with tin snips. Tacking lath to wall and ceiling surfaces with staple gun or hammer. Spreading plaster base over lath with trowel and leveling plaster to specified thickness, using screed.
- Spreading concrete on subfloors with trowel and leveling it with screed.
- Spreading mastic or other adhesive base on roof deck, using serrated spreader to form base for promenade tile.
- Cutting and shaping tile with tile cutters and biters.
- Positioning tile and tapping it with trowel handle to affix tile to plaster or adhesive base.

NEW SECTION

WAC 296-127-01386 Traffic control stripers. For intents and purposes of the Washington state public works law, chapter 39.12 RCW, the scope of work for traffic control stripers is as follows:

- (1) All painting, application and installing of lines, arrows, bumpers, curbs, etc., on parking lots, air fields, highways, game courts and other such surfaces.
- (2) The handling, painting and installing of all car stops, stop signs and any other type sign installed for the purpose of regulating traffic on such surfaces.
- (3) The installation of plastic, metal or composition button, or lines used instead of paint.
- (4) Installation of parking gates, ticket spitters and other similar mechanical and automatic control devices.
- (5) Seal coating, slurry coating and other surface protection.
- (6) Line removal; chemical sand and hydro-blast, paint and button.
- (7) Installation of guard rail and posts and similar protective devices.
- (8) Manufacturing and installation of all car stops, per example: Metal, wood, concrete, plastic, etc., and all similar traffic regulators.
- (9) Manufacturing, painting, stenciling, servicing, repairing, placing and removal of traffic safety and control devices (barricades).
- (10) The preparation and maintenance of all surfaces as outlined above.
- (11) Responsible for all the cleanup required in connection with traffic control stripers work.

NEW SECTION

WAC 296-127-01387 Power line clearance tree trimming. For the purpose of the Washington state public works law, chapter 39.12 RCW, the scope of work for power line clearance tree trimmers, chippermen and power line clearance tree trimmer apprentices is as follows:

- (1) Power line clearance tree trimmer.
 - Trims trees to clean right of way for electrical power lines to minimize storm and short-circuit hazards.
 - Climbs trees to reach branches interfering with wires and transmission towers, using climbing equipment; or may work from bucket of extended truck boom to reach limbs.
 - Prunes treetops, limbs and branches, using saws or pruning shears.
 - Falls trees interfering with power service, using chainsaw.
 - Repairs trees damaged by storms or lightning, by trimming jagged stumps and painting them to prevent bleeding of sap.
 - Removes broken limbs from wires, using hooked extension pole.
- (2) Chipperman.
 - Assists tree trimmer in clearing trees, branches and brush interfering with electrical power lines. He performs all this work on the ground.
 - Hoists tools and equipment to tree trimmers and lowers tree tops, limbs and branches with rope or block and tackle. Positions and steadies ladders. Operates the wood chipper (turns on and off). Saws and chops up tree trunks, tree tops, limbs, branches, and brush and leads them into the chipper. Drives the truck which tows the chipper.
 - This classification is being phased out. To be used only for employees hired as "chippermen" prior to July 1, 1985.
- (3) Power line clearance tree trimmer apprentice.
 - Assist tree trimmer in clearing trees, branches and brush interfering with electrical power lines. He performs all his work on the ground.
 - Hoists tools and equipment to tree trimmer and lowers tree tops, limbs and branches with rope of block and tackle. Positions and steadies ladders. Operates the wood chipper (turns it on and off). Saws and chips up tree trunks, tree tops, limbs, branches, and brush and feeds them into the chipper. Drives the truck which tows the chipper.
 - Drags tree trunks, limbs, branches, and brush to the chipper, when the chipper is stationed a considerable distance from the location where the tree trimming is done.

NEW SECTION

WAC 296-127-01389 Utilities construction (underground sewers and water lines). For the purpose of the Washington state public works law, chapter 39.12 RCW, utilities construction is defined as follows:

The construction, alteration, repair or improvement of water mains, sanitary sewer mains, underground storm sewers and branch lines to buildings but not underneath buildings, within cities, towns, suburbs and subdivisions. The work includes, but is not limited to:

- (1) Clearance of right of way preparatory to the excavation of trenches or ditches.
- (2) Excavation and trimming of trenches or ditches (including establishing and maintaining grade).
- (3) Shoring, building of manholes, catch basins, etc.
- (4) Distribution of pipe and skids, placing of skids and pipe over the trench or ditch.

- (5) The cleaning, sealing, doping and wrapping of the pipe after the joints have been welded and before lowering the pipe into the trench and alignment.
- (6) Lowering of the pipe and the removal of the skids.
- (7) Backfilling, compaction and resurfacing of trenches or ditches (e.g., asphalt work necessary to cover the trench or ditch, but all other asphalt work is excluded).
- (8) Clean-up and restoration of right of way (e.g., restore landscaping).

NEW SECTION

WAC 296-127-01391 Water well drillers, exploration drillers, water well pump installers, and equipment oilers.

For the purpose of the Washington state public works law, chapter 39.12 RCW, the work of water well drillers, exploration drillers, water well pump installers, and equipment oilers includes, but is not limited to:

- (1) Water well drillers. The drilling of wells for:
 - (a) Commercial water supplies.
 - (b) Irrigation water supplies.
 - (c) Water supplies for any other purpose.
 - (d) Dewatering, or similar purposes.
- (2) Exploration drillers.
 - (a) Hole drilling for geologic or hydrologic information.
 - (b) Core drilling for geologic information.
- (3) Water well pump installers. The installation of water well pumps for all purposes, except commercial water supplies.
- (4) Equipment oilers. Assist the drillers and pump installers in the performance of the tasks described above.

Name of Agency Personnel Responsible for Drafting: Kevin Sullivan, 925 Plum Street, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1344; Implementation and Enforcement: Patty Balestra, 623 8th Avenue S.E., P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-1840.

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

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

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

Proposal Changes the Following Existing Rules: Although the policy has not changed, the rule has been rewritten to make it clearer and easier to understand, and the location of the rule in WAC has changed.

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

RCW 34.05.328 does not apply to this rule adoption. The rule does not meet the definition of a "significant legislative rule."

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: Not sooner than June 28, 2000.

May 17, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 00-11-138
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed May 23, 2000, 3:59 p.m.]

Chapter 388-556 WAC

MEDICAL CARE—OTHER SERVICES PROVIDED

NEW SECTION

WAC 388-556-0200 Chiropractic services for children. (1) MAA will pay only for chiropractic services:

- (a) For MAA clients who are:
 - (i) Under twenty-one years of age; and
 - (ii) Referred by a screening provider under the healthy kids/early and periodic screening, diagnosis, and treatment (EPSDT) program.
- (b) That are:
 - (i) Listed in subsection (1)(c);
 - (ii) Medically necessary;
 - (iii) Provided by a chiropractor licensed in the state where services are provided; and
 - (iv) Within the scope of the chiropractor's license.
- (c) Limited to:
 - (i) Chiropractic manipulative treatments of the spine; and

Original Notice.
Preproposal statement of inquiry was filed as WSR 00-03-011.

Title of Rule: New WAC 388-556-0200 Chiropractic services for children; and repealing WAC 388-86-0019 Chiropractic services and 388-87-0019 Payment—Chiropractic services.

Purpose: Medical Assistance Administration is establishing new chapters in WAC in order to concentrate the bulk of its rules in one area of Title 388 WAC. Chiropractic services policy is being moved into a new WAC section and the old WAC sections are being repealed. At the same time, the proposed rule has been rewritten to meet the clear writing standards in the Governor's Executive Order 97-02.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.035.

Statute Being Implemented: RCW 74.08.090, 74.09.035.

Summary: See Purpose above.

PROPOSED

(ii) X-rays of the spine, limited to:

(A) Single view when the treatment area can be isolated;

or

(B) The cervical, thoracic, and lumbo-sacral (antero-posterior and lateral views) areas of the spine when treatment cannot be isolated.

(2) Chiropractic services are paid according to fees established by MAA using methodology set forth in WAC 388-531-1850.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-86-019 Chiropractic services.

WAC 388-87-019 Payment—Chiropractic services.

**WSR 00-11-139
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Juvenile Rehabilitation Administration)**

[Filed May 23, 2000, 4:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-23-032.

Title of Rule: Repealing chapter 275-37 WAC, Juvenile rehabilitation administration—Rules, practices and procedures; and new chapter 388-700 WAC, Juvenile rehabilitation administration—Practices and procedures.

Purpose: Chapter 275-37 WAC, Juvenile rehabilitation administration—Rules, practices and procedures, is being repealed and replaced by chapter 388-700 WAC, Juvenile rehabilitation administration—Practices and procedures. The proposed rules are a result of DSHS/JRA reviewing and updating rules according to Executive Order 97-02. The rules have been written using a question and answer format. The rules update information on background checks and add new sections relating to sexual misconduct by JRA employees or contractors. The rules on sexual misconduct are being proposed to ensure the safety of juvenile offenders by prohibiting individuals who are employed or contracting with the department from having sexual intercourse or sexual contact with JRA youth. The rule describes the action the DSHS secretary must take when responding to situations of sexual misconduct by JRA employees or contractors. This rule also protects a person employed by the department or a contractor of the department from termination if they are forced against their will to have sexual intercourse or sexual contact with a JRA youth.

Statutory Authority for Adoption: RCW 13.40.570.

Statute Being Implemented: RCW 13.40.570.

Summary: Chapter 275-37 WAC, Juvenile rehabilitation administration—Rules, practices and procedures, is being repealed and replaced by chapter 388-700 WAC. The

proposed rules establish clear requirements for DSHS for responding to situations of sexual misconduct with JRA youth by employees, JRA contractors and employees or subcontractors of JRA contractors.

Name of Agency Personnel Responsible for Drafting: Candy Curl, 14th and Jefferson (OB2), Olympia, (360) 902-0858; Implementation and Enforcement: Jerry Minaker, 14th and Jefferson (OB2), Olympia, (360) 902-8100.

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: Background check and reporting requirements are being amended to reflect legislation passed where additional crimes were added to chapter 9A.44 RCW, Sex offenses.

The rule describes what action(s) must be taken by the secretary when responding to situations of sexual misconduct with JRA youth by employees, JRA contractors and employees and subcontractors of JRA contractors.

The anticipated effect of the rule is to increase the safety and health of the youth served by Juvenile Rehabilitation Administration and to clarify expectations of DSHS employees and contractors.

Proposal Changes the Following Existing Rules: Chapter 275-37 WAC, Juvenile rehabilitation administration—Rules, practices and procedures, is being repealed. The proposed rules update the definition section in the Juvenile rehabilitation administration—Practices and procedures chapter and the section of the rules relating to background checks for JRA.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not have an economic impact on small business.

RCW 34.05.328 applies to this rule adoption. JRA has determined that these are significant rules. A copy of the CBA can be obtained by contacting the person above.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: No sooner than June 28, 2000.

May 22, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

PROPOSED

Chapter 388-700 WAC

JUVENILE REHABILITATION ADMINISTRATION—PRACTICES AND PROCEDURES

NEW SECTION

WAC 388-700-0005 What definitions apply to this chapter? The following definitions apply to this chapter:

"Assistant secretary" means the assistant secretary of the juvenile rehabilitation administration.

"Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to an interagency agreement with the department is not a community facility.

"Contractor" means a department of social and health services (DSHS)/juvenile rehabilitation administration (JRA) contractor and all employees and all subcontractors of that contractor.

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

"JRA" means the juvenile rehabilitation administration, department of social and health services.

"JRA youth" or "juvenile" means a juvenile offender under the jurisdiction of JRA or a youthful offender under the jurisdiction of the department of corrections who is placed in a JRA facility.

"Limited access" means supervised access to a juvenile(s) that is the result of the person's regularly scheduled activities or work duties.

"Preponderance of the evidence" means a determination by the secretary that the alleged sexual misconduct more likely than not occurred, or an admission of sexual misconduct has been made.

"Program administrator" means institution superintendent, regional administrator, or their designees.

"Reasonable cause" means a reason that would motivate a person of ordinary intelligence under the circumstances to believe that an act of sexual misconduct may have occurred.

"Regular access" means unsupervised access to a juvenile(s), for more than a nominal amount of time, that is the result of the person's regularly scheduled activities or work duties.

"Secretary" means the secretary of the department of social and health services.

"Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

"Sexual intercourse" has its ordinary meaning and:

(1) Occurs upon any penetration, however slight; and

(2) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and

(3) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

"Suspend" means to remove from unsupervised access to any JRA youth.

BACKGROUND CHECKSNEW SECTION

WAC 388-700-0010 When are background checks required? JRA must conduct background checks on prospective employees, volunteers, and individual contracted service providers who will have regular access to juveniles. Background checks may be conducted on prospective employees, volunteers, and individual contracted service providers who will have limited access to juveniles.

(1) Procedures must be established in order to investigate and determine suitability of a person in a position who will have regular access or limited access to juveniles.

(2) Employees, volunteers or individual contracted service providers who are authorized for regular access do not require the presence of another person cleared through the designated background check process during the performance of their duties.

(3) The presence of another person cleared through the designated background check process is required for people authorized to have limited access to juveniles.

NEW SECTION

WAC 388-700-0015 What crimes prohibit "regular access" to juveniles? Effective September 1, 1998, potential employees, volunteers, and individual contracted service providers must not be hired, engaged, or authorized in a position which allows regular access if the individual has been convicted of:

(1) Any felony sex offense as defined in RCW 9.94A.030 and 9A.44.130;

(2) Any crime specified in chapter 9A.44 RCW when the victim was a juvenile in the custody of or under the jurisdiction of JRA as stated in RCW 13.40.570; or

(3) Any violent offense as defined in RCW 9.94A.030.

NEW SECTION

WAC 388-700-0020 What are the reporting requirements for criminal convictions? Effective September 1, 1998 employees, volunteers, and individual contracted service providers who are authorized for regular access to a juvenile(s) must report any conviction of a crime identified in WAC 388-700-0015. The report must be made to the person's supervisor within seven days of conviction. Failure to report within seven days constitutes misconduct under Title 50 RCW. Employees, volunteers, and individual contracted service providers who have been convicted of offenses in WAC 388-700-0015 must not have regular access to a juvenile(s).

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NEW SECTION

WAC 388-700-0025 Is a contracting agency required to do background checks? JRA must require background checks to be conducted on prospective employees and volunteers of contracting agencies if the person will have regular access to juveniles.

(1) Requirements of WAC 388-700-0010, 388-700-0015, and 388-700-0020 must be met by contracted service providers.

(2) The contracted service provider or designee of an agency contracting with JRA for the provision of a community facility must ensure background check investigations are conducted according to department licensing requirements.

SEXUAL MISCONDUCT BY JRA EMPLOYEES

NEW SECTION

WAC 388-700-0030 What action must be taken if there is a belief that sexual misconduct by a JRA employee has occurred? If there is reasonable cause to believe that sexual intercourse or sexual contact between a JRA employee and a JRA youth has occurred, the secretary must immediately remove the JRA employee from access to JRA youth.

NEW SECTION

WAC 388-700-0035 What disciplinary action is required if there is evidence that sexual misconduct by a JRA employee has occurred? If the preponderance of the evidence finds that sexual intercourse or sexual contact between a JRA employee and a JRA youth has occurred, the secretary must immediately institute proceedings to terminate the employee.

SEXUAL MISCONDUCT BY JRA CONTRACTORS

NEW SECTION

WAC 388-700-0040 What action must be taken if there is a belief that sexual misconduct by a JRA contractor has occurred? The secretary requires the individual contractor, or employee of a contractor, when there is reasonable cause to believe he/she has had sexual intercourse or sexual contact with a JRA youth, to be immediately removed from access to any JRA youth.

NEW SECTION

WAC 388-700-0045 What action is required if there is evidence that sexual misconduct by a JRA contractor has occurred? (1) If there is a preponderance of evidence that sexual intercourse or sexual contact between a JRA contractor and a JRA youth occurred, the secretary must inform the contractor that the individual employee is disqualified from employment with a contractor in any position with access to JRA youth.

(2) A contract with a contractor who has had an employee who has been disqualified for employment based on a preponderance of evidence, must not be renewed until the secretary determines that significant progress has been made by the contractor to reduce the likelihood that any of their employees or subcontractors have sexual intercourse or sexual contact with a JRA youth.

SEXUAL MISCONDUCT BY JRA EMPLOYEES OR CONTRACTORS

NEW SECTION

WAC 388-700-0050 What action will be taken if an employee or contractor has sexual intercourse or sexual contact against their will? DSHS will not take any action against a person who is employed or contracted by JRA who has sexual intercourse or sexual contact with a JRA youth and it is found to have been against the employed or contracted person's will.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 275-37-010 Definitions.
- WAC 275-37-020 Rated bed capacity.
- WAC 275-37-030 Background checks.

**WSR 00-11-140
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 23, 2000, 4:04 p.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-07-102.

Title of Rule: WAC 388-310-0200 WorkFirst activities, 388-310-0600 WorkFirst—Job search, and 388-310-1800 WorkFirst—Post employment services.

Purpose: To set up a system to connect WorkFirst participants to a person who will help them keep their job, once employed, and help them take steps toward higher wages.

Statutory Authority for Adoption: RCW 74.08A.340(2); 45 C.F.R. 260.31, RCW 74.08.090 and 74.04.050.

Statute Being Implemented: RCW 74.08A.340(2), 45 C.F.R. 260.31, RCW 74.08.090 and 74.04.050.

Summary: To help a system to connect WorkFirst participants to a job success coach who will help them keep their job, once employed, and help them take steps toward higher wages.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elise Rowe, ESD Work-First, P.O. Box 9046, Olympia, WA 98507-9046, (360) 438-

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4066, e-mail erowe@esd.wa.gov and Sandy Jsames, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3239, e-mail JSAMES@DSHS.WA.GOV.

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: Describes the purpose and availability of the job success coach for WorkFirst participants.

Proposal Changes the Following Existing Rules: Establishes, supports, and outlines the function and role of the job success coach in helping WorkFirst participants keep their jobs once employed and take steps toward higher wages. The job success coach will work with WorkFirst participants and their employers to increase participants' success in the workplace.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not affect small business.

RCW 34.05.328 does not apply to this rule adoption. This rule does not meet the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 27, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson by June 16, 2000, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by June 27, 2000.

Date of Intended Adoption: No sooner than June 27, 2000.

May 19, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-06-062, filed 3/1/00, effective 3/1/00)

WAC 388-310-0200 WorkFirst—Activities. (1) **Who is required to participate in WorkFirst activities?**

(a) You are required to participate in WorkFirst activities, and become what is called a "mandatory participant," if you:

- (i) Receive TANF or SFA cash assistance; and
- (ii) Are a custodial parent or age sixteen or older; and
- (iii) Are not exempt. (You can only get this exemption if you are caring for your child under three months of age. See WAC 388-310-0300 for more details.)

(b) Participation is voluntary for all other WorkFirst participants (those who no longer receive or have never received TANF or SFA cash assistance).

(2) **What activities do I participate in when I enter the WorkFirst program?**

When you enter the WorkFirst program, you will participate in one or more of the following activities (which are described in more detail in other sections of this chapter):

- (a) Paid employment (see WAC 388-310-0400 ((+))(2)(a) and 388-310-1500);
- (b) Self employment (see WAC 388-310-1700);
- (c) Job search (see WAC 388-310-0600);
- (d) Community jobs (see WAC 388-310-1300)
- (e) Work experience (see WAC 388-310-1100);
- (f) On-the-job training (see WAC 388-310-1200);
- (g) Vocational educational training (see WAC 388-310-1000);
- (h) Basic education activities (see WAC 388-310-0900);
- (i) Job skills training (see WAC 388-310-1050);
- (j) Community service (see WAC 388-310-1400); and/or
- (k) Activities provided by tribal governments for tribal members and other American Indians (see WAC 388-310-1400(1) and 388-310-1900).

(3) **If I am a mandatory participant, how much time must I spend doing WorkFirst activities?**

If you are a mandatory participant, you will be required to spend up to forty hours a week working, looking for work or preparing for work. You will have an individual responsibility plan (described in WAC 388-310-0500) that includes the number of hours a week that you are required to participate.

(4) **What activities do I participate in after I get a job?**

You may participate in other activities, which are called "post employment services" (described in WAC 388-310-1800) once you are working twenty hours or more a week. Work can include a paid, unsubsidized job, self-employment, college work study or a subsidized job like a community jobs placement. Post employment services include:

- (a) Activities that help you keep a job (called an "employment retention" service); and/or
- (b) Activities that help you get a better job or better wages (called a "wage and skill progression" service).

AMENDATORY SECTION (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

WAC 388-310-0600 WorkFirst—Job search. (1) **What is job search?**

Job search is an opportunity to learn and use skills you need to find and keep a job. Job search may include:

- (a) Classroom instruction; and/or
- (b) Structured job search that helps you find job openings, complete applications, practice interviews and apply other skills and abilities with a job search specialist or a group of fellow job-seekers; and/or
- (c) Pre-employment training.

(2) **What is pre-employment training?**

Pre-employment training helps you learn skills you need for an identified entry level job that pays more than average entry level wages.

(a) Pre-employment training is an acceptable job search activity when an employer or industry commits to hiring or

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giving hiring preference to WorkFirst participants who successfully complete pre-employment training.

(b) You can find out about current pre-employment training opportunities by asking your job service specialist, your case manager or staff at your local community and technical college.

(3) Who provides me with job search?

~~((Your))~~ You get job search from the employment security department or another organization under contract with WorkFirst to provide these services.

(4) How long do I stay in job search?

Periods of job search may last up to twelve continuous weeks. Job search specialists will monitor your progress. By the end of the first four weeks, a job search specialist will determine whether you should continue in job search. Job search will end when:

(a) You find a job; or

(b) You become exempt from WorkFirst requirements (see WAC 388-310-0300); or

(c) Your situation changes and you are temporarily deferred from continuing with job search (see WAC 388-310-0400); or

(d) Job search specialists have determined that you need additional skills and/or experience to find a job; or

(e) You have not found a job at the end of the job search period.

(5) What happens at the end of job search if I have not found a job?

At the end of each job search period, you will be referred back to your case manager for an employability evaluation if you have not found a job. You and your case manager will also modify your individual responsibility plan.

AMENDATORY SECTION (Amending WSR 99-10-027, filed 4/28/99, effective 5/29/99)

WAC 388-310-1800 WorkFirst—Post employment services. (1) What is the purpose of post employment services?

Post employment services help low-income parents who are working twenty hours or more a week keep and cope with their current jobs, look for better jobs, gain work skills for a career and become self sufficient.

(2) How do I obtain post employment services?

(a) You can obtain post employment services by:

(i) Asking for a referral from the local community service office;

(ii) Contacting community or technical colleges; or

(iii) Contacting the employment security department. Employment security department staff may also telephone you if you got a job while you were on TANF or SFA to see if you are interested in receiving these services.

(b) You may qualify for different services (from various state or federal programs) depending on whether you:

(i) Are a mandatory participant (that is, you currently receive TANF, SFA or GA-S benefits);

(ii) Used to receive TANF or SFA benefits; or

(iii) Have never been on TANF or SFA.

(3) Who provides post employment services and what kind of services do they provide?

~~(a) ((Your WorkFirst case manager can refer you to employment retention services, that will help you develop the skills you need to keep your job. An employment retention specialist will contact you on a regular basis))~~ You may be assigned to a job success coach, or similar services, where available. The job success coach is a person who will work with you to increase your success in the workplace. The purpose of the job success coach, or similar post employment services, is to:

(i) Help you resolve problems with your employer;

(ii) Help you adjust to your workplace;

(iii) Provide job coaching; ~~((and/or))~~

(iv) Provide mentoring;

(v) Increase your job skills;

(vi) Help you develop the skills you need to keep your job;

(vii) Create steps to help you increase your wages; and/or

(viii) Develop educational activities to promote wage progression.

(b) The employment security department can help you increase your wages, increase your job skills or find a better job by providing you with:

(i) Employment and career counseling;

(ii) Labor market information;

(iii) Job leads for a better job (sometimes called job development);

(iv) On the job training;

(v) Help with finding a job that matches your interests, abilities and skills (sometimes called job matching); and

(vi) Help with finding a new job after job loss (sometimes called reemployment).

(c) Any Washington state technical and community college can approve a skill-training program for you that will help you advance up the career ladder. Their staff will talk to you, help you decide what training would work best for you and then help you get enrolled in these programs. The college may approve the following types of training for you at any certified institution:

(i) High school/GED,

(ii) Vocational education training,

(iii) Job skills training,

(iv) Adult basic education,

(v) English-as-a-Second language training~~((;))~~, or

(vi) Pre-employment training.

(4) What other services are available while you receive post employment services?

While you receive post employment services, you may qualify for:

(a) Working connections childcare if you meet the criteria for this program (described in chapter 388-290 WAC). To qualify, you must also be in an approved post-employment service and your family's income cannot exceed one hundred seventy-five percent of the federal poverty level.

(b) Other support services, such as help in paying for transportation or work expenses.

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(c) Other types of assistance for low-income families such as food stamps, medical assistance or help with getting child support that is due to you and your children.

(5) Who is eligible for post employment service, support services and childcare?

You may qualify for post-employment services, support services and child care if you are working twenty hours or more a week, and:

(a) You are current TANF or SFA recipient. You qualify for:

(i) All types of post employment services, unless you are in sanction status;

(ii) Tuition assistance from the community and technical college system;

(iii) WorkFirst support services; and

(iv) Working connections childcare.

(b) You are a former TANF or SFA recipient. You qualify for:

(i) Employment retention services (help with keeping a job) for up to ~~((twelve))~~ twenty-four months ~~((following))~~ after exiting TANF or SFA.

(ii) Wage and skill progression services (help with finding a better job and/or obtaining better wages) for up to twenty four months after exiting TANF or SFA.

(iii) Tuition assistance or pre-employment training from the community and technical college system;

(iv) Working connections childcare assistance; and/or

(v) WorkFirst support services for up to twelve months after exiting TANF or SFA.

(c) You are a low wage earner (that is, your family income does not exceed one hundred seventy-five percent of the federal poverty level) who has never received TANF or SFA benefits, and are in a community or technical college-approved skill training program. You may qualify for:

(i) Tuition assistance or pre-employment training from the community and technical college system; or

(ii) Working connections child care while you are in training or school for up to a total of thirty six months.

(6) What if I lose my job while I am receiving post employment services?

If you now receive or used to receive TANF or SFA, help is available to you for up to four weeks so that you can find another job and continue in your approved post employment.

(a) The employment security department will provide you with re-employment services.

(b) At the same time, your case manager can approve up to four weeks of support services and childcare for you.

WSR 00-11-145

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed May 24, 2000, 7:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-08-094.

Title of Rule: Chapter 16-71 WAC, Equine infectious anemia.

Purpose: The purpose of chapter 16-71 WAC is to detail rules for control, surveillance and eradication of an important disease in horses, equine infectious anemia.

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.]060, [16.36.]090, [16.36.]096, and [16.36.]100.

Summary: Changes add definitions, modernize the language and make technical corrections.

Reasons Supporting Proposal: Modernizes the chapter, provides definitions, 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 Agriculture Animal Health Program Advisory Board, Washington State Veterinary Medical Association, USDA APHIS Veterinary Services Area Office and various industry groups and associations for horses and cattle, private and governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Generally, since language is being modernized, there is little change.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of chapter 16-71 WAC is to detail rules necessary for control, surveillance and eradication of an important disease in horses, equine infectious anemia. These rules protect animal health, ensure accurate diagnosis of disease, prevent spread of disease and ensure quality state-federal animal disease control and eradication programs.

Proposal Changes the Following Existing Rules: Changes add definitions, modernize the language and make technical corrections.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Generally, because only language is being modernized, the overall impact of these changes is fiscally neutral. The regulatory burden on small agricultural businesses stays the same.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. 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 June 27, 2000, at 1:10 p.m.

Assistance for Persons with Disabilities: Contact Jodi Truett by June 26, 2000. 5:00 p.m., 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 June 27, 2000.

Date of Intended Adoption: July 3, 2000.

May 23, 2000

Candace A. Jacobs, DVM, MPH
Assistant Director

AMENDATORY SECTION (Amending Order 1330, filed 12/21/73)

WAC 16-71-010 Definition. ((For the purpose of this order equine infectious anemia (swamp fever) means a disease of equine, the causative agent of which is a virus infecting both sexes, all age groups, and all breeds and species of equines. Infected animals remain a carrier of the disease for their entire lifetime, constituting a potential source for the spread of the disease, there being no known cure or treatment.)) (1) "Department" means the Washington state department of agriculture.

(2) "Director" means the director of the department or his or her duly authorized representative.

(3) "Equines" means horses, donkeys, mules, ponies and others in the Equidae family.

(4) "Equine Infectious Anemia (EIA)" means infection with the equine infectious anemia lentivirus, affecting both sexes, all ages, all breeds and all species of equines. Infected equines remain carriers for life, constituting a potential source for spread of the infection. There is no known cure or treatment.

(5) "Official health certificate" means a legible certificate of veterinary inspection executed on an official form published by the state of origin or by the United States Department of Agriculture (USDA) Animal and Plant Inspection Service (APHIS). This certificate must be issued by a licensed, accredited veterinarian or a veterinarian approved by USDA APHIS.

(6) "Official test" means blood samples tested by USDA-approved laboratories or by people authorized by the state of origin's animal health officials to conduct tests.

(7) "Reactor" means an equine found positive on an official EIA test.

AMENDATORY SECTION (Amending Order 1431, filed 2/10/76)

WAC 16-71-022 Procedure. ((1) Positive diagnosis is made by the agar gel immunodiffusion test (Coggins test) or other approved tests, to be conducted at laboratories approved and recognized as official laboratories for the diagnosis of the equine disease, equine infectious anemia. Blood samples collected for the purpose of testing for EIA will be done by practicing veterinarians at the owner's request and expense. A complete positive identification of the horse will be made by the veterinarian at the time of blood sample collection and may include an animal identification seal. Owners of horses on which the approved test is to be conducted will be advised as to agreed procedure that is to follow in the event the animal/s are positive to the official test and an agreement will be signed by the owner of the animals in which the owner will agree to the disposition of the horse or horses as outlined in this order.

(2) All equines over six months of age entering the state of Washington, will be accompanied by an official health certificate, and a record of a negative test for the diagnosis of equine infectious anemia made within six months prior to entry. The exception being those consigned for immediate slaughter, or those consigned to a veterinary clinic, under the supervision of an accredited veterinarian, for the purpose of treatment or surgery, and are to return to the state of origin following treatment or surgery. Provided, That any equine consigned to a clinic as set forth above, shall not be commingled, loose housed or common corralled with any other equine.

(3) The management, board of governors, individuals or individuals responsible at race track, rodeos, shows, fairs or similar assembly points, may require that all horses consigned to or participating at race tracks, rodeo, show, fair or similar assembly points, be negative to an official test for equine infectious anemia within six months prior to participation.

(4) Being that the state of Oregon's equine infectious anemia program is now equal to that of the state of Washington's, the test requirements of Order No. 1330 as amended by Order No. 1354 shall not apply to Oregon or Washington horses.)) (1) Positive diagnosis of EIA is made with the agar gel immunodiffusion test (AGID or Coggins test), competitive enzyme-linked immunosorbent assay (cELISA test) or other official test. A supplementary AGID will be conducted to confirm positives detected with other official tests. Blood samples for EIA testing will be collected by licensed, accredited veterinarians at the owners' request and expense. At sample collection, the veterinarian must make an accurate, detailed identification of the equine on an official test request form. Positive test results must be reported to state and federal animal health authorities. Owners will be advised of the procedure if equines are found positive on the official test. The owner must sign an agreement regarding disposition of a reactor. The agreement should follow a herd plan as defined in chapter 16.36 RCW.

(2) All equines over six months of age entering the state must be accompanied by an official health certificate and a record of a negative EIA test conducted within six months prior to importation. Exceptions to the EIA test requirement:

(a) Equines consigned for immediate slaughter;

(b) Equines consigned to a veterinary clinic for the purpose of treatment or surgery, under the supervision of a veterinarian. These equines must return to the state of origin following treatment or surgery and must not be commingled, housed or corralled in common with any other equine;

(c) Equines under six months old;

(d) Oregon-origin equines under a reciprocal arrangement; and

(e) Idaho-origin equines may be excluded when a reciprocal arrangement exists for Washington-origin equines moving into Idaho.

(3) The management or board of governors at race tracks, rodeos, shows, fairs or other assembly points may require negative, official EIA tests within six months prior to consignment or participation for all equines consigned to these assembly points or participating in events.

AMENDATORY SECTION (Amending Order 1330, filed 12/21/73)

~~WAC 16-71-030 Quarantine. ((Horses and other equine found positive to the approved test will be quarantined to the premises of origin as provided by law. If reactor is disclosed while horse is on a premise other than the owner's, permission may be granted to move the animal to the owner's premise. Reactor animal will be kept separate and apart from all other horses in an approved isolation facility. All horses on a premise where reactors are or have been located will be quarantined and movement allowed only after a negative test of animals so exposed. Quarantine will be released only upon the death of the reactor, when it is moved with permit to slaughter, or if legally removed from the state, the receiving state agreeing and accepting the movement of the reactor animal to said state, and all other horses on the premise are negative to an approved test.)) (1) Within twenty-four hours after positive test results are known, reactors will be quarantined to the premises of origin as provided in chapter 16.36 RCW. The quarantine will remain in effect until confirmation of reactor status and the reactor's disposition. The quarantine will be released only upon the reactor's death or when it is legally moved from the premises by permit on a VS form 1-27. If reactor status is disclosed while the equine is on a premises other than the owner's, permission may be granted to move the animal to the owner's premises. Reactors can only move by permit on a VS form 1-27. State and federal animal health authorities will conduct an epidemiological investigation to identify other equines exposed to EIA by contact with the reactor. All equines having contact with the reactor must be quarantined. The quarantine will be removed on these contact equines and movement allowed only after a negative, official EIA test at least 60 days after removal of the reactor.~~

~~(2) Confirmed reactors must be euthanized, placed in a quarantine facility for life, donated to a diagnostic or research facility, legally moved to slaughter or legally removed from the state. A state or federal animal health authority or a licensed, accredited veterinarian will conduct euthanasia. For lifelong quarantine, a state or federal animal health authority must approve the isolation facility. The isolation facility must keep the reactor separate from all other equines. It must be screened to prevent transmission of EIA by insects. With consultation of an entomologist, an insect control program must be developed, approved by the director and must be followed routinely. The isolation facility must be located at least 200 yards from any other equines. The department will pay for and hold a lifetime brand inspection on those equines held in lifetime quarantine. If the reactor is donated, moved to slaughter or removed from the state, it can only move by permit on a VS form 1-27. For removal from the state, the receiving state must agree in advance to accept the reactor.~~

NEW SECTION

WAC 16-71-035 Identification of reactors. Confirmed reactors will be permanently identified by lip tattooing or branding with a hot iron, chemical brand or freeze brand. A lip tattoo is applied to the inside surface of the upper lip and

consists of the numbers 91 followed by the letter A, with each character being at least one inch high and three-fourths of an inch wide. A brand is applied on the left side of the neck or left shoulder and consists of the numbers 91 followed by the letter A, with each character being at least two inches high. Permanent identification will be applied by state or federal animal health authorities or by licensed, accredited veterinarians. Permanent identification is not necessary if the reactor is moved directly to slaughter under permit with a VS 1-27 and the vehicle is officially sealed.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-71-001	Promulgation.
WAC 16-71-003	Promulgation.
WAC 16-71-040	Branding.
WAC 16-71-050	Penalty.

WSR 00-11-146
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed May 24, 2000, 8:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-08-095.

Title of Rule: Chapter 16-42 WAC, Biological products.

Purpose: The purpose of chapter 16-42 WAC is to detail rules for control of sale, distribution and use of biological products.

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.]060, [16.36.]090, [16.36.]096, and [16.36.]100.

Summary: Changes update the definitions, modernize the language and make technical corrections.

Reasons Supporting Proposal: Modernizes the chapter, provides updated definitions, 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 Agriculture Animal Health Program Advisory Board, Washington State Veterinary Medical Association, WSU Avian Health Lab, USDA APHIS Veterinary Services Area Office and various industry groups and associations for horses, cattle, swine, poultry and sheep, private and governmental.

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

cal Matters: Generally, since language is being modernized, there is little change.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of chapter 16-42 WAC is to detail rules necessary for control of sale, distribution and use of biological products. Certain biologics are restricted to protect animal or human health, ensure accurate diagnosis of disease, prevent spread of diseases and ensure quality state-federal animal disease control and eradication programs.

Proposal Changes the Following Existing Rules: Changes update the definitions, modernize the language and make technical corrections in terminology.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Generally, because only language is being modernized, the overall impact of these changes is fiscally neutral. The regulatory burden on small agricultural businesses stays the same.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. 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 June 27, 2000, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jodi Truett by June 26, 2000, 5:00 p.m., 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 June 27, 2000.

Date of Intended Adoption: July 3, 2000.

May 23, 2000

Candace A. Jacobs, DVM, MPH
Assistant Director

AMENDATORY SECTION (Amending Order 1866, filed 7/10/85)

WAC 16-42-005 Definitions. (1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture of the state of Washington or his/her authorized representative.

(3) "Biologics," sometimes referred to as biologicals or biological products, means all bacteria, viruses, serums, toxins, and analogous products of natural or synthetic origin, or products prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases in animals.

AMENDATORY SECTION (Amending Order 1866, filed 7/10/85)

WAC 16-42-017 Permits required. (1) Any person manufacturing biologics within the state for distribution within the state (~~shall~~) must first obtain a permit from the

director. (~~Such~~) This permit may be revoked or suspended (~~in the manner provided for~~) under chapter (~~(34-04)~~) 34.05 RCW for any violation of this chapter.

(2) (~~Prior to importation of~~) Written approval of the director is required before any newly licensed biologic is imported into the state for sale, use or distribution (~~within the state, the written approval of the director shall be required. When deemed necessary,~~). The director may also require a special permit for the importation or distribution of other biologics into the state.

AMENDATORY SECTION (Amending Order 1866, filed 7/10/85)

WAC 16-42-022 Biologics. Biologics produced under a regular license issued by the United States Department of Agriculture, or produced under a permit issued by the director may only be sold by persons or firms properly licensed under chapter 18.64 RCW or any veterinarian licensed pursuant to chapter 18.92 RCW. (~~Persons other than licensed veterinarians or state or federal veterinarians may administer biologics other than those listed under WAC 16-42-025 to their own domestic animals.~~)

AMENDATORY SECTION (Amending Order 1866, filed 7/10/85)

WAC 16-42-025 Purchasing and administering biologics limited. (1) All biologics now in existence or newly developed to diagnose, prevent, or combat the following diseases are declared by the director to be of such a nature that their control is necessary to protect animal or human health and welfare, to ensure accurate diagnosis, to prevent the spread of infectious, contagious, communicable, and dangerous diseases affecting domestic animals within the state (~~of Washington~~) and/or to effectuate state-federal animal disease control and eradication programs:

- (a) Anaplasmosis
- (b) Anthrax
- (c) Bluetongue
- (d) Brucellosis
- (e) Equine infectious anemia
- (f) Equine viral arteritis
- (g) Paratuberculosis
- (h) Pseudorabies
- (i) Rabies
- (j) Tuberculosis
- (k) Swine erysipelas (Avirulent vaccine exempted)
- (l) Vesicular stomatitis

(2) All biologics used to control or diagnose any of the diseases listed in subsection (1) of this section are hereby restricted, and may only be purchased, administered, or otherwise used by or under the direct supervision of veterinarians licensed pursuant to chapter 18.92 RCW, or by state or federal veterinarians. Persons other than licensed veterinarians or state or federal veterinarians may administer biologics to their own domestic animals. The director may authorize(~~s~~) others by written permit(~~s~~, ~~others~~) to purchase (~~such~~) biologics listed in subsection (1) of this section for research agencies or laboratories authorized by the (~~state~~)

department (~~(of agriculture)~~), for emergency disease control programs, or for other limited and controlled purposes which are not likely to create a hazard to the public health or to the health of domestic animals. In issuing this permit, the director (~~(, in establishing this permit shall)~~) will consider:

- (a) The known effectiveness of the biologic;
- (b) Whether or not the disease for which the biologic is used or intended to be used is present in this state and to what extent it is present;
- (c) Degree of isolation of the animals and area, and availability of veterinary service; and
- (d) Any other factor which, having due regard for the properties of the biologic, may constitute a hazard to animal or public health in this state.

AMENDATORY SECTION (Amending Order 1866, filed 7/10/85)

WAC 16-42-035 Reports. In the interest of public health and good cooperative disease control it is recommended that any person using any biologics (~~(, as defined in WAC 16-42-005,)~~) immediately report to the department any suspected or actual disease outbreak that occurs in connection with use of the biologic.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-42-060 Penalty.

WSR 00-11-164
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed May 24, 2000, 9:29 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 246-290-72001 Reporting requirements for the annual consumer confidence report.

Purpose: To bring drinking water regulations into conformance with the United States Environmental Protection Agency (EPA) rules on consumer confidence reporting for drinking water systems.

Statutory Authority for Adoption: RCW 43.20.050.

Statute Being Implemented: RCW 43.20.050.

Summary: This rule requires Group A Community water systems to provide an annual report to consumers on the quality of their drinking water and the health effects of contaminants found in the drinking water.

Reasons Supporting Proposal: Required to retain primacy with EPA.

Name of Agency Personnel Responsible for Drafting: Tim Blake, Tumwater, (360) 236-3124; Implementation: Donna Freier, Tumwater, (360) 236-3162; and Enforcement: Linda Chapman, Tumwater, (360) 236-3156.

Name of Proponent: Department of Health, governmental.

Rule is necessary because of federal law, 40 C.F.R. Part 141, Subpart O; 63 F.R. 44512, 64 F.R. 34732, 64 F.R. 49671, 65 F.R. 26022.

Explanation of Rule, its Purpose, and Anticipated Effects: The CCR rule is a federal requirement for Group A Community water systems to inform drinking water system customers about the quality of their water, including the type and amount of any contaminants, and the health effects of those contaminants. The purpose is threefold: To educate consumers on the effects of contaminants in their water supply, to empower consumers to make better personal health decisions, and to gain consumer support for water system improvements and compliance measures. The anticipated effects include better communication between water systems and their customers, and more activism by consumers to bring water systems into compliance with existing drinking water standards.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt from the 1985 Regulatory Fairness Act under 19.85.025(3) because it adopts a federal rule without material change; therefore, a small business economic impact statement is not required. EPA estimated the impact of the rule and concluded that the impact will not be significant. The basis for EPA's conclusion is that the annualized compliance costs of the rule represent less than 1% of sales for small businesses. Further, in general the regulations issued under SDWA place a lesser burden on small systems. For example, small systems are typically required to collect fewer samples than large systems. Therefore, small systems operators will have less information to report in consumer confidence reports.

RCW 34.05.328 does not apply to this rule adoption. This rule adopts federal regulations without material change. This rule is for conformance with the U.S. EPA regulations and is mandatory under our state primacy agreement with the federal government.

Hearing Location: Hal Holmes Center, 201 North Ruby, Ellensburg, WA, on June 29, 2000, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Tanya Mohammadi by June 22, 2000, TDD (800) 833-6388, or (360) 236-3151.

Submit Written Comments to: Tim Blake, DDW, Department of Health, P.O. Box 47822, Olympia, WA 98504-7822, fax (360) 236-2252, by June 29, 2000.

Date of Intended Adoption: July 7, 2000.

May 23, 2000
 M. C. Selecky
 Secretary

PROPOSED

**PART 7.
REPORTING**

Subpart B - Consumer Confidence Reports

NEW SECTION

WAC 246-290-72001 Purpose and applicability of the consumer confidence report requirements. WAC 246-290-72001 through 246-290-72012 establishes minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(1) Notwithstanding the provisions of WAC 246-290-020, this section applies only to community water systems.

(2) For the purpose of WAC 246-290-72001 through 246-290-72012:

(a) "Customers" means billing units or service connections to which water is delivered by a community water system.

(b) "Detected" means at or above the levels prescribed by WAC 246-290-300(4) for inorganic contaminants, at or above the levels prescribed by WAC 246-290-300(7) for organic contaminants, and at or above the levels prescribed by 40 CFR 141.25(c) for radioactive contaminants.

NEW SECTION

WAC 246-290-72002 Reporting dates. (1) Each existing community water system must deliver its report by July 1 annually. Each annual report must contain data collected during, or prior to, the previous calendar year as required by WAC 246-290-72005(3).

(2) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter.

(3) A community water system that sells water to another community water system must deliver the applicable information required in WAC 246-290-72003 through 246-290-72009 to the buyer system:

(a) No later than April 1 annually; or

(b) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

NEW SECTION

WAC 246-290-72003 Report contents—Source water. Information on the source of the water delivered:

(1) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(a) The type of the water, for example, surface water, ground water, spring water, or purchased water; and

(b) The commonly used name (if any) and location of the body (or bodies) of water.

(2) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information.

(3) Where a system has received a source water assessment from the department, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the department or written by the operator.

NEW SECTION

WAC 246-290-72004 Report contents—Definitions.

(1) Each report must include the following definitions:

(a) Maximum contaminant level goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

(b) Maximum contaminant level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(2) A report for a community water system operating under a variance or an exemption issued under WAC 246-290-060 must include the following definition: Variances and exemptions: State or EPA permission not to meet an MCL or a treatment technique under certain conditions.

(3) A report that contains data on contaminants that the Environmental Protection Agency regulates using any of the following terms must include the applicable definitions:

(a) Treatment technique: A required process intended to reduce the level of a contaminant in drinking water.

(b) Action level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(c) Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(d) Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

NEW SECTION

WAC 246-290-72005 Report contents—Information on detected contaminants. (1) This section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring. It applies to:

(a) Contaminants subject to an MCL, action level, maximum residual disinfectant level or treatment technique (regulated contaminants);

(b) Contaminants for which monitoring is required by WAC 246-290-300(8); and

(c) Disinfection by-products for which monitoring is required by WAC 246-290-300(6) and 40 CFR 141.142 or

microbial contaminants for which monitoring is required by WAC 246-290 Part 6 and WAC 246-290-300(3), except as provided under WAC 246-290-72006(1), and which are detected in the finished water.

(2) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3) The data must be derived from data collected to comply with the Environmental Protection Agency and state monitoring and analytical requirements during the previous calendar year except that:

(a) Where a system is allowed to monitor for regulated contaminants less than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included.

(b) Results of monitoring of contaminants identified in WAC 246-290-72005 (1)(c) need only be included for five years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(4) For detected regulated contaminants listed in WAC 246-290-72012, the table(s) must contain:

(a) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in WAC 246-290-72012);

(b) The MCLG for that contaminant expressed in the same units as the MCL;

(c) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in WAC 246-290-72004;

(d) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with a National Primary Drinking Water Regulation and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: The highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: The highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL.

(iii) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: The average and range of detection expressed in the same units as the MCL.

(iv) Note to WAC 246-290-72005 (4)(d): When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in WAC 246-290-72012;

(e) For turbidity.

(i) When it is reported pursuant to chapter 246-290 WAC Part 6, Subpart C: The highest average monthly value.

(ii) When it is reported pursuant to the requirements of chapter 246-290 WAC Part 6, Subpart D: The highest monthly value. The report should include an explanation of the reasons for measuring turbidity.

(iii) When it is reported pursuant to chapter 246-290 WAC Part 6, Subpart B: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in chapter 246-290 WAC Part 6, Subpart B for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity;

(f) For lead and copper: The 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

(g) For total coliform:

(i) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(ii) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month;

(h) For fecal coliform: The total number of positive samples; and

(i) The likely source(s) of detected contaminants to the best of the purveyor's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the purveyor. If the purveyor lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in WAC 246-290-72012 which are most applicable to the system.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: The length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of WAC 246-290-72012.

(7) For detected unregulated contaminants for which monitoring is required, the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

NEW SECTION

WAC 246-290-72006 Report contents—Information on Cryptosporidium, radon, and other contaminants. (1) If the system has performed any monitoring for Cryptosporidium, including monitoring performed to satisfy the

requirements of 40 CFR 141.143 which indicates that *Cryptosporidium* may be present in the source water or the finished water, the report must include:

- (a) A summary of the results of the monitoring; and
- (b) An explanation of the significance of the results.

(2) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

- (a) The results of the monitoring; and
- (b) An explanation of the significance of the results.

(3) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the department strongly encourages systems to report any results which may indicate a health concern. To determine if results may indicate a health concern, the department recommends that systems find out if the Environmental Protection Agency has proposed a National Primary Drinking Water Regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). The Environmental Protection Agency considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, the department recommends that the report include:

- (a) The results of the monitoring; and
- (b) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

NEW SECTION

WAC 246-290-72007 Report contents—Compliance with National Primary Drinking Water Regulations. In addition to the requirements of WAC 246-290-72005(6), the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

- (1) Monitoring and reporting of compliance data;

(2) Filtration and disinfection prescribed by chapter 246-290 WAC, Part 6. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(3) Lead and copper control requirements prescribed by WAC 246-290-025, specifically CFR 141.80 through 141.91: For systems which fail to take one or more actions prescribed by WAC 246-290-025, specifically CFR 141.80 through 141.84, the report must include the applicable language of WAC 246-290-72012 for lead, copper, or both.

(4) Treatment techniques for Acrylamide and Epichlorohydrin prescribed by 40 CFR, Subpart K. For systems which violate the requirements of 40 CFR, Subpart K, the report must include the relevant language from WAC 246-290-72012.

- (5) Recordkeeping of compliance data.

(6) Special monitoring requirements prescribed by WAC 246-290-300(8) (unregulated contaminants) and 246-290-310(3) (sodium); and

(7) Violation of the terms of a variance, an exemption, or an administrative or judicial order.

NEW SECTION

WAC 246-290-72008 Report contents—Variances and exemptions. If a system is operating under the terms of a variance or an exemption issued under WAC 246-290-060, the report must contain:

(1) An explanation of the reasons for the variance or exemption;

(2) The date on which the variance or exemption was issued;

(3) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(4) A notice of any opportunity for public input in the review, or renewal, of the variance or exemption.

NEW SECTION

WAC 246-290-72009 Report contents—Additional information. (1) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language of (a) through (c) of this subsection or systems may use their own comparable language. The report also must include the language of (d) of this subsection.

(a) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

(b) Contaminants that may be present in source water include:

(i) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

(ii) Inorganic contaminants, such as salts and metals, which can be naturally occurring or result from urban storm water runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

(iii) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban storm water runoff, and residential uses.

(iv) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban storm water runoff, and septic systems.

(v) Radioactive contaminants, which can be naturally occurring or be the result of oil and gas production and mining activities.

(c) In order to ensure that tap water is safe to drink, the Environmental Protection Agency and/or the Washington state board of health prescribes regulations that limit the amount of certain contaminants in water provided by public water systems. Food and Drug Administration and/or the Washington state department of agriculture regulations establish limits for contaminants in bottled water that must provide the same protection for public health.

(d) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(2) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report.

(3) In communities with a large proportion of non-English speaking residents, the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(4) The report must include information about opportunities for public participation in decisions that may affect the quality of the water, such as the time and place of meetings.

(5) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

NEW SECTION

WAC 246-290-72010 Report contents—Required additional health information. All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. Environmental Protection Agency/Centers for Disease Control guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(1) A system which detects arsenic at levels above 25 micrograms per liter, but below the MCL:

(a) Must include in its report a short informational statement about arsenic, using language such as: EPA is reviewing the drinking water standard for arsenic because of special concerns that it may not be stringent enough. Arsenic is a naturally occurring mineral known to cause cancer in humans at high concentrations.

(b) May write its own educational statement, but only in consultation with the department.

(2) A system which detects nitrate at levels above 5 mg/l, but below the MCL:

(a) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue-baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant, you should ask for advice from your health care provider.

(b) May write its own educational statement, but only in consultation with the department.

(3) Systems which detect lead above the action level in more than five percent, and up to and including ten percent, of homes sampled:

(a) Must include a short informational statement about the special impact of lead on children using language such as: Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for thirty seconds to two minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791).

(b) May write its own educational statement, but only in consultation with the department.

(4) Community water systems that detect TTHM above 0.080 mg/l, but below the MCL in WAC 246-290-310(4), as an annual average, monitored and calculated under the provisions of WAC 246-290-300(6), must include health effects language prescribed by WAC 246-290-72012.

NEW SECTION

WAC 246-290-72011 Report delivery and record-keeping. Each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(1) The system must make a good faith effort to reach consumers who do not get water bills. The department expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the reports on the internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community organizations.

(2) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the department, followed within three months by a certification that the report

has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the department.

(3) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the department.

(4) Each community water system must make its reports available to the public upon request.

(5) Each community water system serving one hundred thousand or more persons must post its current year's report to a publicly accessible site on the internet.

(6) Any system subject to WAC 246-290-72001 through 246-290-72012 must retain copies of its consumer confidence report for no less than three years.

PROPOSED

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Trichloroethylene (ppb) .....	.005	1000	5	0	Discharge from metal degreasing sites and other factories.	Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
TTHMs [Total trihalomethanes] (ppb).	0.10/.080	1000	100/80	N/A	By-product of drinking water chlorination.	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.
Toluene (ppm)	1 .....	.....	1	1	Discharge from petroleum factories	Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.
Vinyl Chloride (ppb) .....	.002	1000	2	0	Leaching from PVC piping; Discharge from plastics factories.	Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
Xylenes (ppm)	10 .....	.....	10	10	Discharge from petroleum factories; Discharge from chemical factories.	Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

Key:
 AL=Action Level
 MCL=Maximum Contaminant Level
 MCLG=Maximum Contaminant Level Goal
 MFL=million fibers per liter
 MRDL=Maximum Residual Disinfectant Level
 MRDLG=Maximum Residual Disinfectant Level Goal
 mrem/year=millirems per year (a measure of radiation absorbed by the body)
 N/A=Not Applicable
 NTU=Nephelometric Turbidity Units (a measure of water clarity)
 pCi/l=picocuries per liter (a measure of radioactivity)
 ppm=parts per million, or milligrams per liter (mg/l)
 ppb=parts per billion, or micrograms per liter (µg/l)
 ppt=parts per trillion, or nanograms per liter
 ppq=parts per quadrillion, or picograms per liter
 TT=Treatment Technique

trans-1,2-Dichloroethylene (ppb)	.1	1000	100	100	Discharge from industrial chemical factories.	Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
Dichloromethane (ppb)	.005	1000	5	0	Discharge from pharmaceutical and chemical factories.	Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.
1,2-Dichloropropane (ppb)	.005	1000	5	0	Discharge from Industrial chemical factories.	Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.
Ethylbenzene (ppb)	.7	1000	700	700	Discharge from petroleum refineries	Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.
Haloacetic Acids (HAA) (ppb)	.060	1000	60	N/A	By-product of drinking water disinfection.	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.
Styrene (ppb)	.1	1000	100	100	Discharge from rubber and plastic factories; Leaching from landfills.	Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.
Tetrachloroethylene (ppb)	.005	1000	5	0	Discharge from factories and dry cleaners.	Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
1,2,4-Trichlorobenzene (ppb)	.07	1000	70	70	Discharge from textile-finishing factories.	Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
1,1,1-Trichloroethane (ppb)	.2	1000	200	200	Discharge from metal degreasing sites and other factories.	Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
1,1,2-Trichloroethane (ppb)	.005	1000	5	3	Discharge from industrial chemical factories.	Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Chlorite (ppm)	1 .....	.....	1	0.8	By-product of drinking water chlorination.	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.
Chloride dioxide (ppb)	MRDL = .8	1000	MRDL = 800	MRDLG = 800.	Water additive used to control microbes.	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.
Chlorobenzene (ppb) .....	.1	1000	100	100	Discharge from chemical and agricultural chemical factories.	Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
o-Dichlorobenzene (ppb) .....	.6	1000	600	600	Discharge from industrial chemical factories.	Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
p-Dichlorobenzene (ppb) .....	.075	1000	75	75	Discharge from industrial chemical factories.	Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.
1,2-Dichloroethane (ppb) .....	.005	1000	5	0	Discharge from industrial chemical factories.	Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
1,1-Dichloroethylene (ppb) .....	.007	1000	7	7	Discharge from industrial chemical factories.	Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
cis-1,2-Dichloroethylene (ppb)	.07	1000	70	70	Discharge from industrial chemical factories.	Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

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Proposed

PROPOSED

Picloram (ppb)	5	1000	500	500	Herbicide runoff	Some people who drink water containing picloram in excess of the MGL over many years could experience problems with their liver.
Simazine (ppb) .....	.004	1000	4	4	Herbicide runoff	Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.
Toxaphene (ppb) .....	.003	1000	3	0	Runoff/leaching from insecticide used on cotton and cattle.	Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.
Volatile organic contaminants:						
Benzene (ppb) .....	.005	1000	5	0	Discharge from factories; Leaching from gas storage tanks and landfills.	Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
Bromate (ppb) .....	.010	1000	10	0	By-product of drinking water chlorination.	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
Carbon tetrachloride (ppb) .....	.005	1000	5	0	Discharge from chemical plants and other industrial activities.	Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
Chloramines (ppm)	MRDL = 4 .....	.....	MRDL = 4	MRDLG = 4 ..	Water additive used to control microbes.	Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.
Chlorine (ppm)	MRDL = 4 .....	.....	MRDL = 4	MRDLG = 4 ..	Water additive used to control microbes.	Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Heptachlor epoxide (ppt) .....	.0002	1,000,000	200	0	Breakdown of heptachlor	Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.
Hexachlorobenzene (ppb) .....	.001	1000	1	0	Discharge from metal refineries and agricultural chemical factories.	Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
Hexachlorocyclopentadiene (ppb).	.05	1000	50	50	Discharge from chemical factories	Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.
Lindane (ppt) .....	.0002	1,000,000	200	200	Runoff/leaching from insecticide used on cattle, lumber, gardens.	Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.
Methoxychlor (ppb) .....	.04	1000	40	40	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock.	Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.
Oxamyl [Vydate] (ppb) .....	.2	1000	200	200	Runoff/leaching from insecticide used on apples, potatoes and tomatoes.	Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
PCBs [Polychlorinated biphenyls] (ppt).	.0005	1,000,000	500	0	Runoff from landfills; Discharge of waste chemicals.	Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
Pentachlorophenol (ppb) .....	.001	1000	1	0	Discharge from wood preserving factories.	Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

PROPOSED

Dibromochloropropane (ppt) ....	.0002	1,000,000	200	0	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.	Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive problems and may have an increased risk of getting cancer.
Dinoseb (ppb) .....	.007	1000	7	7	Runoff from herbicide used on soybeans and vegetables.	Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.
Diquat (ppb) .....	.02	1000	20	20	Runoff from herbicide use	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.
Dioxin [2,3,7,8-TCDD] (ppq) ....	.00000003	1,000,000, 000 ...	30	0	Emissions from waste incineration and other combustion; Discharge from chemical factories.	Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
Endothall (ppb) .....	.1	1000	100	100	Runoff from herbicide use	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
Endrin (ppb) .....	.002	1000	2	2	Residue of banned insecticide	Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
Epichlorohydrin	TT .....	.....	TT	0	Discharge from industrial chemical factories; An impurity of some water treatment chemicals.	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.
Ethylene dibromide (ppt) .....	.00005	1,000,000	50	0	Discharge from petroleum refineries	Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.
Glyphosate (ppb) .....	.7	1000	700	700	Runoff from herbicide use	Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
Heptachlor (ppt) .....	.0004	1,000,000	400	0	Residue of banned pesticide	Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Alachlor (ppb) .....	.002	1000	2	0	Runoff from herbicide used on row crops.	Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
Atrazine (ppb) .....	.003	1000	3	3	Runoff from herbicide used on row crops.	Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.
Benzo(a)pyrene (nanograms/l). [PAH]	.0002	1,000,000	200	0	Leaching from linings of water storage tanks and distribution lines.	Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.
Carbofuran (ppb) .....	.04	1000	40	40	Leaching of soil fumigant used on rice and alfalfa.	Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
Chlordane (ppb) .....	.002	1000	2	0	Residue of banned termiticide	Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
Dalapon (ppb) .....	.2	1000	200	200	Runoff from herbicide used on rights of way.	Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
Di(2-ethylhexyl) adipate (ppb) ..	.4	1000	400	400	Discharge from chemical factories	Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience general toxic effects or reproductive difficulties.
Di(2-ethylhexyl) phthalate (ppb)	.006	1000	6	0	Discharge from rubber and chemical factories.	Some people who drink water containing di (2-ethylhexyl) phthalate in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.

Mercury [inorganic] (ppb) .....	.002	1000	2	2	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland.	Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.
Nitrate (ppm)	10		10	10	Runoff from fertilizer use; Leaching from septic tanks, sew age; Erosion of natural deposits.	Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Nitrite (ppm)	1		1	1	Runoff from fertilizer use; Leaching from septic tanks, sew age; Erosion of natural deposits.	Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Selenium (ppb) .....	.05	1000	50	50	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines.	Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.
Thallium (ppb) .....	.002	1000	2	0.5	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories.	Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.
Synthetic organic contaminants including pesticides and herbicides: 2,4-D (ppb) .....	.07	1000	70	70	Runoff from herbicide used on row crops.	Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
2,4,5-TP [Silvex](ppb) .....	.05	1000	50	50	Residue of banned herbicide	Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
Acrylamide	TT		TT	0	Added to water during sewage/wastewater treatment.	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Chromium (ppb)	.1	1000	100	100	Discharge from steel and pulp mills; Erosion of natural deposits.	Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.
Copper (ppm)	AL=1.3		AL=1.3	1.3	Corrosion of household plumbing systems; Erosion of natural deposits; Leaching from wood preservatives.	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
Cyanide (ppb)	2	1000	200	200	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories.	Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.
Fluoride (ppm)	4		4	4	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories.	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.
Lead (ppb)	AL=.015	1000	AL=15	0	Corrosion of household plumbing systems; Erosion of natural deposits.	Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

Proposed

Radioactive contaminants:						
Beta/photon emitters (mrem/yr)	4 mrem/yr		4	N/A	Decay of natural and man-made deposits.	Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Alpha emitters (pCi/l)	15 pCi/l		15	N/A	Erosion of natural deposits	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Combined radium (pCi/l)	5 pCi/l	—	5	N/A	Erosion of natural deposits	Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.
Inorganic contaminants:						
Antimony (ppb)	.006	1000	6	6	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder.	Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.
Arsenic (ppb)	.05	1000	50	N/A	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes.	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
Asbestos (MFL)	7 MFL		7	7	Decay of asbestos cement water mains; Erosion of natural deposits.	Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.
Barium (ppm)	2		2	2	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits.	Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
Beryllium (ppb)	.004	1000	4	4	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries.	Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions
Cadmium (ppb)	.005	1000	5	5	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; Runoff from waste batteries and paints.	Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

Contaminant (units)	Traditional MCL in mg/L	To convert for CCR, multiply by	MCL in CCR units	MCLG	Major sources in drinking water	Health effects language
Microbiological contaminants: Total Coliform Bacteria	MCL: (systems that collect ≥40 samples/month) 5% of monthly samples are positive; (systems that collect <40 samples/month) 1 positive monthly sample.	.....	MCL: (systems that collect ≥40 samples/month) 5% of monthly samples are positive; (systems that collect <40 samples/month) 1 positive monthly sample.	0	Naturally present in the environment.	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.
Fecal coliform and E. coli	0 .....	.....	0	0	Human and animal fecal waste	Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely-compromised immune systems.
Total organic carbon (ppm)	TT .....	.....	TT	N/A	Naturally present in the environment.	Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection by products. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.
Turbidity (NTU)	TT .....	.....	TT	N/A	Soil runoff	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.

WSR 00-11-165
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed May 24, 2000, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-15-101.

Title of Rule: J-1 Physician Visa Waiver, chapter 246-562 WAC.

Purpose: Providing inclusion of certain specialists and subspecialist in waiver sponsorship.

Statutory Authority for Adoption: RCW 70.185.040.

Statute Being Implemented: RCW 70.185.010.

Summary: Proposed amendment allows the department to sponsor specialist waiver applications for waiver of visa requirements. Provides clarification of existing rule language.

Reasons Supporting Proposal: Broadening the purpose and allowing limited specialist physician sponsorship will create flexibility within the existing program, while maintaining the federal intent of increase access to primary care.

Name of Agency Personnel Responsible for Drafting: Juno Whittaker, 2725 Harrison Avenue N.W., Olympia, WA, (360) 705-6773; Implementation: Kelly Shaw, 2725 Harrison Avenue N.W., Olympia, WA, (360) 705-6763; and Enforcement: N/A - optional program, initiated by constituent.

Name of Proponent: [Department of Health], governmental.

Rule is necessary because of federal law, 8 U.S.C. Sec. 1184(1) and 22 C.F.R. 514.44(e). Rule is designed to carry out option allowed in federal law.

Explanation of Rule, its Purpose, and Anticipated Effects: Department of Health acts [as] a sponsor for physician visa waivers. This is an optional activity under federal law that allows certain foreign trained physicians to remain in the United States subject to full time employment contract in an area of high need. These amendments broaden the physician types eligible for sponsorship to include certain subspecialists and specialists. Broadening the physician types eligible for the program makes it more likely that a full complement of physicians will be able to participate in the program.

Proposal Changes the Following Existing Rules: The primary amendment addresses the inclusion of specialists in the J-1 program. The J-1 waiver program currently has twenty sponsorships available. Under the proposed rule, five sponsorships (25%) in any single program year will be available for providers with subspecialty training in the following specialties: Internal medicine, family practice, general surgery, or radiology-diagnostic. Sites are allowed two sponsorships each program year, only one of these may be a specialist.

Additional amendments include:

- Applicant posting and implementing a sliding fee scale.
- Implementation plan.
- Clarifying language regarding contractual changes, employment status and visa status.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is an optional pro-

gram. The proposed amendments do not affect the cost of exercising the option to use the program in hiring a physician.

RCW 34.05.328 applies to this rule adoption. The rule is a significant rule because it establishes qualification and/or standards for issuance, suspension, or revocation of a license. No one is required to apply to the program, the department is exercising the option provided under federal law. However, residents of Washington may substantially benefit from the program and applicants may be excluded based on the proposed amendments.

Hearing Location: 2725 West Harrison Avenue, Suite 500, Hearings Room, Olympia, WA 98502, on July 6, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Earl Meyer by June 30, 2000, (360) 705-6770, TDD (360) 664-0064 or 1-800-833-6388.

Submit Written Comments to: Juno Whittaker, OCRH, P.O. Box 47834, Olympia, WA 98504-7834, fax (360) 664-9273, by June 30, 2000.

Date of Intended Adoption: July 10, 2000.

May 23, 2000

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-010 Definitions. The following definitions shall apply in the interpretation and implementation of these rules.

(1) "Applicant" means a health care facility that seeks to employ a physician and is requesting state sponsorship or concurrence of a visa waiver.

(2) "Department" means the department of health.

(3) "Board eligible" means having satisfied the requirements necessary to sit for board examinations.

(4) "Employment contract" means a legally binding agreement between the applicant and the physician named in the visa waiver application which contains all terms and conditions of employment, including, but not limited to, the salary, benefits, length of employment and any other consideration owing under the agreement.

((4)) (5) "Health care facility" means an entity with an active Washington state business license doing business or proposing to do business in the practice location where the physician would be employed, whose stated purposes include the delivery of medical care.

((5)) (6) "Health professional shortage area" (HPSA) means an area federally designated as having a shortage of primary care physicians or mental health care.

(7) "Medically underserved area" (MUA) means a federally designated area based on whether the area exceeds a score for an Index of Medical Underservice, a value based on infant mortality, poverty rates, percentage of elderly and primary care physicians to population ratios.

(8) "Physician" means the foreign physician, named in the visa waiver application, who requires a waiver to remain in the United States to practice medicine.

PROPOSED

~~((6))~~ (9) "Sliding fee discount schedule" means a written delineation documenting the value of charge discounts granted to patients based upon financial hardship.

(10) "Sponsorship" means a request by the department on behalf of a health care facility to federal immigration authorities to grant a visa waiver for the purpose of recruiting and retaining physicians.

~~((7))~~ (11) "Visa waiver" means a federal action that waives the requirement for a foreign physician, in the United States on a J-1 visa, to return to his/her home country for a two-year period following medical residency training.

~~((8))~~ (12) "Vacancy" means a full-time physician practice opportunity that is based on a planned retirement, a loss of an existing physician, or an expansion of physician services in the service area.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-020 Authority to sponsor visa waivers. (1) The department of health may assist communities to recruit and retain physicians, or other health care professionals, as directed in chapter 70.185 RCW, by exercising an option provided in federal law, 8 U.S.C. Sec. 1184(l) and 22 C.F.R. 514.44(e). This option allows the department of health to sponsor a limited number of visa waivers each federal fiscal year if certain conditions are met.

(2) The department may ~~((also concur in))~~ acknowledge sponsorship proposed by federal agencies, including the United States Department of Agriculture. ~~((The department will apply the same criteria to concurrence requests as it applies to applications for state sponsorship.))~~

(3) The department may carry out a visa waiver program, or, in the event of resource limitations or other considerations, may discontinue the program. Purposes of the program are:

(a) To increase the availability of physician services in existing federally designated shortage areas for health care facilities that have long standing vacancies;

(b) To improve access to physician services for communities and specific under-served populations that are having difficulty finding ~~((primary care))~~ physician services;

(c) To serve Washington communities ~~((who))~~ which have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for primary health care services or specialist services as allowed by WAC 246-562-080.

(4) The department may only sponsor ~~((or concur))~~ in a visa waiver request when:

(a) The application contains all of the required information and documentation;

(b) The application meets the criteria contained in chapter 246-562 WAC.

(5) The department will limit its activities:

(a) Prior to submission of an application, the department may provide information on preparing a complete application;

(b) For applicants that have benefited from department sponsorship previously, the applicant's history of compliance will be a consideration in future sponsorship decisions;

(c) Because the number of sponsorships the department may provide is limited, and because the number of shortage areas is great, sponsorship will be limited. In any single program year, a health care facility ~~((will not be granted more than two sponsorships in any one designated shortage area served))~~ in any one designated health professional shortage area or medically underserved area:

(i) Will not be allotted more than two sponsorships; and

(ii) Will not be allotted more than one specialist sponsorship as allowed by WAC 246-562-080(4);

(d) In any given program year seventy-five percent of federally allocated sponsorships will be allotted for primary care physicians. Twenty-five percent of federally allocated sponsorships will be allotted for specialists.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-060 Criteria for applicants. (1) Applicants must be existing health care facilities ~~((licensed to do business in Washington state. The applicant must provide medical care for a minimum of twelve months prior to submitting a visa waiver application to the department))~~ that:

(a) Have been licensed to do business; and

(b) Have provided medical care in Washington state for a minimum of twelve months prior to submitting the application.

(2) Applicants may be for-profit, nonprofit, or government organizations.

(3) Except for state institutional and correctional facilities designated as federal shortage areas, the applicant must:

(a) Currently serve Medicare clients; Medicaid clients; low-income clients, such as subsidized basic health plan enrollees; uninsured clients; and the population of the federal designation.

(b) Demonstrate that during the twelve months prior to submitting the application, the health care facility was providing a minimum of ten percent of the applicant's total patient visits to Medicaid clients, and/or other low-income clients.

(c) Agree to implement a sliding fee discount schedule for the physician named in the J-1 visa waiver application. The schedule must be:

(i) Available in the client's principal language and English; and

(ii) Posted conspicuously; and

(iii) Distributed in hard copy to individuals making or keeping appointments with that physician.

(4) Applicants must have been actively recruiting to fill the practice vacancy from among qualified physicians who are graduates of United States medical schools. Active recruitment must be for a period of not less than six months prior to submitting a visa waiver application to the department.

(5) Applicants must have a signed employment contract with the physician. ~~((The employment contract))~~ Through-out the period of obligation, regardless of physician's visa status, the employment contract must:

(a) ((Must)) Meet state and federal requirements;

(b) ~~((Must))~~ Not prevent the physician from providing medical services in the designated shortage area after the term of employment;

(c) Specify the period of employment:

(i) Three years minimum for primary care sponsorship;

or

(ii) Five years minimum for specialist sponsorship.

(6) Applicants must pay the physician ~~((at least the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment opportunity or the prevailing wage level for the position in the area of employment, whichever is higher))~~ prevailing wage as determined and approved by U.S. Department of Labor. Approval must be documented on a U.S. Department of Labor form ETA 9035 signed by an authorized official.

(7) If the applicant has previously requested sponsorship of a physician, WAC 246-562-130 will apply.

(8) If the applicant is not a publicly funded provider, additional criteria apply. The applicant must provide documentation of notification of intent to submit application for J-1 visa physician waiver to all publicly funded providers in HPSA or MUA designated area. Notification must be sent at least thirty days prior to submitting the application to the department. Publicly funded providers include, but are not limited to, public hospital districts, local health departments, or community and/or migrant health centers. ~~((The applicant must provide a letter from each of the publicly funded providers serving the federally designated shortage area. The letter must:~~

~~(a) Describe a mutually supportive relationship;~~

~~(b) Confirm that the proposed addition of a physician will benefit the federally designated shortage area;~~

~~(c) Explain how the applicant, through call coverage, referral, or other mechanism will contribute to meeting the local needs.))~~

(9) Applicants must notify the department in writing of the physician's start-date of employment ((and of any changes in the physician's employment status during the initial three years of employment)). Any amendments made to the required elements of the employment contract, subsection (5) of this section, during the first three years for primary care physicians or five years for specialist and subspecialist physicians of contracted employment must be reported to the department for review and approval. The department will complete review and approval of such amendments within thirty calendar days of receipt.

(10) Applicants must submit status reports to the department every six months, with required supporting documentation, during the initial ~~((three-year))~~ term of employment, three years for primary care physicians or five years for specialists.

(11) Applicants must cooperate in providing the department with clarifying information, verifying information already provided, or in any investigation of the applicant's financial status.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-080 Criteria for the physician. (1) The physician must not have a J-1 visa waiver pending for any other employment offer.

(2) Physicians must have the qualifications described in recruitment efforts for a specific vacancy.

~~((The physician must provide direct patient care and be trained only in the following five primary care areas:~~

~~(a))~~ Physicians applying as primary care physicians must:

(a) Provide direct patient care; and

(b) Be trained in:

(i) Family practice; or

~~((b))~~ (ii) General internal medicine; or

~~((e))~~ (iii) Pediatrics; or

~~((d))~~ (iv) Obstetrics and gynecology; or

~~((e))~~ (v) Psychiatry and its subspecialties; and

(c) Except for psychiatrists, not have any additional specialty training. Continuing medical education (CME) will not be considered specialty training for the purposes of this rule.

(4) Physicians applying as specialists must:

(a) Provide direct patient care;

(b) Be trained in a subspecialty as defined by the Accreditation Council for Graduate Medical Education and published in the 1999-2000 **Graduate Medical Education Directory**, which is hereby incorporated by reference of:

(i) Internal medicine; or

(ii) Family practice; or a specialty as defined by the Accreditation Council for Graduate Medical Education and published in the 1999-2000 **Graduate Medical Education Directory**, which is hereby incorporated by reference of

(iii) General surgery; or

(iv) Radiology-diagnostic; and

(v) Be an active candidate for board certification on or before the start date of employment.

(c) Copies of the 1999-2000 **Graduate Medical Education Directory** are available from the American Medical Association or can be viewed at the Washington State Department of Health, Office of Community and Rural Health, 2725 Harrison NW, Olympia WA 98504.

(5) Physicians must have an active Washington state medical license, unless unusual circumstances delay licensing. If the application for a Washington state medical license has been received by the Washington state medical quality assurance commission four or more weeks prior to submission of the visa waiver application, the applicant may substitute a copy of the license application and request an exception.

~~((5))~~ (6) Physicians must have at least one recommendation from their residency program that:

(a) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income people in the United States; and

(b) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities; and

- (c) Documents level of specialty training, if any; and
 (d) Is prepared on residency program letterhead and is signed by residency program staff or faculty; and
 (e) Includes name, title, relationship to physician, address and telephone number of signatory.
 ((6)) (7) The physician must comply with all provisions of the employment contract.
 (8) Physician must:
 (a) Accept Medicaid assignment; and
 (b) Post and implement a sliding fee discount schedule;
 and
 (c) Serve the low-income population; and
 (d) Serve the uninsured population; and
 (e) Serve the shortage designation population.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-110 (~~Concurrence with~~) **United States Department of Agriculture or other** (~~federal~~) **waiver requests.** (~~Concurrence with federal waiver requests will be offered to applicants who:~~

- (1) ~~Submit an application with a written request for a letter of concurrence;~~
 (2) ~~Meet all federal requirements; and~~
 (3) ~~Meet all state requirements-)~~ In the event an applicant for a USDA or other federal agency J-1 waiver submits a copy of an application to the department, the department will acknowledge receipt of the copy of the application.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-120 Department review and action.

- (1) The department will review applications for completeness in date order received.
 (2) Applications must be mailed, sent by commercial carrier, or delivered in person. Applications may not be sent by telefax, or electronically.
 (3) The department may limit the time period during which applications may be submitted including cutting off applications after the state has sponsored all applications allowed in a given federal fiscal year.
 (4) Should multiple primary care physician applications arrive at the department on the same day, the department will rank those applications according to the following criteria:
 (a) Federally designated shortage facilities will rank first.
 (b) Those applicants serving shortage areas that require the greatest number of physicians relative to population to remove them from federal shortage status will rank second.
 (c) Publicly funded employers, such as public hospital districts and community health centers, who have an obligation to provide care to under-served populations will rank third.
 (d) If multiple applications within a designated category arrive on the same day, those applications will be ranked within that category based on random selection.

(e) If a ranked order cannot be determined by using the criteria in (a) through (d) of this subsection, then applications will be ranked based on random selection.

(5) Should multiple specialist applications arrive at the department on the same day, the department will rank these applications according to the following criteria:

- (a) Federally designated shortage facilities will rank first.
 (b) Publicly funded employers, such as public hospital districts and community health centers, who have an obligation to provide care to underserved populations will rank second.
 (c) If multiple applications within a designated category arrive on the same day, those applications will be ranked within that category based on random selection.

(d) If a ranked order cannot be determined by using the criteria in (a) through (c) of this subsection, then applications will be ranked based on random selection.

(6) The department will review applications within ten working days of receipt of the application to determine if the application is complete.

((6)) (7) The department will return incomplete applications to the applicant, and provide a written explanation of missing items.

((7)) (8) Incomplete applications may be resubmitted with additional required information. Resubmitted applications will be considered new applications and will be reviewed in date order received on resubmission.

((8)) (9) The department will return applications that are received after the maximum number of sponsorships have been approved. This does not apply to (~~requests for concurrence~~) copies of USDA or other federal J-1 applications.

((9)) (10) The department will return sponsorship applications to applicants who have had two approved sponsorships in the current year for the shortage area.

((10)) (11) If the Washington state medical license is pending at the time the application is submitted to the department, the department may:

- (a) Sponsor or concur;
 (b) Hold the application in order received; or
 (c) Return the application as incomplete.

((11)) (12) The department will review complete applications against the criteria specified in chapter 246-562 WAC.

((12)) (13) The department may:

- (a) Request additional clarifying information;
 (b) Verify information presented;
 (c) Investigate financial status of the applicant;

(d) Further investigate any comments generated by publicly funded provider notification of application for waiver;

(e) Return the application as incomplete if the applicant does not supply requested clarifying information within thirty days of request. Incomplete applications must be resubmitted. Resubmitted applications will be considered new applications and will be reviewed in date order received.

((13)) (14) The department will notify the applicant in writing of action taken. If the decision is to decline sponsorship, the department will provide an explanation of how the application failed to meet the stated criterion or criteria.

((14)) (15) The department may deny a visa waiver request or, prior to ((USIA)) U.S. Department of State approval, may withdraw a visa waiver recommendation for cause, which shall include the following:

- (a) The application is not consistent with state and/or federal criteria;
- (b) Fraud;
- (c) Misrepresentation;
- (d) False statements;
- (e) Misleading statements; or
- (f) Evasion or suppression of material facts in the visa waiver application or in any of its required documentation and supporting materials.

((15)) (16) Applications denied may be resubmitted with concerns addressed. Resubmitted applications will be considered new applications and will be reviewed in date order received.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-140 Department's responsibility to report to the ((United States Information Agency)) U.S. Department of State and the United States Department of Immigration and Naturalization Services. (1) The department may report to the ((United States Information Agency)) U.S. Department of State and the United States Department of Immigration and Naturalization Services if the applicant or physician is determined to be out of compliance with any of the provisions of this chapter.

(2) The department may report to the ((United States Information Agency)) U.S. Department of State and the United States Department of Immigration and Naturalization Services if the physician is determined to have left employment in the federally designated area.

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-150 Appeal process. (1) The applicant or physician may appeal the following department decisions:

- (a) To deny or withdraw a visa waiver sponsorship;
- (b) To deny ((or withdraw a sponsorship concurrence)) a request for approval of an employment contract amendment;
- (c) Determination that the applicant or physician is out of compliance with this chapter; or
- (d) Determination that the applicant is not eligible for future participation in the visa waiver program.

(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.

(4) The request shall be mailed, by a method showing proof of receipt, to the Adjudicative Clerk Office, PO Box 47879, 2413 Pacific Avenue, Olympia, WA 98504-7879.

(5) 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.

NEW SECTION

WAC 246-562-160 Implementation. (1) Notwithstanding any other provision of this chapter, this rule governs the allocation of departmental J-1 visa waiver sponsorships of specialists and primary care physicians during the federal fiscal year which ends September 30, 2000.

(2) Ten working days after the effective date of this rule, the department will determine:

(a) The number of J-1 visa waiver sponsorships already approved during the federal fiscal year which ends September 30, 2000;

(b) The number of pending primary care applications which the department has determined to be complete.

The department will subtract the sum of these two numbers from twenty which is the total number of J-1 visa waiver sponsorships the federal government has allocated to the state of Washington for the federal fiscal year ending September 30, 2000. The department will multiply the difference between these two numbers by .25. In the event the product of this operation is a whole number, the department will allocate that number of J-1 visa waiver sponsorships to specialists for the federal fiscal year ending September 30, 2000. In the event the product of this operation is not a whole number, the department will determine the larger of the two whole numbers between which the product falls, and will allocate that number of J-1 visa waiver sponsorships to specialists for the federal fiscal year ending September 30, 2000. All other J-1 visa waiver sponsorships available during the federal fiscal year ending September 30, 2000, will be allocated to primary care physicians.

(3) The department will not accept J-1 visa waiver sponsorship applications from specialists until ten days after the effective date of the amendments of which this rule is a part, but may advise specialists with respect to any proposed application.

(4) The department will prioritize among specialists applying for J-1 visa waiver sponsorships for the federal fiscal year ending September 30, 2000, using criteria generally applicable to the selection of specialists under this chapter.

WSR 00-11-166

PROPOSED RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed May 24, 2000, 9:31 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 246-840-830 Determination and pronouncement of death by a licensed registered nurse.

PROPOSED

Purpose: Amend rule to extend authority to certify the cause of death to all advanced registered nurse practitioners (ARNP) categories (not just "certified nurse midwife as defined in WAC 246-840-300").

Other Identifying Information: Deletion of the title "certified nurse midwife."

Statutory Authority for Adoption: RCW 70.58.170 and 70.58.180, chapter 133, Laws of 2000.

Statute Being Implemented: RCW 70.58.170 and 70.58.180.

Summary: Chapter 133, Laws of 2000 extends authority to certify the cause of death to all ARNP categories.

Reasons Supporting Proposal: A simple "strike-out" of phrase (no longer correct) and addition of the term "licensed."

Name of Agency Personnel Responsible for Drafting and Implementation: Maura G. Egan, Ph.D., RN, P.O. Box 47864, Olympia, WA 98504, (360) 236-4709; and Enforcement: NCQAC, P.O. Box 47864, Olympia, WA, (360) 236-4709.

Name of Proponent: Nursing Care Quality Assurance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Purpose of WAC 246-840-830 is to identify that the RN can determine and pronounce death. One phrase had identified that one category of ARNP, the certified nurse midwife, could certify death (no other ARNP category).

With the new legislation (SB 5739) all categories of ARNP can certify the cause of death. In order for the WAC to reflect this accurately the phrase (regarding certified nurse midwives) must be deleted.

Proposal Changes the Following Existing Rules: One phrase in WAC 246-840-830 must be deleted from the first sentence: Strike "-certified nurse midwife" as defined in WAC 246-840-300 and add the word "licensed."

No small business economic impact statement has been prepared under chapter 19.85 RCW. Exempt per RCW 19.85.025(3).

RCW 34.05.328 does not apply to this rule adoption. Rule change dictated by statute.

Hearing Location: Department of Health, Conference Center, 1101 S.E. Eastside Street, Olympia, WA 98504, on July 13, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kris McLaughlin by July 7, 2000, TDD (360) 664-0064, or (360) 236-4713 or fax (360) 236-4738.

Submit Written Comments to: Maura G. Egan, fax (360) 236-4738, by July 10, 2000.

Date of Intended Adoption: July 13, 2000.

May 7, 2000

Paula R. Meyer, RN, MSN

Executive Director

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-830 Determination and pronouncement of death by a licensed registered nurse. A registered nurse may determine and pronounce death, but shall not certify death as defined in RCW 70.58.160 unless the registered nurse is ~~((an))~~ a licensed ARNP ~~((certified nurse midwife))~~ as defined in WAC 246-840-300.

(1) A registered nurse may assume responsibility for the determination and pronouncement of death only if there are written policies and procedures relating to the determination and pronouncement of death in the organization with which the registered nurse is associated as an employee or by contract, provided:

(a) The decedent was under the care of a health care practitioner qualified to certify cause of death; and

(b) The decedent was a patient of the organization with which the registered nurse is associated; and

(c) There is a "do not resuscitate order" in the patient's record when the decedent was assisted by mechanical life support systems at the time of determination and pronouncement of death.

(2) A registered nurse who assumes responsibility for the determination and pronouncement of death shall be knowledgeable of the laws and regulations regarding death and human remains which affect the registered nurse's practice of this responsibility.

(3) A registered nurse who assumes responsibility for the determination and pronouncement of death shall:

(a) Perform a physical assessment of the patient's condition;

(b) Insure that family and physician and other caregivers are notified of the death; and

(c) Document the findings of the assessment and notification in all appropriate records.

WSR 00-11-167

PROPOSED RULES

DEPARTMENT OF HEALTH

(Surgical Technologist Program)

[Filed May 24, 2000, 9:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-20-057.

Title of Rule: WAC 246-939-010 Definitions, 246-939-020 Surgical technologists—Typical tasks performed, and 246-939-030 Activities prohibited.

Purpose: Define some terms to assist readers in understanding the rules; give examples of typical tasks; including activities that are prohibited so that surgical technologists can be informed.

Statutory Authority for Adoption: Chapter 18.215 RCW and RCW 18.130.050.

Statute Being Implemented: Chapter 18.215 RCW and RCW 18.130.050.

PROPOSED

PROPOSED

Summary: These three rules will define who can delegate to a surgical technologist, who needs to be registered as a surgical technologist and tasks that cannot be performed.

Reasons Supporting Proposal: These three rules are necessary to implement the newly regulated surgical technologist program. These rules will provide guidance to applicants, registrants, employers and the Department of Health.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kendra Pitzler, Program Manager, P.O. Box 47864, Olympia, WA 98504, (360) 236-4723.

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: WAC 246-939-010 will define some terms used in the rules to ensure understanding of the rule language.

WAC 246-939-030 will answer some common questions about who needs to register as a surgical technologist and the kinds of tasks commonly performed by a surgical technologist.

WAC 246-939-050 defines tasks that cannot be performed by a surgical technologist.

These rules will place the applicant, the registrant and operating room personnel on notice as to who should register, the common tasks performed by a surgical technologist and the tasks that cannot be performed. By being on notice the department hopes to avoid confusion about who needs to register, which tasks to delegate and avoid additional unlicensed practice complaints for individuals who may not have understood that they need to register.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

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

Small Business Economic Impact Statement

The proposed regulations will establish requirements for registration of surgical technologists. Under the Regulatory Fairness Act (chapter 19.85 RCW), a small business economic impact statement (SBEIS) is required whenever a regulation imposes "more than minor" costs on a regulated business. The "more than minor" threshold varies by industry. The standard industrial code classifications used to determine the threshold for more than minor impact were:

STANDARD INDUSTRIAL CODE	ECONOMIC ACTIVITY	MINOR COST THRESHOLD
805	Nursing and Personal Care Facilities	\$50.00
806	Hospitals	\$50.00
809	Miscellaneous Health	\$53.00

Costs Required to Comply: No additional costs to a registered surgical technologist to comply with these practice standards, definitions and list of tasks. These guidelines can be incorporated into their every day routine and practice with no additional purchases, training or course work.

Does the Cost of the Proposed Rule Exceed the Threshold Where an SBEIS is Required? The cost to implement the

proposed standards is below the minor cost threshold from the table above so an SBEIS is not required.

A copy of the statement may be obtained by writing to Kendra Pitzler, Program Manager, Department of Health, Surgical Technologist Program, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4723, fax (360) 236-4738.

RCW 34.05.328 applies to this rule adoption. These rules may result in a penalty or sanction.

Hearing Location: Department of Health, Conference Center, 1101 Eastside Street, Olympia, WA 98504, on July 18, 2000, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact (360) 664-4207 or (360) 236-4723, by July 10, 2000, TDD (360) 664-0064, or fax (360) 236-4738.

Submit Written Comments to: Kendra Pitzler, fax (360) 236-4738, by July 14, 2000.

Date of Intended Adoption: July 18, 2000.

May 23, 2000
M. C. Selecky
Secretary

NEW SECTION

WAC 246-939-010 Who can delegate to a surgical technologist? Health care practitioners who may delegate are referenced in RCW 18.215.010 and include:

- (1) Physicians licensed under chapter 18.71 RCW.
- (2) Registered nurses and advanced registered nurse practitioners licensed under chapter 18.79 RCW.
- (3) Osteopathic physicians licensed under chapter 18.57 RCW.
- (4) Osteopathic physician assistants licensed under chapter 18.57A RCW.
- (5) Podiatric physicians licensed under chapter 18.22 RCW.
- (6) Dentists licensed under chapter 18.32 RCW.
- (7) Physician's assistants and physician's assistant surgical assistants licensed under chapter 18.71A RCW.

NEW SECTION

WAC 246-939-030 Who needs to be registered as a surgical technologist? (1) Anyone representing themselves as a surgical technologist by title or by description as a person who performs tasks in the surgical setting under the delegation of authority of a licensed health care practitioner.

- (2) For the purposes of this chapter "surgical setting" means any place surgery takes place.
- (3) Surgical technologists perform tasks that typically consist of the following:
 - (a) Prepare basic sterile packs and trays.
 - (b) Assist with the physical preparation of the operating room, creating the sterile field, and maintaining sterile technique during operative procedure.
 - (c) Identify and select appropriate packs, trays and accessory/specialty equipment for each surgery.
 - (d) Prepare supplies and instruments for sterile field.

(e) Count instruments, sponges, needles and other surgical items.

(f) Pass correct instruments, supplies and sutures as needed by the surgeon.

(g) Sponge or suction the operative site, retract tissue for exposure at the operative site and assist with irrigation under immediate supervision of the licensed health care practitioner.

(h) Cut sutures placed by the authorized health care practitioner.

(i) Prepare specimens for submission for pathological analysis.

(j) Fire automatic staple gun placed by the licensed health care practitioner.

(k) Transfer medications to the sterile field.

(4) Registered nurses, practical nurses and other credentialed providers acting within their scope do not need to register.

NEW SECTION

WAC 246-939-050 Are there tasks a surgical technologist is not allowed to do? Tasks that shall not be performed by a surgical technologist include:

(1) Activities that constitute the practice of medicine under the Medical Practice Act in RCW 18.71.011 including: Prescribing; administering; penetrating or severing tissue including, but not limited to, suturing and cutting/incisions, regardless of instrumentality.

(2) Dispensing medications, as defined in RCW 18.64.011 and 69.41.010.

WSR 00-11-173

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed May 24, 2000, 10:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-08-111.

Title of Rule: Standards for studded tires.

Purpose: To clarify the use of studded tires by removing information that implies studded tires and chains are considered equal, as approved traction devices.

Statutory Authority for Adoption: RCW 46.12.330.

Statute Being Implemented: RCW 46.12.330.

Summary: Amending this WAC will eliminate confusion caused by the present wording and clarifies the use of studded tires by removing information that implies studded tires can be used in an area that requires chains.

Reasons Supporting Proposal: This amendment is needed because with the present wording, individuals may consider signs stating "chains required," and signs stating "approved traction tires required" to have the same meaning.

Name of Agency Personnel Responsible for Drafting and Implementation: Ms. Carol Morton, Washington State Patrol, P.O. Box 42614, (360) 753-3697; and Enforcement:

Commander LaMunyon, Washington State Patrol, P.O. Box 42600, (360) 586-2340.

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: The amendment to this rule will eliminate confusion caused by the present wording and clarify the use of studded tires by eliminating information that implies studded tires and chains are considered equal, as approved traction devices. Signs that read "chains required" and "approved traction tires required" could be misinterpreted to have the same meaning and therefore individuals may believe that studded tires can be used in areas that require chains.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No impact will be made upon small businesses.

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

Hearing Location: 210 11th Avenue, General Administration Building, Ground Floor, CVD Conference Room, P.O. Box 42614, Olympia, WA 98504, on June 29, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Ms. Heather Flemer by June 20, 2000, (360) 753-0655.

Submit Written Comments to: Ms. Carol Morton, Washington State Patrol, P.O. Box 42635, Olympia, WA 98504, fax (360) 586-8233, by June 20, 2000.

Date of Intended Adoption: June 29, 2000.

May 19, 2000

Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending WSR 92-05-016, filed 2/10/92, effective 3/12/92)

WAC 204-24-030 Standards for studded tires. Studded tires shall meet the following specifications:

(1) Studs shall be metal, tipped with tungsten carbide.

(2) Metal studs shall be inserted only in a new tire or a newly-recapped tire which has molded in the tread the "pin-holes" into which metal studs are to be inserted. Studs shall not be inserted in any new tire or newly-recapped tire after it has been driven on a vehicle.

(3) Metal studs may be installed only by the tire manufacturer, or by a tire dealer or tire jobber who shall install the metal studs in conformance with the manufacturer's specifications.

(4) When a tire is sold or offered for sale as a studded tire or when studs are installed in a new tire or a newly-recapped tire, there shall be a minimum of seventy metal studs evenly spaced around the tread of the tire.

(5) A tire shall contain a minimum of fifty-six metal studs at all times in order to qualify as a "studded tire" or as an approved traction device where traffic control signs marked (~~"chains"~~ or) "approved traction tires required" are posted.

(6) Metal studs shall not be installed in any tire of a vehicle which has a gross vehicle weight of ten thousand pounds or over.

(7) School buses and fire department equipment tires are exempt from subsection (6) of this section.

**WSR 00-11-175
PROPOSED RULES
DEPARTMENT OF ECOLOGY**

[Order 95-17a—Filed May 24, 2000, 11:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-23-103.

Title of Rule: Chapter 173-26 WAC, State master program approval/amendment procedures.

Purpose: To update and replace chapter 173-16 WAC, Shoreline Management Act guidelines for development of master programs; to implement regulatory reform measures integrating shorelines, growth management and related statutes; to create minimum requirements for local shoreline master programs which regulate shoreline development; and to protect and restore fish and wildlife habitat, including salmon, within shorelines of the state.

Statutory Authority for Adoption: RCW 90.58.060, 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The proposed rule creates updated requirements for regulation of uses and activities conducted in shoreline areas throughout the state, implementing the Shoreline Management Act. The rule also provides criteria for local government and the department in developing and amending local shoreline master program policies and regulations.

Reasons Supporting Proposal: The shoreline guidelines have never been comprehensively updated since originally adopted in 1972. The proposed changes recognize new advancements in science and shoreline management practice affecting human shoreline uses, activities and fish and wildlife habitat. The changes will eliminate burdensome and outdated regulations, clarify state interests in shorelines and incorporate more efficient and effective regulatory reform measures in the guidelines. The legislature, with passage of ESHB 1724 in 1995, required ecology to review and update the guidelines.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peter Skowlund, Lacey, Washington, (360) 407-6522.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Update of the shoreline master program guidelines is required by the Shoreline Management Act. The guidelines are being updated to recognize changes in shoreline management law, science and practice. Update of the guide-

lines will require local governments to revise as necessary their local shoreline master programs to comply with new standards for public and private construction and location of structures and activities in shoreline areas, dredging, drilling, dumping, filling, removal of minerals, removal/restoration of vegetation, bulkheading and related shoreline stabilization devices, driving of pilings, placing of obstructions or any project which interferes with the normal public use of surface waters of the state. The guidelines apply to water areas, associated wetlands and adjacent uplands subject to the Shoreline Management Act.

Proposal Changes the Following Existing Rules: Amends chapter 173-26 WAC and repeals chapter 173-16 WAC in its entirety.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.025(3) provides, "This chapter does not apply to the adoption of a rule described in RCW 34.05.310(4)." One of the categories of rules referenced by the above is "Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party."

In this case, the regulated community consists of local governments required to prepare and implement shoreline master programs by the Shoreline Management Act. It is clear that this process will affect private businesses and individuals, but the nature of those impacts will depend on the specific choices made by each jurisdiction as it complies with these guidelines. Further, that process will involve significant public involvement at the local level, during which these concerns can be raised and addressed.

RCW 34.05.328 does not apply to this rule adoption. These rules are significant under RCW 34.05.328 because they adopt new or make significant amendments to a policy or regulatory program. The department has conducted the additional analysis required under RCW 34.05.328.

Hearing Location:

Pasco

Date: Tuesday, June 27.

Location: Columbia Basin Community College, 2600 North 20th, Workforce Training Center, Room 180.

Open house: 5:30 p.m.

Public hearing: 7:00 p.m.

Spokane

Date: Wednesday, June 28.

Location: Spokane Intercollegiate Research and Technology Institute, 665 North Riverpoint Boulevard, Room 201.

Open house: 5:30 p.m.

Public hearing: 7:00 p.m.

PROPOSED

Wenatchee

Date: Thursday, June 29.
Location: Chelan County PUD, 327 North Wenatchee Avenue.
Open house: 5:30 p.m.
Public hearing: 7:00 p.m.

shorerule@ecy.wa.gov, fax (360) 407-6902 by August 7, 2000.

Date of Intended Adoption: August 31, 2000.

May 23, 2000
 Tom Fitzsimmons
 for Dan Silver
 Deputy Director

Olympia/Lacey

Date: Wednesday, July 5.
Location: Ecology Department Auditorium, 300 Desmond Drive.
Open house: 5:30 p.m.
Public hearing: 7:00 p.m.

Chapter 173-26 WAC

**STATE MASTER PROGRAM
 APPROVAL/AMENDMENT PROCEDURES AND
 SHORELINE MASTER PROGRAM GUIDELINES**

Raymond

Date: Thursday, July 6.
Location: Raymond High School Auditorium, 825 Commercial.
Open house: 5:30 p.m.
Public hearing: 7:00 p.m.

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

WAC 173-26-010 Authority and purpose. The provisions of this chapter implement the requirements of chapter 90.58 RCW, the Shoreline Management Act of 1971. RCW 90.58.200 authorizes the adoption of rules by the department as necessary and appropriate to carry out the provisions of the act. RCW 90.58.080 directs local governments to develop and administer local shoreline master programs for regulation of uses on shorelines of the state. Such local programs should be integrated with other local government systems for administration and enforcement of land use regulations. RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the local comprehensive plan required by the Growth Management Act. All other portions of the local shoreline master program, including the use regulations, are considered a part of the local development regulations required by the Growth Management Act.

Vancouver, Washington

Date: Monday, July 10.
Location: Water Resource Education Center, 4600 S.E. Columbia Way.
Open house: 5:30 p.m.
Public hearing: 7:00 p.m.

This chapter is drafted to also reflect RCW 90.58.050 which provides that the Shoreline Management Act is intended to be a cooperative program between local government and the state. It is the intent of this chapter to provide minimum procedural requirements as necessary to comply with the statutory requirements while providing latitude for local government to establish procedural systems based on local needs and circumstances.

Seattle

Date: Tuesday, July 11.
Location: Seattle Center, Shaw Room, 305 Harrison Street.
Open house: 5:30 p.m.
Public hearing: 7:00 p.m.

Pursuant to the Shoreline Management Act, the department must approve master programs prepared by local governments or adopt them by rule consistent with the act. In order to facilitate this process, Part I of this chapter establishes a recordkeeping system for the department and defines the contents of the state master program. Part II sets forth procedures for approving and adopting master programs and amendments thereto. Parts III and IV comprise the guidelines pursuant to RCW 90.58.060 and provide alternative approaches to developing the content of shoreline master programs. Part V addresses the requirements of the state Ocean Resources Management Act.

Bellingham

Date: Wednesday, July 12.
Location: Whatcom County Courthouse Council Chambers, 311 Grand Avenue.
Open house: 5:30 p.m.
Public hearing: 7:00 p.m.

Assistance for Persons with Disabilities: Contact Tim Gates by June 16, 2000, TDD (360) 407-6006, or (360) 407-7256, P.O. Box 47600.

Submit Written Comments to: Shoreline Rule, Department of Ecology, Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600, e-mail

PROPOSED

AMENDATORY SECTION (Amending Order 95-17, filed 9/30/96, effective 10/31/96)

WAC 173-26-020 Definitions. As used herein, the following words and phrases shall have the following meanings:

(1) "Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.

(2) "Adaptive management" means the modification of management practices to address changing conditions and new knowledge. Adaptive management is an approach that incorporates monitoring and research to allow projects and activities, including projects designed to produce environmental benefits, to go forward in the face of some uncertainty regarding consequences. The key provision of adaptive management is the responsibility to change adaptively in response to new understanding or information after an action is initiated.

(3) "Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program((;)).

((2)) (4) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program((;)).

((3)) (5) "Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program((;)).

((4)) (6) "Aquatic" means pertaining to those areas waterward of the ordinary high-water mark.

(7) "Bank full width" means the horizontal projection of bank full depth to the stream bank. Most river channels are bordered by a relatively flat area or valley floor. When the water fills the channel completely, or is at bank full stage, this surface is level with the flood plain. The stream cuts down or builds up as climate and watershed conditions change because there is a new relation between discharge and sediment transport and storage. The channel will erode or modify its flood plain in response to changes in discharge and sediment. The former flood plain it had been constructing is thus abandoned. An abandoned flood plain is called a terrace. While a terrace is flooded on occasion, the active flood plain is frequently flooded by discharges that occur approximately every 1.5 years to 2.0 years in the annual flood series. Bank full depth means the elevation of the water surface of a stream flow having a return period of approximately 1.5 years measured from the line of maximum depth of the stream or thalweg. In those valleys that narrowly confine the channel such that no flood plain can be built, this bank full stage projection still applies.

(8) "Channel migration zone (CMZ)" means the lateral extent of likely movement along a stream reach with evidence of active stream channel movement over the past one hundred years. Evidence of active movement can be pro-

vided from aerial photos or specific channel and valley bottom characteristics. A time frame of one hundred years was chosen because aerial photos and field evidence can be used to evaluate movement in this time frame. Also, this time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to most streams. In large meandering rivers a more detailed analysis can be conducted to relate bank erosion processes and the time required to grow trees that function as stable large woody debris. The CMZ shall include floodways and wetlands, as defined under chapter 90.58 RCW, whether associated with either shorelines of the state or shorelines of state-wide significance, as defined under chapter 90.58 RCW.

With the exception of shorelands in the "natural" and "rural conservancy" environments, areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ. All areas, including areas within the "natural" and "rural conservancy" environments, separated from the natural channel by legally existing structures designed to withstand the 100-year flood shall not be considered within the CMZ. A tributary stream or other hydraulic connection allowing PTE species fish passage draining through a dike or other constricting structure shall be considered part of the CMZ.

(9) "Department" means the state department of ecology((;)).

((5)) (10) "Developed shorelines" means those shoreline areas that are characterized by existing development or permanent structures located within shoreline jurisdiction.

(11) "Development regulations" means the controls placed on development or land uses ((activities)) by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, ((official controls,)) planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto((;)).

((6)) (12) "Document of record" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190((;)).

((7)) (13) "Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

(14) "Ecological functions" or "shoreline functions" means the physical, chemical, and biological processes that contribute to the proper maintenance of the aquatic and terrestrial environments that constitute the shoreline ecosystem. Ecological functions relevant to specific shoreline ecological systems include, but are not limited to:

(a) Riverine:

• Hydrologic processes: Maintaining a natural range of flow variability, sideflow and overflow channel functions, reducing peak flows and downstream erosion, and helping to maintain base flows.

- Water quality: Temperature; removing excessive nutrients and toxic compounds.

- Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.

- Habitat for: Proposed, threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

- Hyporheic functions: Water quality, water storage, vegetation base, and sediment storage.

(b) Lacustrine:

- Water quality: Removing excessive nutrients and toxic compounds and removing and/or stabilizing sediments.

- Habitat for: Proposed, threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

(c) Marine:

- Water quality: Removing excessive nutrients and toxic compounds.

- Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.

- Wave attenuation.

- Habitat for: Proposed, threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

(d) Wetlands:

- Flood attenuation.

- Water quality: Removing excessive nutrients and toxic compounds.

- Ground water recharge.

- Maintenance of base flows.

- Nutrient filtering.

- Habitat for: Proposed, threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline-dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

When used in Part IV, sections 270 through 350 of this chapter, the term "ecological functions" shall include all functions necessary for properly functioning condition for PTE species.

(15) "Ecologically altered shorelines" means those shorelines where humans have directly or indirectly modified the vegetation or shoreline configuration in a manner that sig-

nificantly influences or reduces the natural shoreline functions.

(16) "Ecologically intact shorelines" means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation or, in rivers, a natural range of flow variability. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In unmanaged forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.

Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

(17) "Ecosystem-wide processes" means the suite of physical and geologic processes of erosion, transport, and deposition and specific chemical processes (e.g., flocculation) that shape landforms within a specific shoreline ecosystem and determine both the types of habitat that are present and the associated ecological functions and their processes. Ecosystem-wide processes include, but are not limited to:

(a) Riverine fluvial processes: Landform and channel erosion; sediment transport and load in channel and overbank; channel dynamics, including channel gradation and migration; and changes in channel form during flooding.

(b) Lacustrine, tidal wave, and current processes: Wave erosion (including refraction), littoral drift, and tidal erosion and deposition.

(18) "Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

(a) The action can be accomplished with technologies and methods that have been used in the past, or studies or tests have demonstrated that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. For the provisions of Part IV, this evaluation shall give special consideration and precedence to protecting PFC for PTE species.

(19) "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

(20) "Flood plain" is synonymous with one hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.

(21) "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified engineers or geologists who are knowledgeable about the regional and local shoreline geology and processes.

(22) "Grading" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

(23) "Guidelines" means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs((;)).

((8)) (24) "In-stream structure" means a structure placed by humans within a stream or river waterward of the bank full width that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

(25) "Lacustrine" means pertaining to a lake.

(26) "Letter of exemption" means a letter or other official certificate issued by a local government to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

(27) "Local government" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW((;)).

((9)) (28) "Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries.

(29) "May" means the action is acceptable, provided it conforms to the provisions of this chapter.

(30) "Mitigation" or "mitigation sequencing" means the process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal, including the following listed in the order of sequence priority, with (a) of this subsection being top priority.

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(31) "Must" means a mandate; the action is required.

(32) "Nonpoint pollution" means pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

(33) "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

(34) "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Important fish or wildlife breeding habitat;
- Important fish or wildlife seasonal ranges;
- Important fish or wildlife movement corridors;
- Rearing and foraging habitat;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration; or
- Unique or dependent species.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

(35) "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or state-wide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, marine mammal haulouts, shellfish beds, and fish spawning and rearing areas.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

(36) "Properly functioning condition" or "PFC" means conditions that create and sustain natural habitat-affecting processes (such as sediment routing, riverine community succession, precipitation runoff patterns, a natural range of flow variability and channel migration) over the full range of environmental variation and that support productivity at a viable population level of PTE species. The term "properly functioning condition" indicates a level of performance for a subset of the more broadly defined "ecological functions," reflecting what is necessary for the recovery of PTE species.

(37) "Proposed, threatened, and endangered species" or "PTE species" means those native species that are proposed to be listed or are listed in rule by the Washington state department of fish and wildlife pursuant to RCW 77.12.020 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered Species Act, 16 U.S.C. 1533.

(38) "Provisions" means policies, regulations, standards, guideline criteria or designations.

(39) "Restoration" or "ecological restoration" means the significant upgrading of ecological shoreline functions through measures such as revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials.

(40) "Restore" means to significantly upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic sediments.

(41) "Riverine" means pertaining to a river system, including associated lakes and wetlands.

(42) "Shall" means a mandate; the action must be done.

(43) "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

(44) "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020(4).

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations; and

~~((40))~~ (45) "Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structures. They can include other actions, such as clearing, grading, or application of chemicals.

(46) "Shoreline property" means an individual property wholly or partially within shoreline jurisdiction.

(47) "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

(48) "Significant ecological impact" means an effect or consequence of an action if any of the following apply:

(a) The action measurably or noticeably reduces or harms an ecological function or ecosystem-wide process.

(b) Scientific evidence or objective analysis indicates that the action could cause reduction or harm to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.

(c) Scientific evidence indicates that the action could contribute to a measurable or noticeable reduction or harm to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.

(49) "Significant vegetation removal" means the removal or alteration of native trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

(50) "Site potential tree height" means the average height, at age one hundred years, of the tallest mature native tree species that is capable of growing in the soils found at the site and for which height measurements are noted in the soil survey reports published by the natural resource conservation service and other sources. Each local natural resource conservation service field office maintains the surveys for its area.

(a) West of the Cascade summit, the site potential tree height will be based on either Douglas fir or western hemlock. East of the summit, the species could be ponderosa

pine, lodgepole pine, western larch, Englemann spruce, sub-alpine fir, grand fir, or Douglas fir.

(b) For sites that historically supported cottonwoods as the largest tree, the site potential tree height is the average height, at age seventy-five years, of a black cottonwood tree growing under those site conditions.

(51) "State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.

(52) "Storm water" means that portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.

(53) "Substantially degrade" means to cause damage or harm to an area's ecological functions. An action is considered to substantially degrade the environment if:

(a) The damaged ecological function or functions significantly affect other related functions or the viability of the larger ecosystem; or

(b) The degrading action may cause damage or harm to shoreline ecological functions under foreseeable conditions; or

(c) Scientific evidence indicates that the action may contribute to damage or harm to ecological functions as part of cumulative impacts.

(54) "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water but is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses include ship cargo terminal loading areas, fishing, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, hydroelectric dams, surface water intake, and sewer outfalls.

(55) "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water;

- Piers and other improvements that facilitate public access to shorelines of the state;

- Restaurants with water views and public access improvements;

- Museums with an orientation to shoreline topics;

- Aquariums;

- Scientific/ecological reserves;

- Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.

(56) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

(57) "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

(58) "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Water-related uses include manufacturing of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent uses, and storage of water-transported foods. Other examples of water-related uses include the warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and upland log storage for water-borne transportation.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

NEW SECTION

WAC 173-26-105 Review by ecology under Part III—Election by local governments of intent to develop pursuant to Part IV. (1) Local governments shall develop new or amended master programs according to this chapter.

(2) Parts III and IV of this chapter are distinct and separate methods for developing new or amended master programs. Part III is the default path for local government submissions. Absent a declaration of intent pursuant to subsection (3) of this section, the department will review a new or amended master program submitted to the department pursuant to WAC 173-26-110 for consistency with Part III.

(3) At any time prior to submittal to the department of a new or amended master program pursuant to WAC 173-26-110, a local government may provide written notice to the department declaring that its submission has been or will be developed according to Part IV. Upon receipt of such a declaration, the department will review the submitted master program for consistency with Part IV.

(4) A local government who has declared its intention to proceed under Part IV may, at any time prior to approval by the department, revert to Part III by providing written notice to the department.

PART III GUIDELINES—DEFAULT APPROACH

NEW SECTION

WAC 173-26-170 Purpose of Part III. (1) Objectives.

WAC 173-26-170 through 173-26-250 are adopted pursuant to chapter 90.58 RCW, the Shoreline Management Act of 1971, to serve as standards for implementation of the policy of the act for regulation of uses of the shorelines; and to provide criteria to local governments and the department in developing and amending master programs. The purposes of Part III are to: (Text in quotations is excerpted from RCW 90.58.020.)

(a) Protect against adverse impacts.

"Protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. . . ."

Provide measures for the utilization, protection, restoration, and preservation of the state shorelines, which are "among the state's most valuable and fragile of its natural resources."

Prepare standards governing the protection of single-family residences and appurtenant structures from shoreline erosion, giving preference to measures to protect single-family residences occupied before January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment. (See RCW 90.58.100(6).)

Undertake a "planned, rational, and concerted effort, jointly performed by federal, state and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

(b) Protect the public's right to use and access the surface waters of the state.

"Insure the development of shorelines of the state in a manner which, while allowing limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest."

"Protect generally public rights of navigation and corollary rights incidental thereto."

Preserve "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

Regulate the design, construction, and operation of "permitted uses in the shorelines of the state to minimize, insofar as practical, any interference with the public's use of the water."

(c) Foster reasonable and appropriate uses that are in the public's best interest.

Give preference to uses "which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline." Alterations to the natural conditions of the shore-

lines of the state, in those limited instances where authorized, shall be given priority for:

"(i) Single-family residences and their appurtenant structures;

(ii) Ports; shoreline recreational uses, including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to the shorelines of the state;

(iii) Industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state; and

(iv) Other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state."

Conduct the "coordinated planning necessary to protect the public's interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest." Ensure equal treatment and fairness to all parties with respect to the use of shoreline resources.

"Appropriately classify the shorelines and shorelands of the state and revise these classifications when circumstances warrant regardless of whether the change in the circumstances occurs through man-made causes or natural causes."

Reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public and give appropriate special consideration to same. (See RCW 90.58.100(4).)

(d) Protection and restoration of ecological functions.

This chapter captures the resource protection and restoration policy of RCW 90.58.020 within the concept of protection and restoration of ecological functions. The relative state of ecological functions in a species' range or habitat has a dramatic effect on the general health of the state's native vegetation, wildlife, and fish. Some native species remain vigorous, while others have declined over the years. Local governments with proposed, threatened, or endangered species within their jurisdiction should consider the needs of such species when drafting master program provisions intended to protect and restore ecological functions.

(2) Responsibilities of state and local governments.

RCW 90.58.050 gives local governments the responsibility of initiating the planning required by the Shoreline Management Act and administering the regulatory program consistent with its policy and provisions. Nothing in this chapter is intended to reduce the opportunity for local governments to pursue local shoreline management objectives, provided they are consistent with the policies of the act and this chapter.

In 1995, the Washington state legislature passed Engrossed Substitute House Bill 1724, an act relating to implementing the recommendations of the governor's task force on regulatory reform on integrating growth management planning and environmental review. The bill amended, among other statutes, the Growth Management Act, chapter 36.70A RCW; the Shoreline Management Act, chapter 90.58 RCW; and the State Environmental Policy Act, chapter 43.21C RCW. Section 304 of Engrossed Substitute House Bill 1724 amended RCW 90.58.060(1) to read:

(1) *The department shall periodically review and adopt guidelines consistent with RCW 90.58.020, containing the elements specified in RCW 90.58.100 for:*

(a) *Development of master programs for regulation of the uses of shorelines; and*

(b) *Development of master programs for regulation of the uses of shorelines of state-wide significance.*

These guidelines implement the directive to integrate referenced statutes. Specifically, the guidelines are directed toward more efficient planning, permitting, and environmental review and more effective resource management.

NEW SECTION

WAC 173-26-180 Applicability of Part III. WAC 173-26-170 through 173-26-250 apply to actions taken in the preparation, amendment, and review of local shoreline master programs pursuant to RCW 90.58.060(1). The master programs prepared or amended pursuant to this chapter, when adopted or approved by the department, shall constitute use regulations for the shorelines of the state.

NEW SECTION

WAC 173-26-190 Master program contents. (1) **Master program concepts.**

The following four concepts are the basis for effective shoreline master programs.

(a) **Master program policies and regulations.**

Shoreline master programs are both planning and regulatory tools. RCW 90.58.020 establishes the need for both planning and regulatory action.

The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefor [sic], a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

The act expresses this dual function in RCW 90.58.030 (3)(b):

"Master program" means the comprehensive use plan for a described area and the use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

Master programs serve a planning function in several ways. First, they balance and integrate the objectives and interests of local citizens insofar as they are consistent with the Shoreline Management Act. Therefore, the preparation and amending of master programs shall involve active public participation, as called for in WAC 173-26-200(3). Second,

they address the full variety of conditions on the shoreline. Third, they consider and, where necessary to achieve the objectives of chapter 90.58 RCW, influence planning and regulatory measures for adjacent land. For jurisdictions planning under chapter 36.70A RCW, the Growth Management Act, the requirements for integration of shoreline and adjacent land planning are more specific and are described in WAC 173-26-190 (2)(a). Fourth, master programs address conditions and opportunities of specific shoreline segments by classifying the shorelines into "environment designations" as described in WAC 173-26-210.

The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline. Some development requires a shoreline permit prior to construction. A local government evaluates a permit application with respect to the shoreline master program policies and regulations and issues a permit only after determining that the development conforms to them. The regulations apply to all uses and development within shoreline jurisdiction, whether or not a shoreline permit is required, and are implemented through other permitting and regulation activities of the local government. (See RCW 90.58.140.)

(b) **Master program elements.**

RCW 90.58.100(2) states that the master programs shall, when appropriate, include the following elements:

(a) *An economic development element for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of shorelines of the state.*

(b) *A public access element for making provision for public access to publicly owned areas.*

(c) *A recreational element for the preservation and enlargement of recreational opportunities, including, but not limited to, parks, tidelands, beaches, and recreational areas.*

(d) *A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.*

(e) *A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land.*

(f) *A conservation element for the preservation of natural resources, including, but not limited to, scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protections.*

(g) *An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.*

(h) An element that gives consideration to the state-wide interest in the prevention and minimization of flood damages.

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

The Growth Management Act (chapter 36.70A RCW) also uses the word "element" for discrete sections or chapters of a comprehensive plan. To avoid confusion, "master program element" refers to the definition in the Shoreline Management Act. Local jurisdictions are not required to address the master program elements listed in the Shoreline Management Act as discrete sections. The elements may be addressed throughout master program provisions rather than used as a means to organize the master program.

(c) Shorelines of state-wide significance.

The Shoreline Management Act identifies certain shorelines as "shorelines of state-wide significance" and raises their status by setting use priorities and requiring "optimum implementation" of the act's policy. WAC 173-26-250 describes methods to provide for the priorities listed in RCW 90.58.020 and to achieve "optimum implementation" as called for in RCW 90.58.090(4).

(d) Shoreline environment designations.

Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the shoreline master program prescribe different sets of environment protection measures, allowable use provisions, and development standards for each of these shoreline segments.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation. WAC 173-26-210 presents guidelines for environment designations in greater detail.

(2) Basic requirements.

Part III of this chapter describes the basic components and content required in a master program. Part III also contains suggestions for fulfilling the requirements which local governments may or may not choose to follow.

For this chapter, the terms "shall," "must," and "are required" and the imperative voice mean a mandate; the action must be done. As noted in WAC 173-26-020, the term "should" means that the particular action is required unless there is a demonstrated, compelling reason, based on a policy of the Shoreline Management Act and this chapter, against taking the action. The term "may" indicates that the action is acceptable, provided it satisfies all other provisions in this chapter. A master program as submitted to the department for approval shall be sufficient and complete to implement the Shoreline Management Act and the provisions of this chapter. A master program shall contain all of the policies and regulations necessary for the department and other reviewers to evaluate shoreline permits for conformance to the Shoreline Management Act and this chapter.

(a) Consistency with comprehensive planning and other development regulations.

Shoreline management is most effective when accomplished within the context of comprehensive planning. For cities and counties planning under the Growth Management Act, chapter 36.70A RCW requires mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). The requirement for consistency is amplified in WAC 365-195-500:

Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:

(1) Ability of physical aspects of the plan to coexist on the available land.

(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent.

The Growth Management Act also calls for coordination between local jurisdictions. RCW 36.70A.100 states:

... The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to chapter 36.70A RCW of other counties or cities with which the county or city has, in part, common borders or related regional issues.

This statutory provision complements watershed-wide or regional planning described in WAC 173-26-200.

Furthermore, legislative findings provided in Engrossed Substitute House Bill 1724, section 1, chapter 347, Laws of 1995 states:

The legislature recognizes by this act that the Growth Management Act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The Growth Management Act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development.

Engrossed Substitute House Bill 1724 also added RCW 36.70A.480(1) to the Growth Management Act, which states:

For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

Furthermore, RCW 36.70A.481 states:

Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW.

The Shoreline Management Act addresses the issue of consistency in RCW 90.58.340, which states:

All state agencies, counties and public and municipal corporations shall review administrative and management policies, regulations, plans and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state so as to achieve a use policy on said land that is consistent with the policy of this chapter, the guidelines, and

the master programs for the shorelines of the state. The department may develop recommendations for land use control for such lands. Local governments shall, in developing use regulations for such areas, take into consideration any recommendations developed by the department as well as any other state agencies or units of local government [1971 ex.s. c 286 § 34.]

Pursuant to the statutes cited above, the intent of these guidelines is to assist local governments in preparing and amending master programs that fit within the framework of applicable comprehensive plans and facilitate consistent, efficient environmental review as well as effective implementation of the Shoreline Management Act.

PROPOSED

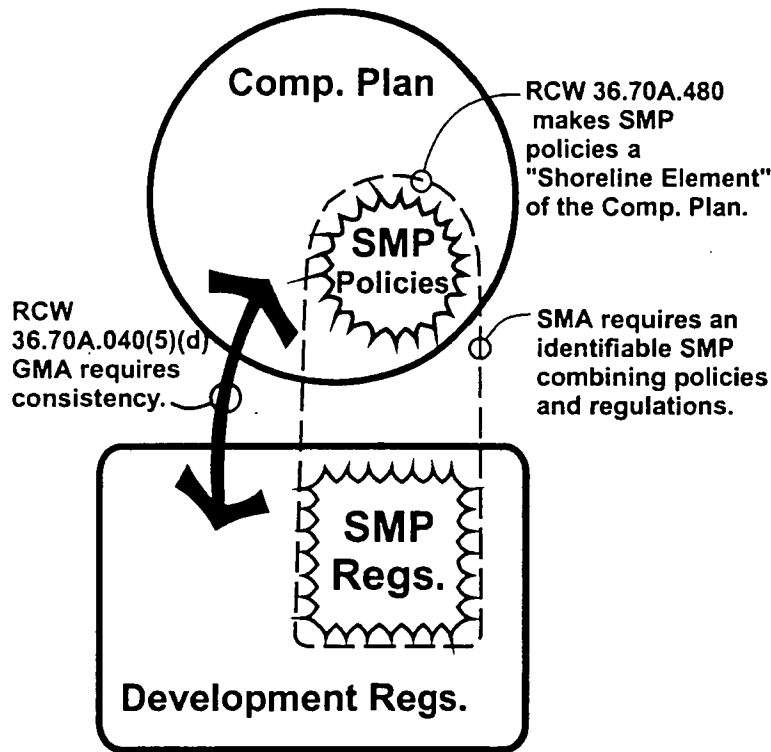


Figure 1. Relationship of master program to comprehensive plan and local development regulations for governments planning under RCW 36.70A.
(This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

Several sections in these guidelines include methods to achieve the consistency required by both the Shoreline Management Act and the Growth Management Act.

(A) First, WAC 173-26-190 (2)(b) and (c) describe optional methods to integrate master programs and other development regulations and the local comprehensive plan.

(B) Second, WAC 173-26-220 through 173-26-250 translate the broad objectives in the Shoreline Management Act into more specific policies. They also provide a more defined policy basis on which to frame local shoreline master program provisions and to evaluate the consistency of applicable sections of a local comprehensive plan with the Shoreline Management Act.

(C) Finally, WAC 173-26-210(3) presents specific methods for testing consistency between shoreline environment designations and comprehensive plan land use designations.

(b) Including other documents in a master program by reference.

Shoreline master program provisions sometimes address similar issues as other comprehensive plan elements and development regulations, such as the zoning code and critical area ordinance. For the purposes of completeness and consistency, local governments may include other locally adopted policies and regulations within their master programs. For example, a local government may include specific portions of its critical area ordinance in the master program, provided the

critical area ordinance is consistent with this chapter. This can ensure that local master programs are consistent with other regulations.

Shoreline master programs may include other regulations by referencing a specific, dated edition. When including referenced regulations within a master program, local governments shall ensure that the public has an opportunity to participate in the formulation of the regulations or in their incorporation into the master program, as called for in WAC 173-26-200 (3)(b)(i). In the approval process, the department

will review the referenced development regulation sections as part of the master program. A copy of the referenced regulations shall be submitted to the department with the proposed master program or amendment. If the development regulation is amended, the edition referenced within the master program will still be the operative regulation in the master program. Changing the referenced regulations in the master program to the new edition will require a master program amendment.

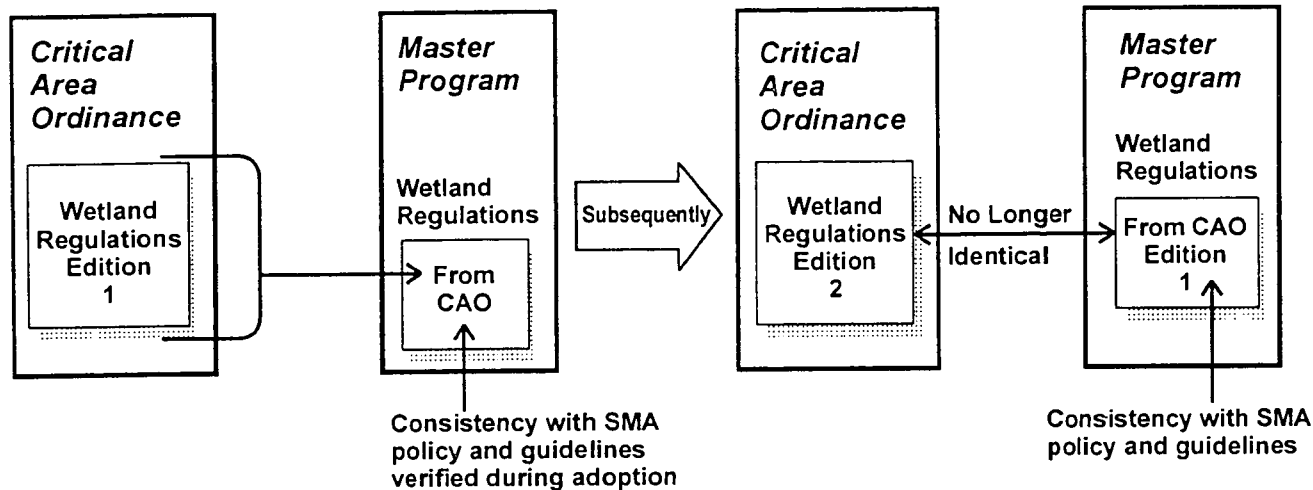


Figure 2. Optional method to incorporate other development regulations into a master programs by reference. (Note: If the referenced critical area ordinance is changed, the CAO provisions in the SMP are not automatically amended.) (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(c) Incorporating master program provisions into other plans and regulations.

Local governments may integrate master program policies and regulations into their comprehensive plan policies and implementing development regulations rather than preparing a discrete master program in a single document. Master program provisions that are integrated into such plans and development regulations shall be clearly identified so that the department can review these provisions for approval and evaluate development proposals for compliance. RCW 90.58.120 requires that all adopted regulations, designations, and master programs be available for public inspection at the department or the applicable county or city. Local governments shall identify all documents which contain master program provisions and which provisions constitute part of the master program. Clear identification of master program provisions is also necessary so that interested persons and entities may be involved in master program preparation and amendment, as called for in RCW 90.58.130.

Local governments integrating all or portions of their master program provisions into other plans and regulations shall submit to the department a listing and copies of all provisions that constitute the master program. The master pro-

gram shall also be sufficiently complete and defined to provide:

- (i) Clear directions to applicants applying for shoreline permits; and
- (ii) Clear evaluation criteria and standards to the local governments, the department, other agencies, and the public for reviewing permit applications with respect to state and local shoreline management provisions.

PROPOSED

PROPOSED

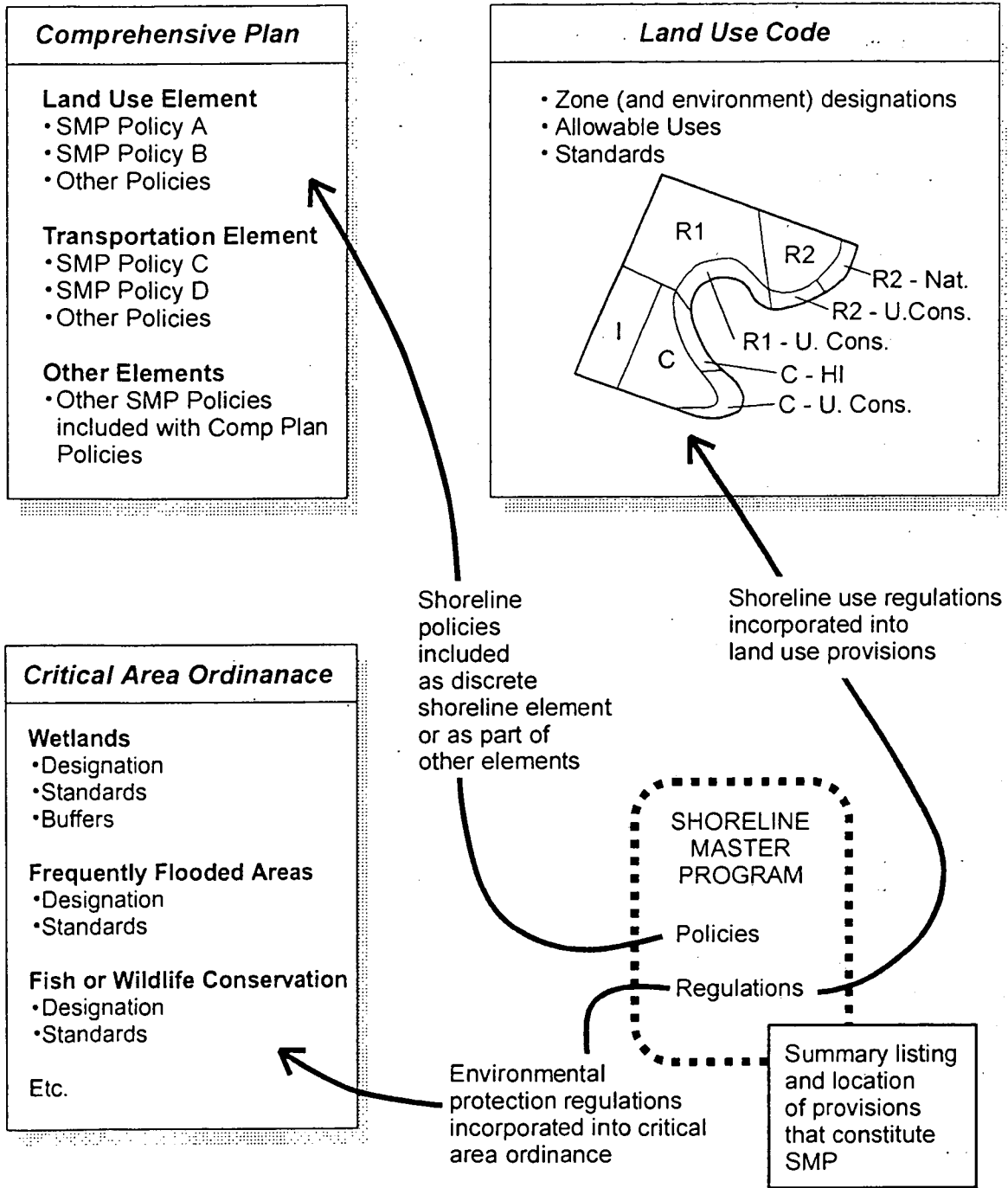


Figure 3. Method to incorporate master program provisions into a comprehensive plan and local development regulations. (Note: All master program provisions must be clearly identified as such.)
 (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(d) Multijurisdictional master program.

Two or more adjacent local governments are encouraged to jointly prepare master programs. Jointly proposed master programs may offer opportunities to effectively and effi-

ciently manage natural resources, such as drift cells or watersheds, that cross jurisdictional boundaries. Local governments jointly preparing master programs shall provide the opportunity for public participation locally in each jurisdic-

tion, as called for in WAC 173-26-200 (3)(b), and submit to the department the multijurisdictional master program for approval.

(e) Master program contents.

Master programs shall include the following contents described in (e)(i) through (iii) of this subsection.

(i) Master program policies.

Master programs shall provide clear, consistent policies that translate broad state-wide objectives of this chapter into local directives. Policies are statements of intent directing or authorizing a course of action or specifying criteria on which to make a public decision. They provide a comprehensive basis for the shoreline master program regulations, which generally are more specific, prescriptive standards used to evaluate shoreline development.

Shoreline policies shall be developed through a comprehensive shoreline planning process allowing for public and affected Indian tribes participation. For governments planning under the Growth Management Act, the master program policies are considered a shoreline element of the local comprehensive plan and shall also be consistent with the planning goals of RCW 36.70A.020.

At a minimum, shoreline master program policies shall:

(A) Be consistent with state shoreline management policies listed in this chapter and the objectives of the Shoreline Management Act.

(B) Address the master program elements of RCW 90.58.020.

(C) Include policies for environment designations as described in WAC 173-26-210. The policies shall be accompanied by a map or physical description of the schematic environment designation boundaries in sufficient detail to compare with comprehensive plan land use designations.

(ii) Master program regulations.

RCW 90.58.100 states:

The master programs provided for in this chapter, when adopted or approved by the department, shall constitute use regulations for the various shorelines of the state.

In order to implement the directives of the Shoreline Management Act, master program regulations shall:

(A) Be in sufficient scope and detail to ensure the implementation of the Shoreline Management Act, state-wide shoreline management policies of this chapter, and local master program policies;

(B) Include environment designation regulations that apply to specific environments consistent with WAC 173-26-210.

(C) Include general regulations, use regulations that address issues of concern to specific uses, and shoreline modification regulations that protect shoreline ecological functions from the effects of human-made modifications to the shoreline.

(iii) Administrative provisions.

(A) Statement of applicability.

The Shoreline Management Act's provisions apply to all development and uses within its jurisdiction, whether or not a shoreline permit is required. Local governments have the authority to condition a project even though it is exempt from the requirement for a substantial development permit. There

has been, historically, some public confusion regarding the Shoreline Management Act's applicability. Therefore, all master programs shall include the following statement:

"All new development and uses occurring within shoreline jurisdiction must conform to chapter 90.58 RCW: The Shoreline Management Act, chapter 173-26 of the Washington Administrative Code, and this master program."

(B) Conditional use and variance provisions.

RCW 90.58.100(5) states:

Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).

All master programs shall include standards for reviewing conditional use permits and variances which conform to chapter 173-27 WAC.

(C) Administrative permit review and enforcement procedures.

RCW 90.58.140(3) states:

The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

Local governments may, but are not required to, include administrative, enforcement, and permit review procedures into the master program. These procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, and to chapter 173-27 WAC. However, the procedures may be defined by a local government ordinance separate from the master program.

Adopting review and enforcement procedures separate from the master program allows local governments greater flexibility in revising their shoreline permit review procedures and integrating them with other permit processing activities.

(D) Documentation of project review actions and changing conditions.

Master programs shall include a mechanism for documenting project review actions in shoreline areas. Local governments shall also identify a process for evaluating their cumulative effects on shoreline conditions. This process could involve a joint effort by local governments, state resource agencies, affected Indian tribes, and other parties.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION**WAC 173-26-200 Comprehensive process to prepare or amend shoreline master programs. (1) Applicability.**

This section outlines a comprehensive process to prepare or amend a shoreline master program. Local governments shall incorporate the steps indicated if one or more of the following criteria apply:

(a) The master program amendments being considered represent a significant modification to shoreline management practices within the local jurisdiction; they modify more than one environment designation boundary, significantly add, change or delete use regulations, or change where specific uses are allowed;

(b) Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;

(c) The master program amendments being considered contain provisions that will affect a substantial portion of the local government's shoreline areas;

(d) There are substantive issues such as priority species recovery or water resource management, that must be addressed on a comprehensive basis;

(e) The current master program and the comprehensive plan are not mutually consistent; or

(f) There was no previous comprehensive master program update since original master program adoption.

(g) Monitoring and adaptive management indicate that changes are necessary to avoid loss of ecological functions.

If a local jurisdiction has undertaken a recent comprehensive update of the master program but seeks to make minor revisions to bring the master program into compliance with these guidelines or other state requirements, these modifications may be made without undertaking a fully comprehensive process.

All master program amendments, even amendments that do not fit within the criteria above, are subject to approval by the department.

(2) Basic concepts and principles.**(a) Use of scientific and technical information.**

RCW 90.58.100(1) states:

In preparing the master programs and any amendments thereto, the department and local governments shall, to the extent feasible:

(a) *Utilize a systematic interdisciplinary approach that will ensure the integrated use of the natural and social science and the environmental design arts;*

(b) *Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;*

(c) *Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;*

(d) *Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;*

(e) *Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;*

(f) *Employ, when feasible, all appropriate modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.*

To address the requirements for the use of scientific and technical information, local governments shall incorporate the following two steps into their master program development and amendment process.

First, identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern. The context, scope, magnitude, significance, and potential limitations of the scientific information should be considered. At a minimum, make use of and, where applicable, incorporate all available and relevant scientific information, aerial photography, inventory data, technical assistance materials, manuals and services from reliable sources of science. Local governments should also contact relevant state agencies, universities, and affected Indian tribes for available information. If local governments initiate scientific research as a basis for master program provisions, that research shall use accepted scientific methods and research procedures and be subject to peer review. Local governments are encouraged to work interactively with neighboring jurisdictions, state resource agencies, and affected Indian tribes to address technical issues beyond the scope of existing information resources or locally initiated research.

At a minimum, local governments should consult with the technical assistance materials produced by the department. Unless there is more current or specific information available, those technical assistance materials shall constitute an element of scientific and technical information as defined in these guidelines.

Second, base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available. Local governments should be prepared to identify the following:

(i) Scientific information and management recommendations on which the master program provisions are based;

(ii) Assumptions and information gaps in the scientific analysis;

(iii) Risks to ecological functions associated with master program provisions. Address potential risks as described in WAC 173-26-200 (3)(d).

The requirement to use scientific and technical information in these guidelines does not limit a local jurisdiction's authority to solicit and incorporate information, experience, and anecdotal evidence provided by interested parties as part of the master program amendment process. Such information should be solicited through the public participation process described in WAC 173-26-200 (3)(b). Where information collected by or provided to local governments conflicts or is inconsistent, the local government shall base master program provisions on a reasoned, objective evaluation of the relative merits of the conflicting data.

RCW 36.70A.172(1) of the Growth Management Act states:

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

Accordingly, local governments shall also include best available science as defined in RCW 36.70A.172(1) and its implementing rules when developing policies and regulations for critical areas within shoreline jurisdiction.

(b) Environmental evaluation and regulatory response.

Effective shoreline management requires the evaluation of changing conditions and the modification of regulations to address identified trends and new information. Local governments are encouraged to undertake local monitoring and periodically update master program provisions to improve shoreline management practices over time.

(c) Ecological functions.

RCW 90.58.020 includes the following statement:

This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life while protecting generally public rights of navigation and corollary rights incidental thereto.

This chapter implements the above-cited policy through the protection and restoration of ecological functions. The concept of ecological functions, as defined in WAC 173-26-020, recognizes that successful management of the shoreline environment depends on sustaining the:

- (i) Ecosystem-wide fluvial, current, and wave processes that form habitats, and
- (ii) Individual functions and their processes that are present in each habitat type.

The loss or degradation of one or more ecosystem-wide processes or individual functions can significantly impact shoreline habitats and human health and safety. Shoreline master programs shall address the applicable ecosystem-wide processes and individual ecological functions identified in the ecological systems analysis described in WAC 173-26-200 (3)(d)(i).

Nearly all shoreline areas, even substantially developed or degraded areas, retain some important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecological systems are themselves interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the objectives for protection and restoration of ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain provisions to protect and contribute to the restoration of ecological functions and ecosystem-wide processes based on analysis described in WAC 173-26-200 (3)(d).

(d) Preferred uses.

RCW 90.58.020 states:

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes.

Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-020, when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020, local governments should, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (i) of this subsection.

(i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

(ii) Reserve shoreline areas for water-dependent uses and establish policies and regulations so that water-dependent development is consistent with comprehensive ecological protection and restoration objectives. Harbor areas and areas that are generally considered navigable for commercial purposes should be reserved for water-dependent and water-related uses unless the local governments can demonstrate that adequate shoreline is otherwise reserved for future water-dependent and water-related uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Reserve shoreline areas for water-related and water-enjoyment uses that are compatible with water-depend-

dent uses and ecological protection and restoration objectives.

(iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

(v) Limit nonwater-oriented uses to those locations where either water-oriented uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Local conditions and environmental constraints may result in lower priority uses being accommodated. For example, an undeveloped shoreline may not be an appropriate site for a water-dependent use, such as a cargo facility, but may accommodate a recreational trail (water-enjoyment) of a lower priority.

For shorelines of state-wide significance, apply the preferences as indicated in WAC 173-26-250(2).

(e) Environmental impact mitigation.

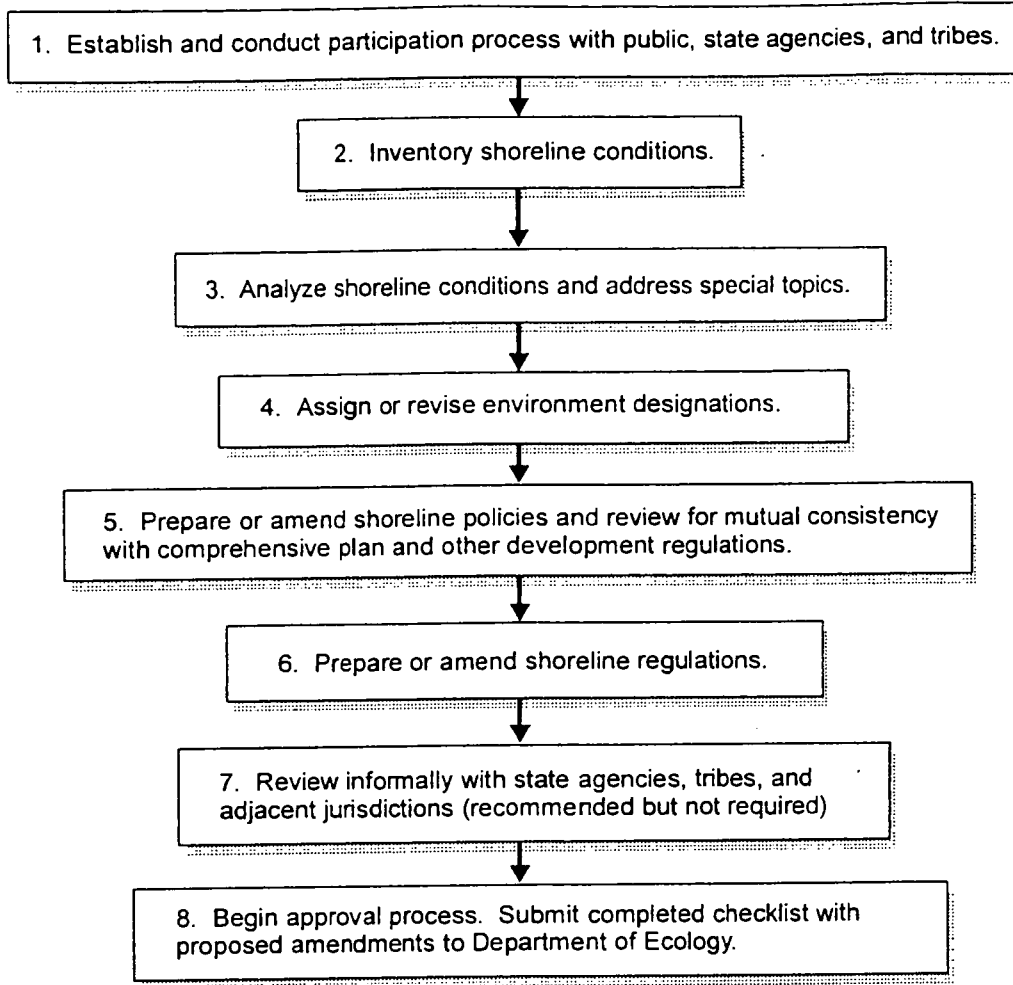
Because the Shoreline Management Act recognizes both the appropriate use and environmental protection of the state's shorelines, situations may arise in which otherwise allowable development must include measures to mitigate environmental impacts and implement the Shoreline Management Act's environmental protection objectives. Rules implementing Washington's State Environmental Policy Act of 1971, chapter 43.21C RCW, also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Where these guidelines call for mitigation or mitigation sequencing, shoreline master programs shall include provisions for providing environmental impact mitigation. This may be done by prescribing specific mitigation actions for specific uses as called for in WAC 173-26-240 (2)(a), by requiring conditional use permits as described in WAC 173-26-240 (2)(b), and/or by implementing a plan for comprehensive environmental mitigation.

To this end, master programs shall indicate that, where required, mitigation measures shall be applied in the sequence defined in WAC 173-26-020. In determining appropriate mitigation measures, avoidance of impacts by means such as relocating or redesigning the proposed development shall be applied first. Lower priority measures shall be applied only after higher priority measures are demonstrated to be not feasible or not applicable.

(3) Steps in preparing and amending a master program.

(a) Process overview.

Figure 4 below illustrates a generalized process to prepare or comprehensively amend a shoreline master program. Local governments may modify the timing of the various steps, integrate the process into other planning activities, add steps to the process, or work jointly with other jurisdictions or regional efforts, provided the provisions of this chapter are met.



PROPOSED

Figure 4. Steps in preparing comprehensive shoreline master program amendments. (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

The department will provide a shoreline master program amendment checklist to help local governments identify issues to address. The checklist will not create new or additional requirements beyond the provisions of this chapter. The checklist is intended to aid the preparation and review of master program amendments. Local governments shall submit the completed checklist with the proposed master program amendments. The department will send completed checklists to other resource agencies and affected Indian tribes reviewing the master program.

(b) Participation process.

Establish a public and intergovernmental participation process.

(i) Public participation.

RCW 90.58.130 states:

To insure that all persons and entities having an interest in the guidelines and master programs developed under this chapter are provided with a full opportunity for involvement

in both their development and implementation, the department and local governments shall:

(1) Make reasonable efforts to inform the people of the state about the shoreline management program of this chapter and in the performance of the responsibilities provided in this chapter, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and

(2) Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the state. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments.

For local governments planning under the Growth Management Act, the provisions of RCW 36.70A.140 also apply.

At a minimum, all local governments shall be prepared to describe and document their methods to ensure that all interested parties have a meaningful opportunity to participate. If a local committee or other group is appointed to advise the amendment process, local governments shall ensure that that body represents the full range of interests of all citizens within the local jurisdiction.

(ii) Communication with state agencies.

Before undertaking substantial work, local governments shall notify applicable state resource agencies to identify state interests, relevant regional and state-wide efforts, available information, and methods for coordination and input. Contact the department for a list of applicable agencies to be notified.

(iii) Communication with affected Indian tribes.

Prior to undertaking substantial work, local governments shall notify affected Indian tribes to identify tribal interests, relevant tribal efforts, available information and methods for coordination and input. Contact the individual tribes or coordinating bodies such as the Northwest Indian Fisheries Commission, for a list of affected Indian tribes to be notified.

(c) Inventory shoreline conditions.

At a minimum, gather and incorporate all pertinent and available information, existing inventory data and materials from state agencies, affected Indian tribes, watershed management planning, and other appropriate sources. Ensure that, whenever possible, inventory methods and protocols are consistent with those of neighboring jurisdictions and state efforts. Contact the department to determine information sources and other relevant efforts.

Local governments shall be prepared to demonstrate how the inventory information was used in preparing their local master program amendments.

Collection of additional inventory information is encouraged and should be coordinated with other watershed, regional, or state-wide inventory and planning efforts in order to ensure consistent methods and data protocol as well as effective use of fiscal and human resources. Local governments should be prepared to demonstrate that they have coordinated with applicable interjurisdictional shoreline inventory and planning programs where they exist. Two or more local governments are encouraged to jointly conduct an inventory in order to increase the efficiency of data gathering and comprehensiveness of inventory information. Data from interjurisdictional, watershed, or regional inventories may be substituted for an inventory conducted by an individual jurisdiction, provided it meets the requirements of this section.

At a minimum, and to the extent such information is relevant and reasonably available, collect the following information:

(i) Shoreline and adjacent land use patterns and transportation facilities, including the extent of existing structures, impervious surfaces, and vegetation and shoreline modifications in shoreline jurisdiction.

(ii) Critical areas, including wetlands, aquifer recharge areas, critical wildlife habitats, geologically hazardous areas, and frequently flooded areas, as required by RCW 36.70.170.

(iii) Degraded areas and sites with ecological restoration potential.

(iv) Areas of special interest, such as priority habitats rapidly developing waterfronts, cleanup sites, or eroding shorelines, to be addressed through new master program provisions.

(v) Conditions and regulations in shoreland and adjacent areas that affect shorelines, such as surface water management and land use regulations. This information may be useful in achieving mutual consistency between the master program and other development regulations.

(vi) Existing and potential shoreline public access sites, including public rights-of-way.

(vii) General location of bank full width limits, channel migration zones, and flood plains.

(viii) Gaps in existing information. During the initial inventory, local governments should identify what additional information may be necessary for more effective shoreline management.

(ix) If the shoreline is rapidly developing or subject to substantial human changes such as clearing and grading, past and current records or historical aerial photographs may be necessary to identify cumulative impacts, such as bulkhead construction, intrusive development on priority habitats, and conversion of harbor areas to nonwater-oriented uses.

(x) If archaeological or historic resources have been identified in shoreline jurisdiction, consult with the state historic preservation office and local affected Indian tribes regarding existing archaeological and historical information.

(d) Analyze shoreline issues of concern.

Analyze shoreline conditions based on information gathered in (c) of this subsection and address special topics. Before establishing specific master program provisions, local governments shall perform analysis and planning tasks necessary to ensure effective shoreline management provisions, addressing the topics below, where applicable.

(i) Shoreline ecological systems.

Prepare a characterization of shoreline ecological systems. These systems include riverine, lacustrine, and tidal systems as listed in WAC 173-26-020. The characterization consists of three steps:

(A) Identify which of the ecosystem-wide processes and ecological functions listed in WAC 173-26-020 apply within the shoreline jurisdiction and identify which have been significantly altered and which may be missing or significantly impacted;

(B) Assess the ecosystem-wide processes to determine their effect/impact on shoreline systems present within a jurisdiction and their individual functions; and

(C) Develop the specific master program provisions necessary to protect and/or restore ecological functions and ecosystem-wide processes. The characterization may be achieved by using one or more of the approaches below:

(I) If a regional environmental management plan, such as a watershed plan and limiting habitat factors analysis, is ongoing or has been completed, then conduct the characterization either within the framework of the regional plan or use the data provided in the regional plan. This methodology

is intended to provide an in-depth and comprehensive assessment and characterization.

(II) If a regional management plan has not been completed, use available scientific and technical information, including flood studies, habitat evaluations and studies, water quality studies, and data and information from environmental impact statements. This characterization of ecosystem-wide processes and the impact upon the functions of specific habitats and human health and safety may be of a generalized nature.

(III) One or more local governments may pursue a characterization which includes a greater scope and complexity than listed in items (I) and (II) of this subsection.

Local governments should ensure that master program provisions protect the shoreline processes within the subject jurisdiction that are critical to creating and sustaining the widest range of shoreline functions. To achieve this, the level of resource protection must account for risks to the environment and incremental impacts from development allowed by the master program. Local governments should use this analysis to prepare master program provisions to protect and contribute to the restoration of the ecosystem-wide processes and individual ecological functions on a comprehensive basis over time. This does not necessarily require that each development or action on the shoreline individually improves ecological functions.

(ii) Shoreline use analysis and priorities.

Conduct an analysis to determine the future demand for shoreline space and the methods to resolve potential use conflicts. Characterize current shoreline use patterns and projected trends to ensure a balance of uses consistent with chapter 90.58 RCW and WAC 173-26-200 (2)(d) and 173-26-210(5).

If the jurisdiction includes a harbor area or urban waterfront with intensive uses or significant development issues, work with the Washington state department of natural resources and port authorities to ensure consistency with harbor area statutes and regulations. Identify measures and strategies to encourage appropriate use of these shoreline areas while pursuing opportunities for ecological restoration.

(iii) Cumulative impacts.

At a minimum, local governments, with the assistance of state agencies, should project the ultimate allowed full build-out condition for existing and proposed master program provisions being considered. This assessment should include potential impacts due to all development, including current conditions and those uses not requiring a shoreline permit. Master programs should address cumulative adverse impacts caused by incremental development, such as residential bulkheads, residential piers, or runoff from newly developed properties, and shall include master program provisions to assess, minimize, and mitigate cumulative impacts.

(iv) Shorelines of state-wide significance.

If the area contains substantial amounts of shorelines of state-wide significance, undertake the steps outlined in WAC 173-26-250.

(v) Public access.

Identify public access needs and opportunities within the jurisdiction and explore actions to enhance shoreline recreation facilities, as described in WAC 173-26-220(4).

(vi) Enforcement and coordination with other regulatory programs.

Local governments planning under the Growth Management Act shall review their comprehensive plan policies and development regulations to ensure mutual consistency. In order to effectively administer and enforce master program provisions as well as other development regulations, local governments should also review their current permit review and inspection practices to identify ways to increase efficiency and effectiveness and to ensure consistency.

(vii) Water quality.

Identify water quality and quantity issues relevant to master program provisions, including those that affect human health and safety. At a minimum, consult with appropriate federal, state, tribal, and local agencies.

(viii) Vegetation conservation.

Identify how existing shoreline vegetation provides ecological functions and determine methods to ensure protection of those functions. Identify important ecological functions that have been degraded through loss of vegetation and feasible means to restore those functions. Consider the amount of vegetated shoreline area necessary to achieve ecological objectives. While there may be less vegetation remaining in urbanized areas than in rural areas, the importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity.

(ix) Special area planning.

If the jurisdiction includes complex shoreline ecological issues, changing uses, or other unique features, the local government is encouraged to undertake special area planning. Special area planning may be used to address: Public access, vegetation conservation, shoreline use compatibility, port development master planning, ecological restoration, or other issues best addressed on a comprehensive basis.

The resultant plans may serve as the basis for facilitating state and local government coordination and permit review. Special area planning shall provide for public and affected Indian tribe participation.

(e) Establish environment designations.

Establish environment designations and identify permitted uses and development standards for each environment designation.

Based on the inventory of (c) of this subsection and the analysis in (d) of this subsection, assign each shoreline segment an environment designation.

Prepare specific environment designation policies and regulations where necessary to address different shoreline conditions and objectives.

Review the environment designations for mutual consistency with comprehensive plan land use designations as indicated in WAC 173-26-210(3).

In determining the boundaries and classifications of environment designations, adhere to the priorities in WAC 173-26-200 (2)(d).

(f) Establish shoreline policies.

Address all of the elements listed in RCW 90.58.100(2). Review for mutual consistency with the comprehensive plan policies. If there are shorelines of state-wide significance, ensure that the other comprehensive plan policies affecting shoreline jurisdiction are consistent with the objectives of RCW 90.58.020 and 90.58.090(4).

(g) Prepare shoreline regulations.

Prepare shoreline regulations based on the analyses described in this section and the guidelines of this chapter. The level of detail of inventory information and planning analysis will be a consideration in setting shoreline regulations. As a general rule, the less known about existing resources, the more stringent shoreline master program provisions should be to avoid irreparable damage to shoreline resources. If there is a question about the extent or condition of an existing ecological resource, then the master program provisions shall be sufficiently restrictive to ensure that the resource is not significantly damaged. Local governments may accomplish this by including master program requirements for an on-site inventory at the time of project application.

(h) Submit for review and approval.

Local governments are encouraged to work with department personnel during master program preparation and to submit draft master program provisions to the department for informal advice and guidance prior to formal submittal.

Local governments shall submit the completed checklist, as described in WAC 173-26-200 (3)(a), with their master program amendments proposed for adoption. Master program review and formal adoption procedures are described in Parts I and II of this chapter.

NEW SECTION

WAC 173-26-210 Environment designation system.

(1) Applicability.

This section applies to the establishment of environment designation boundaries and provisions as described in WAC 173-26-190 (1)(d).

(2) Basic requirements for environment designation classification and provisions.

Master programs shall contain a system to classify shoreline areas into specific environment designations. Each master program's classification system shall be consistent with that described in WAC 173-26-210 (4) and (5) of this chapter unless there is a compelling reason, based on the act and this chapter, to the contrary and the alternative proposed provides equal or better implementation of the Shoreline Management Act.

An up-to-date and accurate map of the shoreline area and environments shall be prepared and maintained in the local government office that administers shoreline permits. If it is not feasible to accurately designate individual parcels on a map, the master program text shall include a clear basis for identifying the boundaries, physical features, explicit criteria, or "common" boundary descriptions to accurately define and distinguish the environments on the ground.

To facilitate consistency with land use planning, local governments planning under chapter 36.70A RCW are

encouraged to illustrate shoreline designations on the comprehensive plan Future Land Use Map as described in WAC 365-195-300 (2)(d).

The map should clearly illustrate what environment designations apply to all lands in shoreline jurisdiction, including flood plains, river deltas, and associated wetlands.

The master program should also make it clear that in the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in chapter 173-22 WAC pertaining to wetlands, as amended, rather than the incorrect or outdated map.

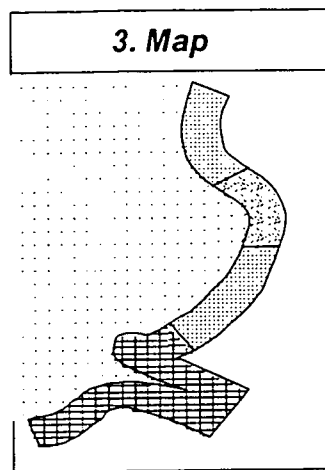
The map and the master program should note that all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "rural conservancy" designation until the shoreline can be redesignated through a master program amendment.

The following diagram summarizes the components of the environment designation provisions.

1. List of Designations

- & Aquatic
- & Shoreline Residential
- & Rural Conservancy
- & Natural
- & Others

2. Common Legal Descriptions



4. For Each Designation

- & Purpose of Designation
- & Designation Criteria
- & Management Policies

6. Environment Specific Regulations

- & Site Development
- & Vegetation Management
- & Public Access
- Etc.

5. Matrices (Optional)

Use Category	Environment			
	S. Resid.	Rural Cons.		
	P	C		
	P	C		
	X	P		
Activities				
	P	P		
	C	P		
	C	P		
Height	20'	30'		
Setback	60'	120'		
Etc.				

PROPOSED

Figure 5. Diagram summarizing the components of the environment designation provisions. (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

For each environment designation, the shoreline master program shall describe:

(a) **Purpose statement.**

The statement of purpose shall describe the shoreline management objectives of the designation in a manner that distinguishes it from other designations.

(b) **Classification criteria.**

Clearly stated criteria shall provide the basis for classifying or reclassifying a specific shoreline area with an environment designation.

(c) **Management policies.**

These policies shall be in sufficient detail to assist in the interpretation of the environment designation regulations and, for jurisdictions planning under chapter 36.70A RCW, to evaluate consistency with the local comprehensive plan.

(d) Regulations.

Environment-specific regulations shall address the following where necessary to account for different shoreline conditions:

- (i) Types of shoreline uses permitted, conditionally permitted, and prohibited;
- (ii) Preferred shoreline use requirements;
- (iii) Building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards;
- (iv) Native vegetation conservation, shoreline stabilization, parking, signs, public access, and other standards not covered in general use regulations.

(3) Consistency between shoreline environment designations and the local comprehensive plan.

As noted in WAC 173-26-190 (2)(a), RCW 90.58.340 requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the applicable master program. Conversely, local comprehensive plans constitute the underlying framework within which master program provisions should fit. The Growth Management Act, where applicable, designates shoreline master program policies as an element of the comprehensive plan and requires that all elements be internally consistent. Chapter 36.70A RCW also requires development regulations to be consistent with the comprehensive plan.

The following criteria are intended to assist local governments and the department in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

(a) Provisions not precluding one another.

The comprehensive plan provisions and shoreline environment designation provisions do not preclude one another. To meet this criteria, the provisions of both the comprehensive plan and the master program must be able to be met. The comprehensive plan and master program should make specific provisions for resolving any apparent inconsistency. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded. For example, if the property is designated as within the shoreline residential environment, it should not be zoned exclusively for industrial use.

(b) Use compatibility.

Land use policies and regulations protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby nonwater-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development. For example, new residential development should not be allowed near heavy

shoreline industrial areas unless the impacts can be mitigated through design standards applied to the new residential development.

(c) Sufficient infrastructure.

Infrastructure and services provided in the comprehensive plan are sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. For example, high-density residential development and industrial uses shall not be allowed unless the comprehensive plan makes provision for needed infrastructure and services at appropriate locations.

In delineating environment designations, local governments should ensure that existing shoreline ecological functions can be protected and degraded shoreline ecological functions restored with the proposed pattern and intensity of urban growth. Infrastructure plans must also be mutually consistent with shoreline designations. Utility services routed through shoreline areas shall not be a sole justification for more intense development.

(4) Recommended environment designation classifications.

The recommended classification system consists of six basic environments: "High-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic." Local governments shall assign all shoreline areas an environment designation consistent with WAC 173-26-210(5).

Local governments may establish different subdesignations provided they are consistent with this chapter. For example, a local government wishing to differentiate between "conservancy" shorelines used for park purposes and those for habitat restoration might establish "conservancy-park" and "conservancy-habitat" designations, each with separate purposes, criteria, policies, and use provisions. Or, a local government may wish to set site-specific standards for pier and dock construction in more sensitive aquatic areas and restrict aquaculture in harbor areas by establishing "aquatic-conservancy" and "aquatic-harbor" environments, each with different allowable uses and development standards.

Local governments may use "parallel environments" where appropriate. Parallel environments divide shorelands into different sections generally running parallel to the shoreline or along a physical feature such as a bluff or railroad right of way. Such environments may be useful, for example, to accommodate both resource protection near the shoreline and development opportunities further from the shoreline.

Local governments may retain their current environment designations provided they can demonstrate that existing environment designation provisions are consistent with this chapter.

(a) "Natural" environment.**(i) Purpose.**

The purpose of the "natural" environment is to protect and restore those shoreline areas that are relatively free of human influence or that include important shoreline functions intolerant of human use. These systems require restric-

tions on the intensities and types of uses permitted to maintain the ecological functions and ecosystem-wide processes.

(ii) **Management policies.**

(A) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

(B) The following uses should not be allowed in the "natural" environment:

- Residences (except as noted below).
- Commercial uses.
- Industrial uses.
- Agriculture that involves tilling the earth or clearing native plant communities.
- Nonwater-oriented recreation.
- Roads, utility corridors, and parking areas that can be located outside of "natural"-designated shorelines.

Limited development, including residential development, may be allowed as a conditional use within the "natural" environment if such shoreline master program provisions result in a greater level of ecological functions.

(C) Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its implementing rules.

(D) Access may be permitted for scientific, historical, cultural, educational, and low-intensity water-oriented recreational purposes, provided that no significant ecological impact on the area will result.

(E) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new property parcel must be able to support its intended development without significant damage to the shoreline or to the vegetation necessary to maintain ecological functions.

(b) **"Rural conservancy" environment.**

(i) **Purpose.**

The purpose of the "rural conservancy" environment is to protect, conserve, and restore ecological functions, existing natural resources, and valuable historic and cultural areas in order to achieve ecological protection, sustain resource use, and provide recreational opportunities. Examples of uses that are appropriate in a "rural conservancy" environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, aquaculture, low-intensity residential development consistent with the local comprehensive plan's rural element and chapter 36.70A RCW, and other related low-intensity uses.

(ii) **Management policies.**

(A) Uses in the "rural conservancy" environment should be limited to those which are nonconsumptive (i.e., do not deplete over time) of the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area. Shoreline habitat restoration and environmental enhancement are preferred uses.

Except as noted below, commercial and industrial uses should not be allowed. Agricultural practices, commercial forestry, and aquaculture when consistent with provisions of this chapter may be allowed. Nonconsumptive, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.

Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated.

(B) Developments and uses that would substantially degrade or permanently deplete the physical or biological resources of the area should not be allowed.

(C) Construction of new structural shoreline stabilization and flood control works should not be allowed except where there is a demonstrated need to protect an existing structure or ecological functions and mitigation is applied, consistent with WAC 173-26-230. New development should be designed and located to preclude the need for such work.

(D) For jurisdictions planning under the Growth Management Act, new residential development in the "rural conservancy" environment should be consistent with the comprehensive plan rural element and with RCW 36.70A.070(5). Residential development standards should prevent significant cumulative adverse impacts to the shoreline environment. If existing development does not conform to rural element provisions, then the master program should address nonconforming uses in ways that reduce impacts to ecological functions.

For jurisdictions not planning under the Growth Management Act, development should be limited to a maximum of ten percent total impervious surface area within the lot or parcel lying in shoreline jurisdiction, unless an alternative standard is developed based on scientific information that meets the provisions of this chapter and protects shoreline ecological functions.

Master programs for jurisdictions not planning under the Growth Management Act may allow greater lot coverage to allow development of lots legally created prior to the adoption of these guidelines. In these instances, master programs shall require that lot coverage is minimized, that impacts are mitigated according to the mitigation sequence defined in WAC 173-26-020, and that development of lots created after the adoption of these guidelines does not exceed ten percent impervious surface area within shoreline jurisdiction.

(E) New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed to ensure that the natural shoreline functions are protected and restored over time. Shoreline ecological restoration should be required of new development or redevelopment where the shoreline ecological functions have been degraded.

(c) **"Aquatic" environment.**

(i) **Purpose.**

The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

(ii) **Management policies.**

(A) New over-water structures should be allowed only for water-dependent uses, public access, or ecological restoration.

(B) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

(C) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged, provided that use conflicts can be avoided.

(D) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(E) Uses that cause significant ecological impacts to critical saltwater and freshwater habitats should not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence defined in WAC 173-26-020.

(F) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality.

(d) **"High-intensity" environment.**

(i) **Purpose.**

The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial and industrial uses while protecting and restoring ecological functions. The "high-intensity" environment is designed to ensure optimum use of shorelines that are presently industrial or commercial in nature or planned for such use.

(ii) **Management policies.**

(A) In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments or existing developed areas supporting water-dependent uses. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200 (3)(d).

If an analysis of water-dependent use needs as described in WAC 173-26-200 (3)(d) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and nonwater-dependent uses may be established. If those shoreline areas also provide essential ecological functions, apply use standards to prevent significant ecological impacts to those functions.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed, provided that as development occurs, ecological

functions are maintained or restored. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated high-intensity.

(C) Where applicable, new development shall include environmental cleanup and restoration of the shoreline in accordance with state and federal requirements.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-220 (4)(d).

(E) Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. Local governments may implement this guideline by adopting a master program policy for aesthetic objectives and implementing the policy through other development regulations, such as sign or design review ordinances.

(e) **"Urban conservancy" environment.**

(i) **Purpose.**

The purpose of the "urban conservancy" environment is to protect and restore ecological functions in urban and developed settings while allowing a variety of water-oriented uses.

(ii) **Management policies.**

(A) During development and redevelopment, all reasonable efforts should be taken to restore ecological functions. Where feasible, shoreline restoration and public access should be required of all nonwater-dependent development on previously developed shorelines.

(B) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation to ensure that new development does not further degrade the shoreline and is consistent with an overall goal to improve ecological functions.

(C) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(D) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

(f) **"Shoreline residential" environment.**

(i) **Purpose.**

The purpose of the "shoreline residential" environment is to accommodate residential development and associated uses that are consistent with this chapter; to avoid and, if that is not feasible, minimize residential development impacts; and to provide appropriate public access and recreational uses.

(ii) **Management policies.**

(A) Developments should be permitted only in those shoreline areas where there are adequate access, water, sewage disposal, and utilities systems, and public services available and where the environment can support the proposed use in a manner which protects or restores the ecological functions.

(B) Densities or minimum frontage standards in the "shoreline residential" environment should be set to protect the shoreline ecological functions, taking into account the

environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions.

(C) Development standards for shoreline stabilization, vegetation conservation, critical area protection, and water quality should be established to protect and, where significant ecological degradation has occurred, restore ecological functions over time.

(D) Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.

(E) Commercial development should be limited to water-oriented uses.

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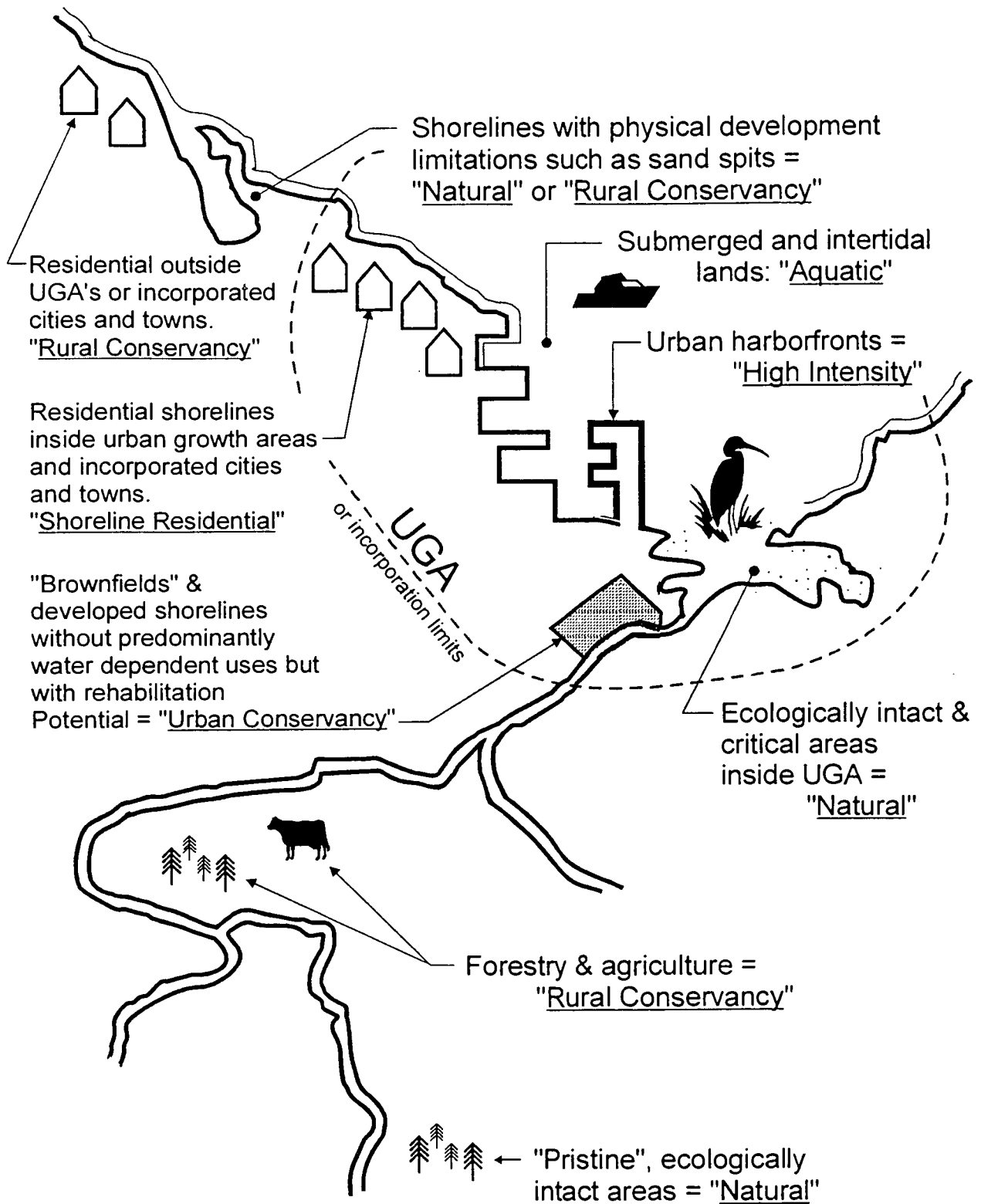


Figure 6. Schematic illustration of typical environment designations. (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(5) Criteria for assigning environment designation boundaries.

Local governments shall assign shoreline environment designations (environments) to all shoreline areas consistent with the criteria in (a) through (f) of this subsection.

(a) "Natural" environment criteria.

Assign a "natural" environment designation to shoreline areas if any of the following characteristics apply:

(i) The shoreline is ecologically intact and currently performing an important, irreplaceable function or ecosystem-wide process;

(ii) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

(iii) The shoreline is unable to support new development or uses without significant ecological impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed wetlands, marine estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

(b) "Rural conservancy" environment criteria.

Assign a "rural conservancy" environment designation to shoreline areas outside incorporated municipalities and outside urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:

(i) The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses;

(ii) The shoreline is currently accommodating residential uses outside urban growth areas and incorporated cities or towns;

(iii) The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or flood-prone areas;

(iv) The shoreline is of high recreational value or with unique historic or cultural resources; or

(v) The shoreline is currently supporting low-intensity water-dependent uses.

Areas designated in a local comprehensive plan as "rural areas of more intense development," as provided for in chapter 36.70A RCW, may be designated an alternate shoreline environment, provided it is consistent with the objectives of the Growth Management Act and this chapter. "Master planned resorts" as described in RCW 36.70A.360 may be designated an alternate shoreline environment, provided the applicable master program provisions do not allow significant ecological impacts to shoreline ecological functions.

Lands designated as "mineral resource lands of economic importance" may be designated as an alternative environment designation that allows mineral extraction, provided the provisions for that designation conform to WAC 173-26-240 (3)(h) and this chapter and protect ecological functions.

(c) "Aquatic" environment criteria.

Assign an "aquatic" environment designation to lands waterward of the ordinary high-water mark.

Local governments may designate submerged and intertidal lands with shoreland designations (e.g., "high-intensity" or "rural conservancy") if the management policies and objectives for aquatic areas are met. In this case, the designation system used must provide regulations for managing submerged and intertidal lands that are clear and consistent with the "aquatic" environment management policies in this chapter.

(d) "High-intensity" environment criteria.

Assign a "high-intensity" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.-070, if they currently support or are suitable and planned for high-intensity water-dependent uses related to commerce or navigation.

(e) "Urban conservancy" environment criteria.

Assign an "urban conservancy" environment designation to shoreline areas planned for development that are less suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" containing any of the following:

(i) Areas suitable for a mix of water-related or water-enjoyment uses that allow a substantial number of people to enjoy the shoreline;

(ii) Flood plains or other areas that should not be more intensively developed;

(iii) Areas with potential for ecological restoration; or

(iv) Areas retaining important ecological functions, even though partially developed.

(f) "Shoreline residential" environment criteria.

Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

NEW SECTION

WAC 173-26-220 General master program provisions. (1) Archaeological and historic resources.

(a) Applicability.

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

(b) Principles.

Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected

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Indian tribes, and the office of archaeology and historic preservation.

(c) Standards.

Local shoreline master programs shall include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines and implement the following standards. A local government may reference historic inventories or regulations. Contact the office of archaeology and historic preservation and affected Indian tribes for additional information.

(i) Require that developers and property owners immediately stop work and notify the local government, the office of archaeology and historic preservation and affected Indian tribes if anything of possible archaeological interest is uncovered during excavation.

(ii) Require that permits issued in areas documented to contain archaeological artifacts and data require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

(2) Critical areas.

(a) Applicability.

The provisions of this section shall apply to all critical areas, as defined by chapter 36.70A RCW, that lie within shoreline jurisdiction. Implementation of RCW 90.58.020 includes management of critical areas in the shoreline in order to protect human health and safety and the state's natural resources. RCW 36.70A.030 defines critical areas as stated below:

(5) "Critical areas" include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable waters;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

See WAC 365-190-080 for further definition of critical area categories and management policies.

(b) Principles.

Local master programs shall implement the following principles:

(i) Protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life.

(ii) In addressing issues related to critical areas, include best available science, as provided for in chapter 36.70A RCW.

(iii) Where necessary for the protection of the functions of a critical area, review provisions outside the designated critical area pursuant to RCW 90.58.340.

(iv) In protecting and restoring critical areas within shoreline jurisdiction, consider the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs.

(v) The objective of shoreline management provisions for critical areas shall be the protection of existing ecological functions and restoration of areas with degraded ecological functions and ecosystem-wide processes. Appropriate units

to address this goal include a littoral drift cell for marine waters or all of an identifiable portion of a watershed for freshwaters. Local governments should accomplish this on a comprehensive basis, as described in WAC 173-26-200(3)(d)(i), (e), (f), and (g).

(vi) Promote human uses and values, such as aesthetic values, provided they do not adversely impact ecological functions.

(vii) Implement, where applicable and consistent with the objectives of the Shoreline Management Act, the minimum guidelines in WAC 365-190-080.

(c) Standards.

Shoreline master programs shall adhere to the following standards, unless it is demonstrated through best available science that an alternative approach provides better resource protection. Provisions for frequently flooded areas are included in WAC 173-26-220(3).

(i) Wetlands.

(A) Wetland use regulations.

In developing regulations for the protection of wetlands, local governments shall include best available science as required by RCW 36.70A.172(1). Local governments should consult the department's technical guidance documents on wetlands.

Use regulations shall address the following uses to achieve, at a minimum, no net loss of wetland area and functions:

- The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

- The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrial wastewater;

- The draining, flooding, or disturbing of the water level, duration of inundation, or water table;

- The driving of pilings;

- The placing of obstructions;

- The construction, reconstruction, demolition, or expansion of any structure;

- Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; or

- Other uses or development that results in a significant change of physical, chemical, or biological characteristics of wetlands.

(B) Wetland rating or categorization.

Wetlands shall be categorized based on the rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. Local governments should consult the Washington State Wetland Rating System, Eastern or Western Washington version as appropriate.

(C) Alterations to wetlands.

Master program provisions addressing alterations to wetlands shall be consistent with the policies of no net loss of wetland area and functions, wetland rating, best available science, and the mitigation sequence defined in WAC 173-26-020.

(D) Buffers.

Master programs shall contain requirements for buffer zones around wetlands. Buffer requirements shall be adequate to ensure that wetland functions are protected and maintained in the long-term. Requirements for buffer zone widths and management shall include best available science and shall take into account the ecological functions of a wetland, the characteristics and setting of the existing buffer, the potential impacts associated with the adjacent land use, and other relevant factors.

(E) Mitigation.

Master programs shall contain wetland mitigation requirements that are consistent with the definition of mitigation in WAC 173-26-020, are based on the wetland rating, and include best available science.

(F) Compensatory mitigation.

Compensatory mitigation should be allowed only after mitigation sequencing of WAC 173-26-020 (a) through (d) is applied.

Requirements for compensatory mitigation must include provisions for:

(I) Mitigation replacement ratios or a similar method of addressing the following:

- The risk of failure of the compensatory mitigation action;
- The length of time it will take the compensatory mitigation action to result in sustainable wetland functions and values;
- The gain or loss of the type, quality, and quantity of the ecological functions of the compensation wetland as compared with the impacted wetland.

(II) Establishment of performance standards for evaluating the success of compensatory mitigation actions;

(III) Establishment of long-term monitoring and reporting procedures to determine if performance standards are met; and

(IV) Establishment of long-term protection and management of compensatory mitigation sites.

Credits from a state certified mitigation bank may be used to compensate for unavoidable impacts in accordance with chapter 90.84 RCW and chapter 173-700 WAC.

(ii) Geologically hazardous areas.

Restrict new development on unstable bluffs and river channel migration zones and landslide areas. Consult minimum guidelines for geologically hazardous areas, WAC 365-190-080(4).

Do not allow new development or the creation of lots that would cause foreseeable risk to people or ecological functions during the life of the development.

Do not allow new development that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed water-dependent uses where no alternative locations are available and significant ecological impacts are mitigated. The stabilization measures shall conform to WAC 173-26-230.

Where no alternatives, including relocation of existing structures, are found to be feasible, shoreline stabilization structures (including bluff walls) to protect existing residences may be allowed in strict conformance with WAC 173-

26-230 requirements and then only if significant ecological impacts are adequately mitigated.

(iii) **Critical saltwater habitats** and shorelands associated with marine waters and estuaries.

Critical saltwater habitats include kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, sandlance, and smelt, commercial and recreational shellfish beds, and areas with which priority species have a primary association. Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide. Ecological functions of marine shorelands can affect the viability of critical saltwater habitats. Therefore, effective protection and restoration of critical saltwater habitats should consider management of shorelands as well as submerged areas.

(A) Comprehensive saltwater habitat management.

Applicable shoreline master programs should implement cooperative saltwater habitat management planning to protect and restore the resource through regulations, advanced planned mitigation, and other means. The management planning shall incorporate the participation of state resource agencies and affected Indian tribes and serve as the basis for master program provisions. Local governments should base management planning on information provided by state resource agencies and affected Indian tribes unless they possess more accurate and reliable information.

The management planning should include an evaluation of current data and trends regarding the following:

- The physical characteristics of the habitat and any information on species population trends;
- The level of human activity in such areas, including the presence of roads and level of recreational types (passive or active recreation may be appropriate for certain areas and habitats);
- Land uses surrounding the critical saltwater habitat areas that may negatively impact these areas; and
- Existing data gaps and a strategy for gaining this information.

The management planning should address the following, where applicable:

- Protecting and restoring a system of fish and wildlife habitats with connections between larger habitat blocks and open spaces;
- Protecting and restoring estuarine ecosystems;
- Establishing buffer zones around these areas to separate incompatible uses from the habitat areas;
- Restoring lost salmonid habitat;
- Improving water quality;
- Protecting freshwater and sediment inflow regimens; and
- Protecting and restoring the relevant ecological functions of shorelands associated with marine waters.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should classify and protect seasonal ranges and habitat elements with which federal- and state-listed endangered, threatened, and priority species have a primary association and which, if altered, may reduce the likelihood that the species will maintain its population and reproduce over the long term.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should determine which habitats and species are of local importance.

All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Local governments should consider both commercial and recreational shellfish areas. Local governments should review the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas. Local governments shall classify kelp and eelgrass beds identified by the department of natural resources' aquatic lands division, the department, and affected Indian tribes.

Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.

(B) Conditions for development.

Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except for a water-dependent use, ecological restoration, or public access and when all of the conditions below are met:

- The public's need for such a structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

- Avoidance of impacts to critical areas by an alternative alignment or location is not feasible;

- The project is designed to minimize its impacts on critical saltwater habitats and the environment;

- Significant ecological impacts will be mitigated through the mitigation sequence described in WAC 173-26-020; and

- The project is consistent with the state's interest in resource protection and species recovery.

If an inventory of critical saltwater habitat has not been done, the shoreline master program shall condition all over-water developments where critical saltwater habitats may occur with the requirement for an inventory of the site to assess the presence of those habitats. The methods and extent of the inventory shall be consistent with accepted research methodology and with standards for scientific and technical information. At a minimum, local governments should consult with department technical assistance materials for guidance.

(iv) Riverine corridors and other freshwater fish and wildlife conservation areas.

(A) The following provisions apply to master program provisions and shoreline management activities within shoreline jurisdiction, including streams, rivers, wetlands, and lakes, affecting freshwater fish and wildlife habitat conservation areas, as defined in WAC 365-190-080 (5)(a), and those freshwater shoreline areas with priority species and habitats.

(B) Many ecological functions of riverine corridors depend both on the continuity of the natural environment along the length of the shoreline and on the conditions of the

surrounding lands on either side of the river channel. Significant damage to the environment, such as a polluting outfall, can destroy ecological functions downstream. Likewise, gradual destruction or loss of the vegetation along the corridor or extensive flood plain development can raise water temperatures and alter hydrologic conditions, thereby making the corridor uninhabitable for priority species and susceptible to catastrophic flooding, droughts, and landslides. These conditions can also threaten human health, safety, and property. Therefore, effective management of riverine corridors depends on (I) planning, protecting, and restoring the length of the corridor, and (II) regulating the uses within the stream channel, channel migration zone, and the flood plain. Water quality and hydrological processes also depend upon surface water run-off and ground water in lands outside the flood plain. For this reason, comprehensive watershed efforts are the most effective approach to corridor management.

Recognizing that long stretches of riverine shorelines have been altered or degraded from their natural condition, effective riverine management usually requires a two-part strategy of:

- Preventing damage to river shoreline areas that retain their ecological functions; and

- Restoring degraded shoreline areas whenever feasible.

Local governments should base master program provisions for critical freshwater fish and wildlife habitat conservation areas on a comprehensive approach, as described in WAC 173-26-200 (3)(d)(i), (e), (f), and (g). As part of this comprehensive approach, local governments should integrate categories of master program provisions, including those for shoreline stabilization, fill, vegetation conservation, water quality, flood hazard reduction, and specific uses, to protect human health and safety and to protect and restore the corridor's ecological functions and ecosystem-wide processes.

Applicable master programs should contain provisions to protect and restore hydrologic connections between water bodies, water courses, and associated wetlands. For example, master programs should require that permitted dikes, roads, or other structures be constructed to allow the natural flow of water between dry or braided channels, associated wetlands, the main river channel, and associated water bodies. Incentives should be provided to restore water connections that have been impeded by previous development.

Master program provisions for riverine corridors should, where appropriate, be based on the information from comprehensive watershed management planning, as indicated in WAC 173-26-200 (3)(c) and (d).

(3) Flood hazard reduction.

(a) Applicability.

The following provisions apply to actions taken to reduce flood damage or hazard and to uses that could increase flood hazards. Flood hazard reduction measures may consist of structural measures, such as dikes, levees, revetments, floodwalls, elevation of structures, biotechnical measures, and channel realignment; and nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, and storm water management programs.

(b) Principles.

Flooding of rivers, streams, and other shorelines is a natural process that is affected by factors and land uses occurring throughout the watershed. For this reason, flood hazard reduction measures are most effective when integrated into comprehensive strategies that recognize the natural hydrogeological and biological processes of water bodies.

Structural flood hazard reduction measures, such as stream channelization and diking, even if effective in reducing inundation in a portion of the watershed, can intensify flooding elsewhere. Flood hazard reduction measures can damage ecological functions crucial to fish and wildlife species, bank stability, and water quality. Therefore, flood hazard reduction measures shall be accomplished in a manner to minimize impact to shoreline ecological functions and ecosystem-wide processes.

Master programs shall implement the following principles:

(i) Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and this chapter.

(ii) Consider integrating master program flood hazard reduction provisions with other regulations and programs, including (if applicable): Storm water management plans; flood plain regulations, as provided for in chapter 86.16 RCW; critical areas ordinance and comprehensive plan, as provided in chapter 36.70A RCW; and National Flood Insurance Program.

(iii) Protect and restore the ecological functions while reducing risk to human safety and property. When preparing master program provisions for flood hazard reduction measures, address the protection and restoration of ecological functions and ecosystem-wide processes on a comprehensive basis consistent with WAC 173-26-200 (3)(d)(i), (e), (f), and (g) and 173-26-220 (2)(c)(iv).

(iv) Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures. For example, setback or relocation of uses is generally preferred over new dikes or seawalls.

(c) **Standards.**

Master programs shall implement the following standards within shoreline jurisdiction:

(i) Do not allow new development that substantially increases flood hazard or that is inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW and approved by the department. Do not allow new development or uses in shoreline jurisdiction, including the subdivision of land, that will require structural flood hazard reduction measures within the channel migration zone, except for:

- Actions that increase the ecosystem-wide processes or ecological functions toward more properly functioning conditions.

- Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

- Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.

- Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists. Where such structures are allowed, mitigation shall be required that returns limited functions and processes of the applicable section of watershed or drift cell to more properly functioning conditions.

- Repair and maintenance of an existing legal use, provided that such actions do not adversely affect threatened or endangered species.

- Development on a previously altered site where it is demonstrated that the development returns applicable functions and processes of the applicable section of the watershed or drift cell to a more natural condition.

- Development consistent with a management plan approved by the department of ecology that is directed toward achieving properly functioning conditions.

- Modifications or additions to an existing legal use, provided that channel migration is not further limited and that the new development includes appropriate ecological restoration.

- Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where existing human-made structures prevent active channel movement.

(ii) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and technical analysis that they are necessary to protect existing development and uses, that nonstructural measures are not feasible, that impacts to the existing shoreline functions and priority species and habitats can be successfully mitigated, and that appropriate vegetation conservation actions are undertaken.

Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department that evaluates cumulative impacts to the watershed system.

(iii) Require that all new structural flood hazard reduction measures and improvements to existing structures include measures to restore ecological functions whenever feasible.

(iv) Place new structural/flood hazard reduction measures landward of the floodway, channel migration zone, and associated wetlands that function as flood storage areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below.

Flood hazard reduction measures may occur in a channel migration zone only if it is determined that no other alternative to protect existing improvements is feasible. The need for structural improvements in the channel migration zone shall be documented through a hydrogeological analysis. Assess and mitigate impacts to priority species through a habitat evaluation and application of mitigation sequencing.

(v) Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable environmental harm, significant unavoidable conflict with the proposed use, or a

cost that is disproportionate and unreasonable to the total long-term cost of the development.

(vi) Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this chapter and allowed only after a hydrogeological study shows that extraction has a long-term benefit to flood hazard reduction, does not cause significant ecological impacts to fish and wildlife, and is part of a comprehensive flood management solution.

(4) Public access.

(a) Applicability.

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) Principles.

Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) Planning process to address public access.

Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible off-site or special area public access provisions in the master program. Public participation requirements in WAC 173-26-200 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians—including disabled persons—bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) Standards.

Shoreline master programs shall implement the following standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-220 (4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access shall be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-220 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Do not allow public access improvements that would cause significant ecological impacts to shoreline ecological functions that cannot be mitigated. Require that public access improvements with the potential to degrade ecological functions be designed to minimize adverse impacts.

(5) Shoreline vegetation conservation.

(a) Applicability.

Vegetation conservation includes activities to protect and restore vegetation along or near the shoreline that con-

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tributes to the ecological functions of shoreline areas. Vegetation conservation provisions may include the prevention or restriction of plant clearing and grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those activities over which local governments have authority. As with all master program provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures, such as existing agricultural practices.

(b) Principles.

The intent of vegetation conservation is to protect and restore the ecological functions and ecosystem-wide processes performed by vegetation along shorelines. Vegetation conservation should also be undertaken to protect human safety and property, to increase the stability of river banks and coastal bluffs, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, and to enhance shoreline uses.

Master programs shall include provisions to protect vegetation needed to sustain the ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

In areas that have been ecologically degraded, master program provisions should contribute to the restoration of ecological processes and functions provided by vegetation as development or redevelopment occurs. Master programs should be directed toward achieving the vegetation characteristics described in *Management Recommendations for Washington's Priority Habitats*, prepared by the Washington state department of fish and wildlife.

Local governments should address ecological functions and ecosystem-wide processes provided by vegetation as described in WAC 173-26-200 (3)(d)(i), (e), (f), and (g).

Local governments may implement objectives through a variety of measures, where consistent with Shoreline Management Act policy, including clearing and grading regulations, setback and buffer standards, critical area regulations, conditional use requirements for specific uses or areas, and mitigation requirements.

In establishing vegetation conservation regulations, local governments must use all available scientific and technical information, as described in WAC 173-26-200 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department.

(c) Relationship of shoreline vegetation to ecological functions.

Current scientific evidence indicates that the width and character of the shoreline vegetation contribute substantively to the ecological functions of the shoreline environment. The ability of vegetated areas to provide critical ecological functions diminishes as the width of the vegetated area along shorelines is reduced. When shoreline vegetation is

removed, the narrower the area of remaining vegetation, the greater the risk that the functions will not be performed.

Sustaining different individual functions requires different widths of vegetation. The importance of the different functions, in turn, varies with the type of shoreline setting. For example, in forested riverine settings, periodic recruitment of fallen trees into the stream channel is an important attribute, critical to natural stream channel maintenance. Therefore, vegetated areas along streams in naturally forested settings should be wide enough to accomplish this periodic recruitment process.

For naturally forested shoreline environments, including shorelines where trees have been removed by humans, achieving vegetation-related shoreline functions is linked to a vegetated area of one mature tree height in width, measured perpendicular from bank full width.

Woody vegetation normally classed as trees may not be a natural component of plant communities in some riverine and lake environments in arid and semiarid climates. In these instances, the width of a vegetated area necessary to protect and restore ecological functions may not be related to vegetation height.

In addressing the restoration of degraded shorelines, local governments should ensure that required vegetated areas are large enough to be of ecological benefit, even if they are not sufficiently wide to achieve all ecological functions.

Local governments should identify which ecological processes and functions are important to the local aquatic and terrestrial ecology and conserve sufficient vegetation to maintain them.

(d) Standards.

Master programs shall implement the following requirements in shoreline jurisdiction.

(i) Do not allow significant vegetation removal that would likely result in significant soil erosion or in the need for structural shoreline stabilization measures as described in WAC 173-26-230 (3)(a). This does not preclude pruning of trees or removal of noxious weeds.

(ii) Establish minimum vegetation conservation standards that implement the principles in WAC 173-26-220 (5)(b) and (c). Methods to do this may include setback or buffer requirements, clearing and grading standards, environment designation standards, or other master program provisions.

Additional vegetation conservation standards for specific uses are included in WAC 173-26-240(3).

(6) Water quality, storm water, and nonpoint pollution.

(a) Applicability.

The following section applies to all development and uses in shoreline jurisdiction that affect the quantity or hydrological, physical, chemical, aesthetic, recreation-related, or biological characteristics of water within shoreline areas.

(b) Principles.

Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

(i) Prevent impacts to water quality that significantly reduce shoreline ecological functions, aesthetic qualities, or recreational opportunities.

(ii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality, including public health, storm water, and water discharge standards. The regulations most protective of ecological functions shall apply.

(c) Standards.

Shoreline master programs shall include provisions to ensure that new development within shoreline jurisdiction does not cause significant ecological impacts to ecological functions or ecosystem-wide processes by altering water quality or flow characteristics.

NEW SECTION

WAC 173-26-230 Shoreline modifications. (1) Applicability.

Local governments are encouraged to prepare master program provisions that distinguish between shoreline modifications and shoreline uses. Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basins, or fill, but they can include other actions such as clearing, grading, or application of chemicals. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use).

The provisions in this section apply to all shoreline modifications within shoreline jurisdiction.

(2) Principles.

Master programs shall implement the following principles:

(a) Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed principal structure or an existing shoreline use that is in danger of loss or substantial damage.

(b) Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

(c) Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

(d) Give preference to those types of shoreline modifications that have a lesser impact on ecological functions. For example, in normal circumstances, preference should be given to pile supported piers, which allow normal water flow, rather than piers constructed with fill, which alter the normal flow of water currents.

(e) Where applicable, base provisions on scientific and technical information and a comprehensive analysis of drift cells. Contact the department for available drift cell characterizations.

(f) As shoreline modifications related to existing legally permitted uses occur, incorporate all feasible measures to protect and restore ecological shoreline functions and ecosystem-wide processes.

(g) Mitigate significant ecological impacts.

(3) Provisions for specific shoreline modifications.

(a) Shoreline stabilization.

(i) Applicability.

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or essential structures caused by, or associated with, current, flood, wind, or boat wakes. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, ground water management, planning, and regulatory measures to avoid the need for structural stabilization.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on softer materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the measure, the greater the impact on wave action, geomorphology, and biological functions.

Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat. Therefore, master program shoreline stabilization provisions shall also be consistent with WAC 173-26-220(5), vegetation conservation, and WAC 173-26-220(2), critical areas.

The following standards, where applicable to residential bulkheads, implement RCW 90.58.100(6), which states:

Each master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.

In order to avoid or mitigate adverse impacts to shoreline functions where shoreline alterations are necessary to protect single-family residences and principal appurtenant structures in danger from active shoreline erosion, prepare standards setting forth the circumstances under which alteration of the

shoreline is permitted, and for the design and type of protective measures and devices.

As applied to shoreline stabilization measures, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures, the replenishment of sand or other material that has been washed away, and the replacement of less than twenty percent of the existing structure. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impacts is not considered normal maintenance and repair.

As applied to shoreline stabilization measures, "replacement" means the construction or reconstruction of new structures, such as bulkheads, walls, riprap revetments, or gabions, to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose. Replacement may or may not include removal of the existing structure.

(ii) Standards.

Master programs shall implement the following standards:

(A) New structural stabilization measures shall not be allowed except to protect or support an existing principal use or for the restoration of ecological functions. This is to prevent speculative shoreline stabilization.

(B) New development should be located and designed to eliminate the need for future shoreline stabilization.

(C) New nonwater-dependent development that includes structural shoreline stabilization should not be allowed unless all of the conditions below apply:

- The need to protect the development from imminent destruction due to erosion caused by natural processes, such as tidal action, currents, and waves, is demonstrated through a geotechnical report.

- Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

- The structure will not affect priority species.

(D) Shoreline stabilization for new development that would cause significant ecological impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

(E) The subdivision of land into parcels that will require shoreline stabilization for development to occur shall not be allowed.

(F) New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis.

(G) New shoreline stabilization measures for an existing principal structure or use, including residential uses, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address

drainage problems away from the shoreline edge before considering structural shoreline stabilization. The geotechnical analysis should also specify mitigation of significant impacts to ecological functions and ecosystem-wide processes.

(H) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves. In this case, demonstration of need does not necessarily require a geotechnical report. The replacement structure should be designed, located, sized, and constructed to minimize harm to ecological functions. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall be adjacent to the existing structure. Shoreline stabilization that restores ecological functions may be permitted waterward of the ordinary high-water mark.

(I) Where structural shoreline stabilization measures are demonstrated to be necessary, limit the size of stabilization measures to the minimum necessary and use techniques designed to minimize harm to ecological functions. Allow hard structural measures only if it is demonstrated that a softer approach will not suffice.

(J) In the design of shoreline stabilization measures, use techniques to restore, as much as possible, the ecological functions of the shoreline. Require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in WAC 173-26-020. Include vegetation conservation, as described in WAC 173-26-220(5), as part of shoreline stabilization, where feasible.

(K) Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, or security. See public access provisions; WAC 173-26-220(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

(L) Mitigate new erosion control measures on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

(b) Piers and docks.

Piers and docks shall be allowed only for water-dependent uses or public access. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed use.

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New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

Master programs should contain provisions to encourage joint use or community dock facilities over individual docks serving single-family residences.

Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions and environmental critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift. See WAC 173-26-220 (2)(c). Master programs should require that structures be made of inert, nonpolluting materials.

(c) Fill.

Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support a water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, mitigation action, environmental restoration, or beach nourishment or enhancement project. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.

(d) Breakwaters, jetties, groins, and weirs.

Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where absolutely necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures should require a conditional use permit, except for those structures installed to protect or restore ecological functions, such as large woody debris installed in streams. The design and construction of such structures shall make provision for ecological processes and critical area protection and shall provide for mitigation according to the sequence defined in WAC 173-26-020.

(e) Beach and dunes management.

Washington's dunes and their associated beaches lie along the Pacific Ocean coast between Point Grenville and Cape Disappointment and as shorelines of state-wide significance shall be managed from a state-wide perspective. Dunes and their beaches within shoreline jurisdiction shall be managed to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal dunes. Dunes and associated beaches should also be managed to reduce the hazard to human life and property

from natural or human-induced actions associated with these areas.

Shoreline master programs in coastal marine areas shall provide for diverse and appropriate use of beach and dune areas consistent with their ecological, recreational, aesthetic, and economic values and consistent with the natural limitations of beaches, dunes, and dune vegetation for development. Coastal master programs shall institute development setbacks from the shoreline to prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dune.

"Dune modification" is the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune's shape or sediment migration. Dune modification may be proposed for a number of purposes, including protection of property, flood and storm hazard reduction, erosion prevention, and ecological restoration.

Coastal dune modification shall be allowed only as a conditional use unless a jurisdiction-wide or regional plan for dune management addressing grading, revegetation, and monitoring is carried out consistent with state and federal flood protection standards and approved by the local government and the department.

Dune modification to protect views of the water shall be allowed only where the view is completely obstructed for residences or water-enjoyment uses and where it also can be demonstrated that the dunes did not obstruct views at the time of original occupancy.

(f) Dredging and dredge material disposal.

Dredging and dredge material disposal shall be done in a manner which avoids or minimizes negative environmental impacts.

New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating navigation channels and basins should be allowed only when significant ecological impacts are minimized and when suitable mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width unless necessary to improve navigation.

Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat restoration project.

Disposal of dredge material into river channel migration zones within shoreline jurisdiction shall be discouraged. In the limited instances where it is allowed, such disposal shall require a conditional use permit.

NEW SECTION

WAC 173-26-240 Shoreline uses. (1) Applicability.

The provisions in this section apply to uses and development within shoreline jurisdiction.

(2) General use provisions.

(a) Principles.

Shoreline master programs shall implement the following principles:

(i) Establish a system of use and environment designation provisions consistent with WAC 173-26-200 (2)(d) and 173-26-210 that gives preference to those uses that are consistent with the control of pollution and prevention of damage to the ecological functions, or are unique to or dependent upon uses of the state's shoreline areas. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

(ii) Ensure that all shoreline master program provisions concerning proposed development of property are established, as necessary, to protect the public's health, safety, and welfare, as well as the land and its vegetation and wildlife, and to protect property rights while implementing the policies of the Shoreline Management Act.

(iii) Establish regulations to ensure use compatibility and mitigate impacts, such as destructive flooding, erosion, and water quality degradation.

(iv) Establish use provisions that preserve unique shoreline development opportunities. Shoreline master programs should establish use provisions that take advantage of shorelines with unique attributes or resources.

(b) Conditional uses.

Define the types of uses and development that require shoreline conditional use permits. Requirements for a conditional use permit may be used for a variety of purposes, including:

- To effectively address unanticipated uses not classified in the master program as described in WAC 173-27-030.
- To address cumulative impacts.
- To provide the opportunity to require environmental analysis or design modifications of a proposal that would otherwise be inconsistent with Shoreline Management Act policies.
- To allow discretion in permitting uses that may have significant ecological impacts in some locations but may be acceptable in others.

In these cases, allowing a given use as a conditional use could provide greater flexibility within the master program than if the use were prohibited outright.

If a master program permits the following types of uses and development, it should require a conditional permit.

(i) Uses and development that may significantly impair or alter the public's use of the water areas of the state.

(ii) Uses and development which, by their intrinsic nature, may have a significant ecological impact on shoreline ecological functions or shoreline resources depending on location, design, and site conditions, such as fill waterward of the ordinary high-water mark, disposal of dredge material within a river channel migration zone but outside a harbor area, dredging for the primary purpose of obtaining fill material, Class IV general forest practices where shorelines are being converted or are expected to be converted to nonforest uses, breakwaters, jetties, groins, and weirs.

(iii) Other uses and development as identified by local governments.

(3) Standards.

Establish master program regulations to address the potential impacts and opportunities of specific shoreline uses that may occur in the jurisdiction.

(a) Agriculture.

Applicable master programs shall address new agricultural development that does not meet the definition of existing and ongoing agriculture.

RCW 90.58.030 (3)(e) defines substantial development for agricultural uses. New shoreline master program provisions should not apply retroactively to existing agricultural uses. Existing and ongoing agriculture includes, but is not limited to, the production of horticultural, viticultural, floricultural, livestock, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees; the operation and maintenance of farm and stock ponds, drainage ditches, or irrigation systems; and the normal maintenance and repair of existing structures, facilities, and lands currently under production or cultivation.

New development, clearing, and grading in support of agricultural uses shall be located and designed to avoid impacts to shoreline environments.

Applicable master programs shall include standards for setbacks, water quality protection, environmental impacts, and vegetation conservation, as described in WAC 173-26-220(5), for new agricultural development, clearing, and grading in shoreline jurisdiction.

Requirements for setbacks for new development shall be based on scientific and technical information and management practices adopted by the applicable state agencies necessary to preserve the functions and qualities of the shoreline environment. In riverine corridors with priority species, the regulations shall be sufficient to ensure no net loss of habitat viability. If the shoreline habitat has been degraded through development or agriculture practices, the master program shall include provisions that result in improved habitat over time.

Agricultural lands within jurisdiction of the Shoreline Management Act which are enrolled in set-aside programs administered by the Natural Resources Conservation Service or the Farm Services Administration of the United States Department of Agriculture, or any other federal, state, or local agency, are considered to remain existing, ongoing agriculture for purposes of the Shoreline Management Act and this rule. This provision is intended to ensure that master program provisions do not prevent agriculture from being resumed after the period of the set-aside program.

(b) Aquaculture.

Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. This activity is of state-wide and national interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity. The technology associated with present-day aquaculture is still in its formative stages and experimental. Local shoreline master plans should therefore recognize the necessity for some latitude in the development of this emerging economic water use as well as its potential impact on existing uses and natural systems.

Aquaculture should not be permitted in areas where it would significantly degrade ecological functions or significantly conflict with navigation and other water-dependent uses. Aquacultural facilities should be developed so as not to significantly impact the aesthetic qualities of the shoreline.

(c) Boating facilities.

For the purposes of this chapter, "boating facilities" excludes docks serving four or fewer single-family residences. Shoreline master programs shall contain provisions to address potential impacts while providing the boating public recreational opportunities on waters of the state.

Where applicable, shoreline master programs should, at a minimum, contain:

(i) Provisions to ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.

(ii) Provisions that assure that facilities meet health, safety, and welfare requirements. Master programs may reference other regulations to accomplish this requirement.

(iii) Regulations to mitigate visual and ecological impacts.

(iv) Provisions for public access in new marinas, particularly where water-enjoyment uses are associated with the marina, in accordance with WAC 173-26-220(4).

(v) Regulations to limit the impacts from boaters living in their vessels (live-aboards).

(vi) Regulations reducing the impacts of associated parking.

(vii) Regulations restricting or mitigating the impacts of covered moorage.

(viii) Regulations to protect the rights of navigation.

(ix) Regulations restricting vessels from permanently mooring on waters of the state unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

(d) Commercial development.

Master programs shall give preference to water-dependent commercial uses on the shoreline over nonwater-dependent commercial uses. Shoreline ecological restoration and public access shall be a condition of all water-related and water-enjoyment use development unless such improvements are demonstrated to be infeasible or inappropriate. Master programs should exclude nonwater-oriented commercial uses from locating on the shoreline unless they provide public access and ecological restoration and they meet at least one of the following criteria:

(i) The use is part of a mixed-use project or area that includes water-dependent uses.

(ii) Navigability is severely limited at the proposed site.

(iii) The commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives.

Nonwater-oriented commercial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

New nonwater-dependent development should be required to protect existing shoreline vegetation contributing to ecological functions. Where shoreline vegetation has been removed or degraded, nonwater-dependent development should contribute to the restoration of ecological functions provided by vegetation.

New water-dependent development should mitigate impacts to shoreline vegetation.

Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and in support of water-dependent uses.

(e) Forest practices.

Local master programs should rely on the Forest Practices Act and rules implementing that act and the *Forest and Fish Report* for adequate management of commercial forest uses within shoreline jurisdiction. However, local governments should apply this chapter to Class IV-General forest practices where shorelines are being converted or are expected to be converted to nonforest uses.

Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses shall minimize impact to the shoreline environment and maintain the ecological quality of the watershed hydrologic system. Master programs shall establish provisions to ensure that all such timber removal is consistent with the master program environment designation provisions and the provisions of this chapter. Shoreline master programs should contain provisions to ensure that when forest lands are converted to another use, including a residential use, significant vegetation removal, grading, and development, except for low-intensity water-dependent uses and public access that sustains ecological functions, are not allowed within shoreline jurisdiction.

Master programs shall implement the provisions of RCW 90.58.150 regarding selective removal of timber harvest on shorelines of state-wide significance. Exceptions to this standard shall be by conditional use permit only.

Lands designated as "forest lands of long-term commercial significance" shall be designated either "natural," "rural conservancy," or equivalent environment designation.

Where forest practices fall within the applicability of the Forest Practices Act, local governments should consult with the department of natural resources, other applicable agencies, and local timber owners and operators.

(f) Industry.

Regional and state-wide needs for water-dependent and water-related industrial facilities should be carefully considered in establishing master program environment designations, use provisions, and space allocations for industrial uses and supporting facilities.

Industrial development shall not be located in shoreline areas with severe environmental limitations, such as critical

areas, unless no other feasible option is available. Industrial development shall not be located, designed, or constructed in a manner that causes significant ecological impacts to the ecological functions. Particular scrutiny shall be given to ecological functions necessary to support priority species.

New industrial development shall incorporate public access to the water except when such access causes significant interference with operations or hazards to life or property, as provided in WAC 173-26-220(4). Industrial development and redevelopment shall, where feasible, incorporate environmental cleanup and restoration of the shoreline area. Nonwater-oriented industrial development—that is, industrial development that is neither water-dependent nor water-related—should only be allowed on nonnavigable shorelines and should include ecological restoration of the shoreline. In such cases, no new structural shoreline stabilization measures should be permitted, except to protect or restore ecological functions or public access.

New nonwater-dependent development should be required to protect existing shoreline vegetation contributing to ecological functions. Where shoreline vegetation has been removed or degraded, nonwater-dependent development should contribute to the restoration of ecological functions provided by vegetation. New water-dependent development should mitigate impacts to shoreline vegetation.

(g) In-stream structures.

In-stream structures shall provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

(h) Mining.

Mining and the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses alters the natural character, resources, and ecology of shorelines of the state and may adversely impact critical shoreline resources. Activities associated with mining, including processing and transportation, also have the potential to adversely impact shoreline resources. Master programs shall include policies and regulations that assure:

(i) Mining and associated activities are not allowed where such uses would result in short-term or long-term significant ecological impacts to shoreline ecological functions or ecosystem-wide processes.

(ii) Where mining and associated activities are allowed, they must be conducted in a manner that is consistent with the policies of the environment designation in which they are located, impacts to fish and wildlife habitat shall be avoided, and all disturbed areas must be restored upon completion of mining. Destruction of priority species habitat is prohibited.

(iii) Surface mining shall be conducted in conformance with the Washington State Surface Mining Reclamation Act, chapter 78.44 RCW.

(iv) Surface mine reclamation plans shall provide for subsequent use of the property that is consistent with the pol-

icies of the environment designation in which they are located and shall assure that ecological functions of the shoreline are restored.

(v) Removal of sand and gravel resources from a location waterward of the ordinary high-water mark of a river shall be prohibited unless:

(A) A hydrogeological study, conducted by a qualified professional and approved by appropriate state agencies, demonstrates that removal of specific quantities at specific locations will not significantly alter the natural processes of gravel transportation for the river system as a whole; and

(B) A biological study, conducted by a qualified professional and approved by appropriate state agencies, demonstrates that removal will not significantly degrade habitat values for priority species or damage other ecological functions.

Removal of sand and gravel from a location waterward of the channel migration zone shall require a conditional use permit.

In locations where gravel removal has been allowed in the past, any future authorization to continue shall be based on studies as required above, and no further authorization shall be granted except in conformance with this provision.

(i) Recreational development.

Provision shall be made in master programs for the public to enjoy the waters of the state. Master program provisions should ensure that shoreline recreational facilities, now and in the future, can reasonably tolerate, during peak use periods, a balance of active and passive uses without significantly degrading ecological functions.

In accordance with RCW 90.58.100(4), master program provisions should reflect that state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public and give appropriate special consideration to the same.

For all jurisdictions planning under the Growth Management Act, master program recreation policies shall be consistent with growth projections and level-of-service standards established by the applicable comprehensive plan. Private recreational development shall not be a substitute for publicly owned, publicly accessible recreational facilities on the shorelines. Recreational development should provide for a spectrum of recreational needs and opportunities. Where possible, shoreline recreational facilities should be linked to other recreational attractions by pedestrian and bicycle trails. Master program recreation provisions shall be consistent with public access and environmental protection provisions of this chapter.

Master program provisions shall give preference to water-dependent recreation as a first priority and water-enjoyment and water-related recreational uses as a second priority. Nonwater-oriented recreational uses should be discouraged on the shoreline and, where allowed, shall include public access and ecological restoration.

The impacts of recreational developments, including water-dependent facilities such as marinas and swimming beaches and nonwater-oriented uses such as golf courses, shall be mitigated. Nonwater-dependent recreational uses shall be located away from the water unless their significant ecological impacts can be avoided.

(j) Residential development.

Single-family residences are a priority use when consistent with control of pollution and prevention of damage to the natural environment.

Residential development includes single-family and multifamily development and the creation of new residential lots through land division or conversion from another use. Master programs should include shoreline setbacks, density regulations, bulkhead restrictions, vegetation conservation requirements, and on-site sewage system standards for residential uses and development, including single-family residences and appurtenant structures and uses, in accordance with the provisions of this chapter. Master programs may provide the above standards either by direct language within the master program or by specific reference to the applicable development regulations. New residential development, including appurtenant structures and uses, shall be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other bluff stabilization structures, are not required to protect property. (See RCW 90.58.100(6).)

New over-water residences, including floating homes, are not a preferred use and shall be prohibited.

New multiunit residential development, including duplexes, fourplexes, and the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access plan and this chapter.

Local governments should not allow residential development of a scale and location that will significantly reduce the ecological functions performed by vegetation. Limit significant vegetation removal to the minimum necessary to accommodate permitted primary residential structures. Where the dimensions of existing legally created lots are not sufficient to accommodate development of a permitted use without significant vegetation removal, apply the mitigation sequence defined in WAC 173-26-020 to address adverse impacts to vegetation.

Master programs shall include standards for the creation of new residential lots, through land division or conversion from another use, that accomplish the following:

(i) Prevent significant vegetation removal or significant ecological impact to ecological functions. That is, all residential lots resulting from such platting or subdivision should be large enough or configured in a way that a residence may be developed without causing significant ecological impacts to ecological functions through vegetation removal.

When land is converted to residential use from agriculture, forestry, or other less intensive land use, ensure that the resulting lots are sufficient in size and configuration to allow protection of ecological functions or, if vegetation supporting ecological functions has been removed, the restoration of ecological functions.

(ii) Prevent the need for new shoreline stabilization measures that would cause significant ecological impacts to ecological functions.

(iii) Implement the provisions of WAC 173-26-210 and 173-26-220.

(k) Transportation and parking.

Establish and implement master program policies and regulations to provide safe, reasonable, and adequate circulation systems to shorelines.

Transportation plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

Circulation system planning to and on shorelands shall include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects shall support existing shoreline uses and those provided for by the master program.

Transportation facilities should be located, designed, and constructed so that routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological functions or on existing or future water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within two hundred feet of the shoreline.

Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support a preferred use. Shoreline master programs shall include policies and regulations to minimize the environmental and visual impacts of parking facilities.

(l) Utilities.

These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water line to a residence, are "accessory utilities" and shall be considered a part of the allowed use.

All utility facilities shall be designed and located to minimize harm to shoreline functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

Utility production and processing facilities or parts of those facilities, such as power plants and sewage treatment plants, that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline and shall be located outside of the shoreline area where feasible. Utilities should be located in existing rights of way and corridors whenever possible.

Development of underwater pipelines and cables on tidelands should be discouraged except where no other feasible alternative exists. When permitted, those facilities should include adequate provisions to ensure against substantial or irrevocable damage to the environment.

NEW SECTION

WAC 173-26-250 Shorelines of state-wide significance. (1) Applicability.

The following section applies to local governments preparing master programs that include shorelines of state-wide significance as defined in RCW 90.58.030.

(2) Principles.

Chapter 90.58 RCW raises the status of shorelines of state-wide significance in two ways. First, the Shoreline Management Act sets specific preferences for uses of shorelines of state-wide significance. RCW 90.58.020 states:

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of state-wide significance. The department, in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state-wide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the state-wide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Second, the Shoreline Management Act calls for a higher level of effort in implementing its objectives on shorelines of state-wide significance. RCW 90.58.090(4) states:

The department shall approve those segments of the master program relating to shorelines of state-wide significance only after determining the program provides optimum implementation of the policy of this chapter to satisfy the state-wide interest.

Optimum implementation involves special emphasis on state-wide objectives and consultation with state agencies. The state's interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Shoreline Management Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives is most effective when conducted on an ecosystem-wide or watershed basis. Optimum implementation places a greater imperative on identifying, understanding, and managing ecosystem-wide processes and ecological functions that support resources of state-wide importance.

(3) Master program provisions for shorelines of state-wide significance.

Because shorelines of state-wide significance are major resources from which all people of the state derive benefit, local governments that are preparing master program provisions for shorelines of state-wide significance shall implement the following:

(a) State-wide interest.

To recognize and protect state-wide interest over local interest, consult with applicable state agencies, affected Indian tribes, and state-wide interest groups and consider their recommendations in preparing shoreline master program provisions. Recognize and take into account state agen-

cies' policies, programs, and recommendations in developing use regulations.

(b) Preserving resources for future generations.

Prepare master program provisions on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of state-wide significance should be severely limited.

(c) Priority uses.

Establish shoreline environment designation policies, boundaries, and use provisions that give preference to those uses described in RCW 90.58.020(1) through (7). More specifically:

(i) Identify the extent and importance of ecological resources of state-wide importance and potential impacts to those resources, both inside and outside the local government's geographic jurisdiction.

(ii) Preserve sufficient shorelands and submerged land to accommodate current and projected demand for economic resources of state-wide importance, such as commercial shellfish beds and navigable harbors. Base projections on state-wide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.

(iii) Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

(d) Resources of state-wide importance.

Establish development standards that:

(i) Ensure the long-term protection and restoration of ecological resources of state-wide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds, and unique environments. Standards shall consider incremental and cumulative impacts of permitted development and include provisions to improve the functions of shoreline ecosystems as a whole.

(ii) Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of state-wide importance.

(iii) Provide for the right of the public to use, access, and enjoy public shoreline resources of state-wide importance.

(e) Comprehensive plan consistency.

Assure that other local comprehensive plan provisions are consistent with and support as a high priority the policies for shorelines of state-wide significance. Specifically, shoreline master programs should include policies that incorporate the priorities and optimum implementation directives of chapter 90.58 RCW into comprehensive plan provisions and implementing development regulations.

PART IV**GUIDELINES—OPTIONAL APPROACH****NEW SECTION****WAC 173-26-270 Purpose of Part IV. (1) Objectives.**

WAC 173-26-270 through 173-26-350 are adopted pursuant to chapter 90.58 RCW, the Shoreline Management Act of 1971, to serve as standards for implementation of the policy of chapter 90.58 RCW for regulation of uses of the shorelines; and provide criteria to local governments and the department in developing and amending master programs. The purposes of Part IV are to: (Text in quotations is excerpted from RCW 90.58.020.)

(a) Protect against adverse impacts.

"Protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. . . ."

Provide measures for the utilization, protection, restoration, and preservation of the state shorelines, which are "among the state's most valuable and fragile of its natural resources."

Prepare standards governing the protection of single-family residences and appurtenant structures from shoreline erosion, giving preference to measures to protect single-family residences occupied before January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment. (See RCW 90.58.100(6).)

Undertake a "planned, rational, and concerted effort, jointly performed by federal, state and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

(b) Protect the public's right to use and access the surface waters of the state.

"Insure the development of shorelines of the state in a manner which, while allowing limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest."

"Protect generally public rights of navigation and corollary rights incidental thereto."

Preserve "the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

Regulate the design, construction, and operation of "permitted uses in the shorelines of the state to minimize, insofar as practical, any interference with the public's use of the water."

(c) Foster reasonable and appropriate uses that are in the public's best interest.

Give preference to uses "which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline." Alterations to the natural conditions of the shorelines of the state, in those limited instances where authorized, shall be given priority for:

• Single-family residences and their appurtenant structures;

• Ports; shoreline recreational uses, including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to the shorelines of the state;

• Industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state; and

• Other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state."

Conduct the "coordinated planning necessary to protect the public's interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest." Ensure equal treatment and fairness to all parties with respect to the use of shoreline resources.

"Appropriately classify the shorelines and shorelands of the state and revise these classifications when circumstances warrant regardless of whether the change in the circumstances occurs through man-made causes or natural causes."

Reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public and give appropriate special consideration to same. (See RCW 90.58.100(4).)

(d) Recovery of proposed, threatened, and endangered species (PTE species).

It is the policy of the act to "[p]rotect against adverse effects to . . . the land and its vegetation and wildlife, and the waters of the state and their aquatic life." RCW 90.58.020. In recent years numerous species of aquatic and terrestrial life which live in or near the shoreline have seen dramatic declines in population. A number of these species, including several species of salmonids, have declined to such an extent that they have been listed as proposed, threatened, or endangered species under the federal Endangered Species Act (ESA), 16 U.S.C. 1533, or by the Washington state department of fish and wildlife pursuant to RCW 77.12.020. Species declines dramatic enough to warrant listing under the ESA or RCW 77.12.020 signify a failure to adequately protect against adverse effects to such species. As such, the listing of such species indicates that particular attention should be paid to the species and their habitat in order to fulfill the act's policy of protecting against adverse effects to the land and its vegetation and wildlife, and the waters of the state and their aquatic life.

(2) Responsibilities of state and local governments.

RCW 90.58.050 gives local governments the responsibility of initiating the planning required by the Shoreline Management Act and administering the regulatory program consistent with its policy and provisions. Nothing in this chapter is intended to reduce the opportunity for local governments to pursue local shoreline management objectives, provided they are consistent with the policies of the act and this chapter.

In 1995, the Washington state legislature passed Engrossed Substitute House Bill 1724, an act relating to implementing the recommendations of the governor's task force on regulatory reform on integrating growth management planning and environmental review. The bill amended, among other statutes, the Growth Management Act, chapter 36.70A RCW; the Shoreline Management Act, chapter 90.58 RCW; and the State Environmental Policy Act, chapter 43.21C RCW. Section 304 of Engrossed Substitute House Bill 1724 amended RCW 90.58.060(1) to read:

(1) *The department shall periodically review and adopt guidelines consistent with RCW 90.58.020, containing the elements specified in RCW 90.58.100 for:*

(a) *Development of master programs for regulation of the uses of shorelines; and*

(b) *Development of master programs for regulation of the uses of shorelines of state-wide significance.*

These guidelines implement the directive to integrate referenced statutes. Specifically, the guidelines are directed toward more efficient planning, permitting, and environmental review and more effective resource management.

NEW SECTION

WAC 173-26-280 Applicability of Part IV. WAC 173-26-270 through 173-26-350 apply to actions taken in the preparation, amendment, and review of local shoreline master programs pursuant to RCW 90.58.060(1). The master programs prepared or amended pursuant to this chapter, when adopted or approved by the department, shall constitute use regulations for the shorelines of the state.

NEW SECTION

WAC 173-26-290 Master program contents. (1) **Master program concepts.**

The following concepts are the basis for effective shoreline master programs.

(a) **Master program policies and regulations.**

Shoreline master programs are both planning and regulatory tools. RCW 90.58.020 establishes the need for both planning and regulatory action.

The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefor [sic], a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

The act expresses this dual function in RCW 90.58.030 (3)(b):

"Master program" means the comprehensive use plan for a described area and the use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

Master programs serve a planning function in several ways. First, they balance and integrate the objectives and interests of local citizens insofar as they are consistent with the Shoreline Management Act. Therefore, the preparation and amending of master programs shall involve active public participation, as called for in WAC 173-26-300(3). Second,

they address the full variety of conditions on the shoreline. Third, they consider and, where necessary to achieve the objectives of chapter 90.58 RCW, influence planning and regulatory measures for adjacent land. For jurisdictions planning under chapter 36.70A RCW, the Growth Management Act, the requirements for integration of shoreline and adjacent land planning are more specific and are described in WAC 173-26-290 (2)(a). Fourth, master programs address conditions and opportunities of specific shoreline segments by classifying the shorelines into "environment designations" as described in WAC 173-26-310.

The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline. Some development requires a shoreline permit prior to construction. A local government evaluates a permit application with respect to the shoreline master program policies and regulations and issues a permit only after determining that the development conforms to them. The regulations apply to all uses and development within shoreline jurisdiction, whether or not a shoreline permit is required and are implemented through other permitting and regulation activities of the local government. See RCW 90.58.140.

(b) **Master program elements.**

RCW 90.58.100(2) states that the master programs shall, when appropriate, include the following elements:

(a) *An economic development element for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce, and other developments that are particularly dependent on their location on or use of shorelines of the state.*

(b) *A public access element for making provision for public access to publicly owned areas.*

(c) *A recreational element for the preservation and enlargement of recreational opportunities, including, but not limited to, parks, tidelands, beaches, and recreational areas.*

(d) *A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element.*

(e) *A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land.*

(f) *A conservation element for the preservation of natural resources, including, but not limited to, scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protections.*

(g) *An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.*

(h) *An element that gives consideration to the state-wide interest in the prevention and minimization of flood damages.*

(i) *Any other element deemed appropriate or necessary to effectuate the policy of this chapter.*

The Growth Management Act (chapter 36.70A RCW) also uses the word "element" for discrete sections or chapters of a comprehensive plan. To avoid confusion, "master program element" refers to the definition in the Shoreline Management Act. Local jurisdictions are not required to address the master program elements listed in the Shoreline Management Act as discrete sections. The elements may be addressed throughout master program provisions rather than used as a means to organize the master program.

(c) Shorelines of state-wide significance.

The Shoreline Management Act identifies certain shorelines as "shorelines of state-wide significance" and raises their status by setting use priorities and requiring "optimum implementation" of the act's policy. WAC 173-26-350 describes methods to provide for the priorities listed in RCW 90.58.020 and to achieve "optimum implementation" as called for in RCW 90.58.090(4).

(d) Shoreline environment designations.

Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the shoreline master program prescribe different sets of environment protection measures, allowable use provisions, and development standards for each of these shoreline segments.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation. WAC 173-26-310 presents guidelines for environment designations in greater detail.

(2) Basic requirements.

Part IV of this chapter describes the basic components and content required in a master program. As indicated in WAC 173-26-020, for this chapter, the terms "shall," "must," and "are required" and the imperative voice mean a mandate; the action must be done. As noted in WAC 173-26-020, the term "should" means that the particular action is required unless there is a demonstrated, compelling reason, based on a policy of the Shoreline Management Act and this chapter, against taking the action. Part IV also contains suggestions for fulfilling the requirements which local governments may or may not choose to follow. The term "may" indicates that the action is acceptable, provided it satisfies all other provisions in this chapter. A master program as submitted to the department for approval shall be sufficient and complete to implement the Shoreline Management Act and the provisions of this chapter. A master program shall contain all of the policies and regulations necessary for the department and other reviewers to evaluate shoreline permits for conformance to the Shoreline Management Act and this chapter.

(a) Consistency with comprehensive planning and other development regulations.

Shoreline management is most effective when accomplished within the context of comprehensive planning. For cities and counties planning under the Growth Management Act, chapter 36.70A RCW requires mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). The requirement for consistency is amplified in WAC 365-195-500:

Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:

(1) Ability of physical aspects of the plan to coexist on the available land.

(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent.

The Growth Management Act also calls for coordination between local jurisdictions. RCW 36.70A.100 states:

... The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to chapter 36.70A RCW of other counties or cities with which the county or city has, in part, common borders or related regional issues.

This statutory provision complements watershed-wide or regional planning described in WAC 173-26-300.

Furthermore, legislative findings provided in Engrossed Substitute House Bill 1724, section 1, chapter 347, Laws of 1995 states:

The legislature recognizes by this act that the Growth Management Act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The Growth Management Act provides the means to effectively combine certainty for development decisions, reasonable environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development.

Engrossed Substitute House Bill 1724 also added RCW 36.70A.480(1) to the Growth Management Act, which states:

For shorelines of the state, the goals and policies of the Shoreline Management Act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

Furthermore, RCW 36.70A.481 states:

Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW.

The Shoreline Management Act addresses the issue of consistency in RCW 90.58.340, which states:

All state agencies, counties and public and municipal corporations shall review administrative and management policies, regulations, plans and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state so as to achieve a use policy on said land that is consistent with the policy of this chapter, the guidelines, and

the master programs for the shorelines of the state. The department may develop recommendations for land use control for such lands. Local governments shall, in developing use regulations for such areas, take into consideration any recommendations developed by the department as well as any other state agencies or units of local government (1971 ex.s. c 286 § 34.)

Pursuant to the statutes cited above, the intent of these guidelines is to assist local governments in preparing and amending master programs that fit within the framework of applicable comprehensive plans, facilitate consistent, efficient environmental review, effectively implement the Shoreline Management Act, and address PFC requirements for PTE species.

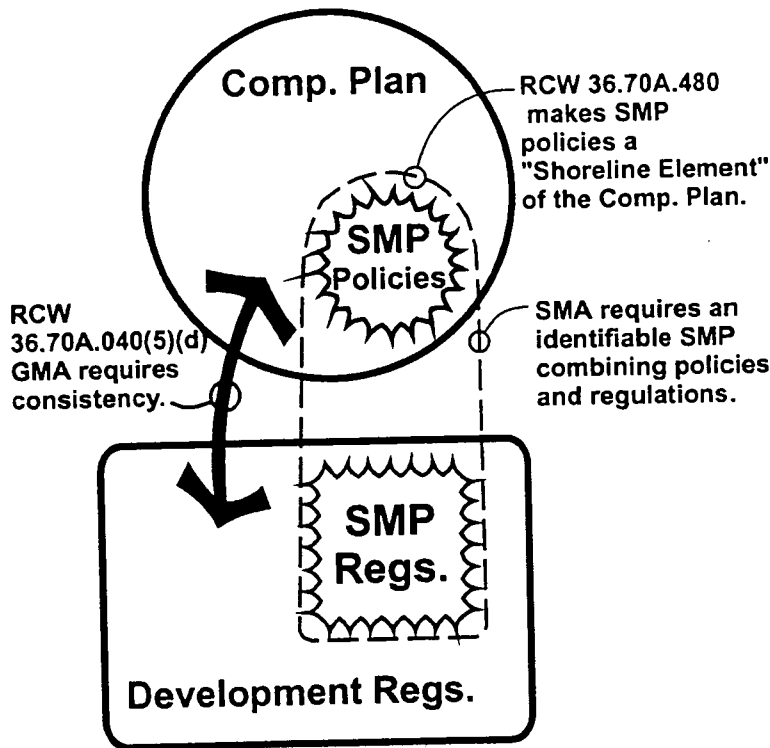


Figure 1. Relationship of master program to comprehensive plan and local development regulations for governments planning under RCW 36.70A.
(This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

Several sections in these guidelines include methods to achieve the consistency required by both the Shoreline Management Act and the Growth Management Act.

(i) First, WAC 173-26-290 (2)(b) and (c) describe optional methods to integrate master programs and other development regulations and the local comprehensive plan.

(ii) Second, WAC 173-26-320 through 173-26-350 translate the broad objectives in the Shoreline Management Act into more specific policies. They also provide a defined policy basis on which to frame local shoreline master program provisions and to evaluate the consistency of applicable sections of a local comprehensive plan with the Shoreline Management Act.

(iii) Finally, WAC 173-26-310(3) presents specific methods for testing consistency between shoreline environment designations and comprehensive plan land use designations.

(b) Including other documents in a master program by reference.

Shoreline master program provisions sometimes address similar issues as other comprehensive plan elements and development regulations, such as the zoning code and critical area ordinance. For the purposes of completeness and consistency, local governments may include other locally adopted policies and regulations within their master programs. For example, a local government may include specific portions of

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its critical area ordinance in the master program, provided the critical area ordinance is consistent with this chapter. This can ensure that local master programs are consistent with other regulations.

Shoreline master programs may include other regulations by referencing a specific, dated edition. When including referenced regulations within a master program, local governments shall ensure that the public has an opportunity to participate in the formulation of the regulations or in their incorporation into the master program, as called for in WAC

173-26-300 (3)(b)(i). In the approval process, the department will review the referenced development regulation sections as part of the master program. A copy of the referenced regulations shall be submitted to the department with the proposed master program or amendment. If the development regulation is amended, the edition referenced within the master program will still be the operative regulation in the master program. Changing the referenced regulations in the master program to the new edition will require a master program amendment.

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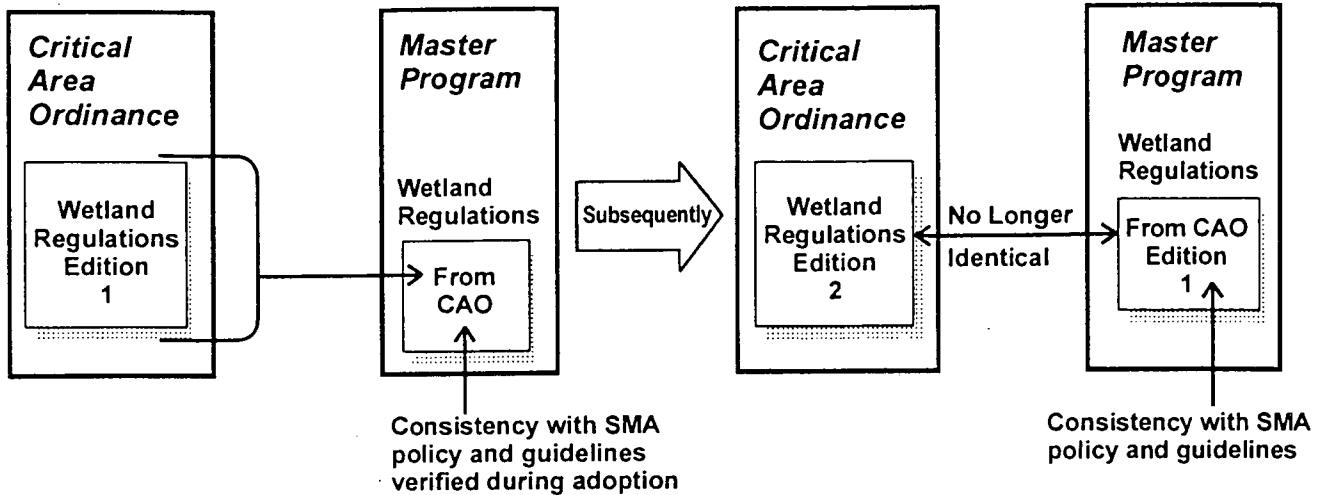


Figure 2. Optional method to incorporate other development regulations into a master programs by reference. (Note: If the referenced critical area ordinance is changed, the CAO provisions in the SMP are not automatically amended.) (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

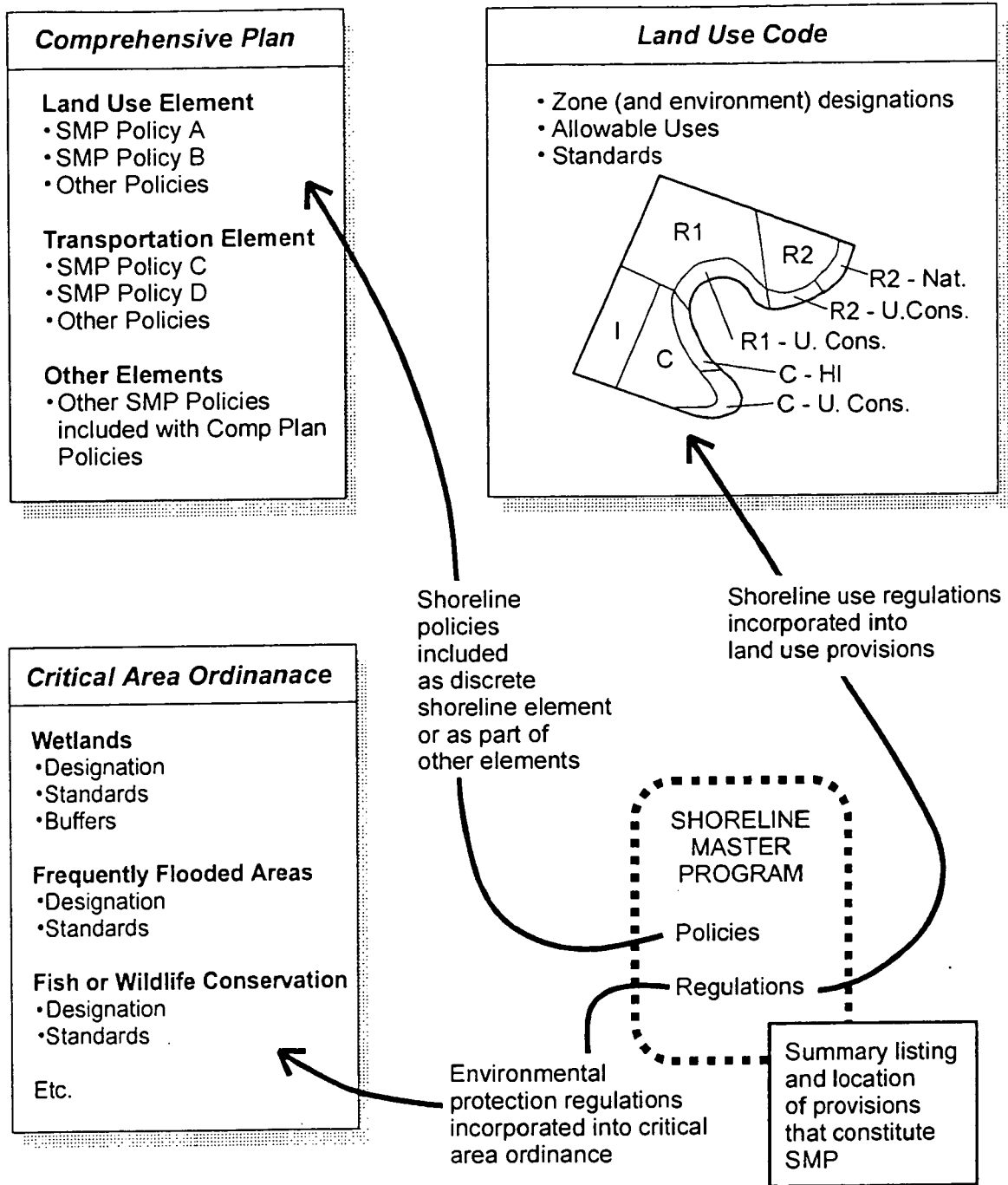
(c) Incorporating master program provisions into other plans and regulations.

Local governments may integrate master program policies and regulations into their comprehensive plan policies and implementing development regulations rather than preparing a discrete master program in a single document. Master program provisions that are integrated into such plans and development regulations shall be clearly identified so that the department can review these provisions for approval and evaluate development proposals for compliance. RCW 90.58.120 requires that all adopted regulations, designations, and master programs be available for public inspection at the department or the applicable county or city. Local governments shall identify all documents which contain master program provisions and which provisions constitute part of the master program. Clear identification of master program provisions is also necessary so that interested persons and entities may be involved in master program preparation and amendment, as called for in RCW 90.58.130.

Local governments integrating all or portions of their master program provisions into other plans and regulations shall submit to the department a listing and copies of all provisions that constitute the master program. The master pro-

gram shall also be sufficiently complete and defined to provide:

- Clear directions to applicants applying for shoreline permits; and
- Clear evaluation criteria and standards to the local governments, the department, other agencies, and the public for reviewing permit applications with respect to state and local shoreline management provisions.



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Figure 3. Method to incorporate master program provisions into a comprehensive plan and local development regulations. (Note: All master program provisions must be clearly identified as such.)
 (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(d) Multijurisdictional master program.

Two or more adjacent local governments are encouraged to jointly prepare master programs. Jointly proposed master programs may offer opportunities to effectively and effi-

ciently manage natural resources, such as drift cells or watersheds, that cross jurisdictional boundaries. Local governments jointly preparing master programs shall provide the opportunity for public participation locally in each jurisdic-

tion, as called for in WAC 173-26-300 (3)(b), and submit the multijurisdictional master program to the department for approval.

(e) Master program contents.

Master programs shall include the following contents described in (i) through (iii) of this subsection.

(i) Master program policies.

Master programs shall provide clear, consistent policies that translate broad state-wide objectives of this chapter into local directives. Policies are statements of intent directing or authorizing a course of action or specifying criteria on which to make a public decision. They provide a comprehensive basis for the shoreline master program regulations, which generally are more specific, prescriptive standards used to evaluate shoreline development.

Shoreline policies shall be developed through a comprehensive shoreline planning process allowing for public and affected Indian tribes participation. For governments planning under the Growth Management Act, the master program policies are considered a shoreline element of the local comprehensive plan and shall also be consistent with the planning goals of RCW 36.70A.020.

At a minimum, shoreline master program policies shall:

(A) Be consistent with state shoreline management policies listed in this chapter and the objectives of the Shoreline Management Act.

(B) Address the master program elements of RCW 90.58.020.

(C) Include policies for environment designations as described in WAC 173-26-310. The policies shall be accompanied by a map or physical description of the schematic environment designation boundaries in sufficient detail to compare with comprehensive plan land use designations.

(D) Be consistent with conservation requirements for PTE species.

(ii) Master program regulations.

RCW 90.58.100 states:

The master programs provided for in this chapter, when adopted or approved by the department, shall constitute use regulations for the various shorelines of the state.

In order to implement the directives of the Shoreline Management Act, master program regulations shall:

(A) Be in sufficient scope and detail to ensure the implementation of the Shoreline Management Act, state-wide shoreline management policies of this chapter, and local master program policies;

(B) Include environment designation regulations that apply to specific environments consistent with WAC 173-26-310.

(C) Include general regulations, use regulations that address issues of concern to specific uses, and shoreline modification regulations that protect shoreline ecological functions from the effects of human-made modifications to the shoreline.

To comply with Part IV of chapter 173-26 WAC, regulations shall also be consistent with the properly functioning condition requirements for PTE species.

(iii) Administrative provisions.

(A) Statement of applicability.

The Shoreline Management Act's provisions apply to all development and uses within its jurisdiction, whether or not a shoreline permit is required. Many activities that may not require a substantial development permit, such as clearing vegetation or construction of a residential bulkhead, can cause serious damage to adjacent properties, natural resources, and lands held in public trust. Local governments have the authority and responsibility to condition a project even though it is exempt from the requirement for a substantial development permit. There has been, historically, some public confusion regarding the Shoreline Management Act's applicability. Therefore, all master programs shall include the following statement:

"All new uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW: The Shoreline Management Act, chapter 173-26 of the Washington Administrative Code, and this master program."

(B) Conditional use and variance provisions.

RCW 90.58.100(5) states:

Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).

All master programs shall include standards for reviewing conditional use permits and variances which conform to chapter 173-27 WAC.

(C) Administrative permit review and enforcement procedures.

RCW 90.58.140(3) states:

The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

Local governments may, but are not required to, include administrative, enforcement, and permit review procedures into the master program. These procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, and to chapter 173-27 WAC. However, the procedures may be defined by a local government ordinance separate from the master program.

Adopting review and enforcement procedures separate from the master program allows local governments greater flexibility in revising their shoreline permit review procedures and integrating them with other permit processing activities.

However, master programs shall include a mechanism, such as a letter of exemption, to ensure that all development, including development exempted from a substantial development permit, meets the conditions of the permit or letter of

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exemption, the applicable master program, these guidelines, and the Shoreline Management Act. See WAC 173-26-300 2)(g).

(D) Documentation of project review actions and changing conditions in shoreline areas.

Master programs shall include a mechanism for documenting project review actions and evaluating their cumulative effects on shoreline conditions. See WAC 173-26-300 2)(b) and 3)(h).

Local governments, in conjunction with state agencies, must provide enforcement mechanisms needed to assure that development within shoreline jurisdiction will comply with the act, this chapter, and PFC requirements for PTE species.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-26-300 Comprehensive process to prepare or amend shoreline master programs. (1) Applicability.

This section outlines a comprehensive process to prepare or amend a shoreline master program. Local governments shall incorporate the steps indicated if one or more of the following criteria apply:

(a) The master program amendments being considered represent a significant modification to shoreline management practices within the local jurisdiction; they modify more than one environment designation boundary, significantly add, change or delete or use regulations, or change where specific uses are allowed;

(b) Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;

(c) The master program amendments being considered contain provisions that will affect a substantial portion of the local government's shoreline areas;

(d) There are substantive issues, such as priority species recovery or water resource management, that must be addressed on a comprehensive basis;

(e) The current master program and the comprehensive plan are not mutually consistent; or

(f) There was no previous comprehensive master program amendment since the original adoption.

(g) When monitoring and adaptive management indicate changes are necessary to avoid loss of ecological functions.

If a local jurisdiction has undertaken a recent comprehensive update of the master program but seeks to make minor revisions, such as an adjustment to a single environment designation boundary, to bring the master program into compliance with these guidelines or other state requirements, these modifications may be made without undertaking a fully comprehensive process.

All master program amendments, even amendments that do not fit within the criteria above, are subject to approval by the department.

(2) Basic concepts and principles.

(a) Use of scientific and technical information.

RCW 90.58.100(1) states:

In preparing the master programs and any amendments thereto, the department and local governments shall, to the extent feasible:

(a) Utilize a systematic interdisciplinary approach that will ensure the integrated use of the natural and social science and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

To address the requirements for the use of scientific and technical information, local governments shall incorporate the following two steps into their master program development and amendment process.

First, identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern. The context, scope, magnitude, significance, and potential limitations of the scientific information should be considered. At a minimum, make use of and, where applicable, incorporate scientific information, aerial photography, inventory data, technical assistance materials, manuals and services from reliable sources of science. Local governments should also contact relevant state agencies, universities, and affected Indian tribes for available information. If local governments initiate scientific research as a basis for master program provisions, that research shall use accepted scientific methods and research procedures and be subject to peer review. Local governments are encouraged to work interactively with state resource agencies and affected Indian tribes to address technical issues beyond the scope of existing information resources or locally initiated research.

In addition, local governments shall identify all shoreline areas which provide habitats that support PTE species.

At a minimum, local governments should consult with the technical assistance materials produced by the department. Unless there is more current or specific information available, those technical assistance materials shall constitute an element of scientific and technical information as defined in these guidelines.

Second, base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available. Local governments shall be prepared to identify the following:

- Scientific information and management recommendations on which the master program provisions are based;

- Assumptions and data gaps in the scientific information;
- Risks to ecological functions associated with master program provisions. Address potential risks as described in WAC 173-26-300 (3)(g).

The requirement to use scientific and technical information in these guidelines does not limit a local jurisdiction's authority to solicit and incorporate information, experience, and anecdotal evidence provided by interested parties as part of the master program amendment process. Such information should be solicited through the public participation process described in WAC 173-26-300 (3)(b). Where information collected by or provided to local governments conflicts or is inconsistent, the local government shall base master program provisions on a reasoned, objective evaluation of the relative merits of the conflicting data. In such instances, particular consideration shall be given to protecting PTE species.

(b) Monitoring and adaptive management.

The recovery of PFC for PTE and priority species requires making decisions based on an ecosystem perspective. Recognizing the complexity of ecosystems and the degree of uncertainty about the outcomes of many management actions, effective shoreline management will require a process of adaptive learning and change. To achieve and effectively maintain PFC, the state and local government shoreline policies and regulations shall have and implement adaptive management strategies that clearly identify existing and desired future conditions, measurable performance criteria, procedures and schedules to monitor progress toward performance criteria, management options, specific thresholds for changes, and applicable management responses. Priorities for monitoring specific performance criteria should be tied to the degree of uncertainty for effectiveness of measures. Actions with a high degree of effectiveness or low risk to PFC, should be low priority for monitoring and adaptive management.

(i) Responsive adaptive management requires a cooperative effort on the part of local governments, the department, other resource agencies and affected Indian tribes. As part of the master program amendment process, local governments shall conduct the following adaptive management activities:

(A) Obtain base line inventory information as described in WAC 173-26-300 (3)(c).

(B) Conduct the ecological analysis as described in WAC 173-26-300 (3)(d)(i) and cumulative impact analysis as described in WAC 173-26-300 (3)(d)(iii).

(C) Set measurable performance criteria, thresholds, or benchmarks, such as area of natural or restored vegetation or length of unmodified or restored shoreline to maintain and restore PFC.

(D) Establish a program of monitoring land use and shoreline permit activities, including letters of exemption, to accurately assess the condition of the shoreline with respect to the performance criteria.

(E) Identify a long term funding source and commitment.

(F) Identify a timely procedure to incrementally adjust management activities to respond to new information. In

some cases, monitoring results may lead to changes in master program provisions.

(ii) In addition, the department, in conjunction with local governments and applicable state agencies, shall institute the following state-wide monitoring and regulatory response program:

(A) Local governments shall keep records of all permit and land use actions regulated under the master program including letters of exemption and impact analysis documentation prepared under chapter 43.21C RCW, and provide such information to the department.

(B) The department shall compile all such documentation into a readily accessible data base.

(C) The department shall visit a minimum of 100 completed projects per year and verify whether or not the in-place construction meets the permit or letter of exemption requirements. The department shall inform local governments of its findings and required actions, if any. Where possible and appropriate, the department's visit will take place at the time of the local government's final inspection and prior to occupancy together with follow up visits thereafter.

(D) Each year, the department shall prepare a summary report of the site visits along with related information. The report shall include findings and recommendations for alleviating conditions or trends that could constitute take or inhibit the attainment or maintenance of properly functioning condition. The information will document development actions, assess current levels of compliance, and identify shoreline management activities requiring change in order to achieve PFC objectives. Where applicable, the findings will be compared to ongoing monitoring of ecological functions by other agencies.

(E) The 100 site visits will be selected by the department to represent the full range of development actions and shoreline conditions (e.g., marine, riverine, Eastern Washington, Western Washington, etc.).

(F) The department, along with local governments, shall evaluate the effectiveness of current guidelines in achieving Shoreline Management Act policies, giving particular consideration to the conservation of habitat that supports PTE species, at least once every five years, as called for in RCW 90.58.060(3). The department shall amend the guidelines to achieve PFC and other Shoreline Management Act objectives.

In addition, the department shall participate as appropriate in more detailed inventory monitoring and adaptive management activities conducted by other state resource agencies.

(c) Ecological functions.

(i) General.

RCW 90.58.020 includes the following statement:

This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life while protecting generally public rights of navigation and corollary rights incidental thereto.

This chapter implements the above-cited RCW policy through the protection and restoration of ecological functions. The concept of ecological functions, as defined in

WAC 173-26-020, recognizes that successful management of the shoreline environment depends on sustaining the:

- Ecosystem-wide fluvial, current, and wave processes that form habitats, and
- Individual functions and their processes that are present in each habitat type.

The loss or degradation of one or more ecosystem-wide processes or individual functions can significantly impact shoreline habitats and human health and safety. Shoreline master programs shall address the applicable ecosystem-wide processes and individual ecological functions identified in the ecological systems analysis described in WAC 173-26-300 (3)(d)(i).

Nearly all shoreline areas, even substantially developed or degraded areas, retain some important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecological systems are themselves interconnected. The life cycle of anadromous fish, for example, depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the objectives for protection and restoration of ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain provisions to protect and to contribute to the restoration of ecological functions and ecosystem-wide processes based on analysis described in WAC 173-26-300 (3)(d)(i).

(ii) Functions related to properly functioning condition.

Several provisions in Part IV of this chapter require that master programs be directed toward the maintenance or attainment of "properly functioning condition" for PTE species. This subsection amplifies the intent of those provisions and describes the method for determining whether or not a master program meets the requirement for PFC.

The Habitat Approach: Implementation of Section 7 of the Endangered Species Act for Actions Affecting the Habitat of Pacific Anadromous Fishes, prepared by National Marine Fisheries Service, Northwest Region, Habitat Conservation and Protected Resources Divisions, 26 August 1999 describes PFC as:

... the sustained presence of natural habitat-forming processes in a watershed (e.g., riparian community succession, bedload transport, precipitation runoff pattern, channel migration), estuary (e.g., riparian community succession, tidal circulation, emergent vegetation, distributary channels) or marine shoreline (e.g., riparian community succession, detrital inputs, sediment erosion, transport and accretion, aquatic plants) that are necessary for the long-term survival of the species through the full range of environmental variation. PFC, then, constitutes the habitat component of a species' biological requirements. The indicators of PFC vary between different landscapes based on unique physiographic and geologic features. For example, aquatic habitats on timberlands in glacial mountain valleys are controlled by natu-

ral processes operating at different scales and rates than are habitats on low-elevation coastal rivers.

The importance of the term "PFC" to these guidelines rests on the fact that in order to achieve a limitation on take under section 4(d) of the Endangered Species Act, master program provisions must not allow development that impairs currently properly functioning habitat, reduces the functioning of already impaired habitat, or retards the long-term progress of impaired habitat toward PFC.

Stated in positive terms, in order to satisfy the conditions of Part IV related to PFC, local governments must demonstrate that master program provisions accomplish the following two requirements:

- Maintain PFC where it occurs.
- Contribute to the attainment of PFC where proper functioning has been impaired. Master programs must include provisions that will result in the long-term improvement of impaired conditions even if those provisions, in themselves, will not achieve PFC in the foreseeable future.

The methodology for local governments to demonstrate conformance to this standard is described by the process below. The methodology tasks listed below also fit within the requirements of WAC 173-26-300 (2)(c)(i) and the process described in WAC 173-26-300(3).

• **Task 1:** Identify the status and biological requirements of the affected species regarding the life history phases within the jurisdiction. This information may be obtained through the department and other local state and federal resource agencies. Contact the department for access to necessary information.

• **Task 2:** Evaluate what aspects of the baseline inventory conditions are achieving species' requirements. As part of the analysis conducted in WAC 173-26-300 (3)(d)(i), (iii), (viii), (ix), and (x), analyze the implications of the information gathered as part of inventory described in WAC 173-26-300 (3)(c). As part of the inventory process, identify those stretches of shorelines with baseline conditions determined to be either "properly functioning," "at risk," or "not properly functioning." With respect to properly functioning condition determination, it is particularly important to identify those functions that have been altered to the point that they are limiting or threatening species survival and recovery. These are the functions that shall be given top priority for restoration.

• **Task 3:** Consider cumulative impacts in the jurisdiction. Accomplish this task through the cumulative impact analysis described in WAC 173-26-300 (3)(d)(iii). Establish master program provisions to address cumulative impacts to properly functioning condition as described in WAC 173-26-300 (3)(g).

• **Task 4:** Determine the effects of the proposed master program on PTE species. This evaluation may be accomplished through analysis included in an impact evaluation conducted under the Washington State Environmental Policy Act. In order to approve a master program, the department must find that development conducted under the jurisdiction of the Shoreline Management Act and allowed by the proposed master program does not have the potential to hinder attainment of properly functioning condition and has an insignificant (extremely low) probability of taking proposed

or PTE species or resulting in the destruction or adverse modification of their shoreline and aquatic habitat. In making this evaluation, the department will consider the ways that master program provisions will protect existing habitats with PFC and restore impaired conditions critical to species' survival.

• **Task 5:** Establish shoreline policies, regulations and environment designations, as appropriate to protect PFC along those shorelines that are "properly functioning" and "at risk," and to restore those shorelines "not properly functioning" to the point to where they effectively contribute to and eventually attain PFC for all shoreline areas within the watershed, sub-basin, or shoreline area within question.

For PTE salmonid species, the following objectives are relevant to PFC:

• Protect and restore the distribution, diversity, and complexity of watersheds, marine environments, and landscape-scale features to ensure protection of the aquatic systems to which species, populations, and communities are uniquely adapted.

• Protect and restore spatial and temporal connectivity within and between watersheds and along marine shorelines. Lateral, longitudinal, and drainage network connections include flood plains, wetlands, upslope areas, headwater tributaries, and intact refugia. Provide chemically and physically unobstructed routes to areas critical for fulfilling life history requirements of aquatic and riverine-dependent species.

• Protect and restore the physical integrity of the aquatic system, including shorelines, beaches, banks, marine near-shore habitats, and bottom configurations.

• Protect and restore timing, volume, and distribution of large woody debris (LWD) recruitment by protecting trees in riverine and marine habitat conservation areas.

• Protect and restore the water quality necessary to support healthy aquatic and wetland ecosystems. Attain water quality within the range that maintains the biological, physical, and chemical integrity of the system and benefits survival, growth, reproduction, and migration of individuals composing aquatic and riverine communities.

• Protect and restore the sediment regime under which aquatic ecosystems evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.

• Protect and restore in-stream flows including natural range of flow variability sufficient to create and sustain riverine, aquatic, and wetland habitats, retain patterns of sediment, nutrient, and wood routing, and optimize the essential features of designated critical habitat. The timing, magnitude, duration, and spatial distribution of peak, high, and low flows should be maintained, where optimum, and restored, where not optimum.

• Protect and restore the timing, variability, and duration of flood plain inundation and water table elevation in meadows and wetlands.

• Protect and restore the species composition and structural diversity of plant communities in riverine areas and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts

and distributions of coarse woody debris sufficient to sustain physical complexity and stability.

• Protect and restore habitat to support well-distributed populations of native plant, invertebrate, and vertebrate species.

• Protect and restore marine shoreline conditions to support PTE species.

For those shoreline areas that affect PTE species, the ecological functions and processes necessary to support those species are of special importance. Applicable master programs shall include measures to protect and restore those functions necessary to attain properly functioning condition for PTE species.

(d) **Preferred uses.**

RCW 90.58.020 states:

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including, but not limited to, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes.

Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-030, when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020, local governments should, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (i) of this subsection.

(i) Reserve appropriate areas for protecting and restoring properly functioning condition for PTE species and ecological functions to control pollution and prevent damage to the natural environment and public health.

(ii) Reserve shoreline areas for water-dependent uses and establish policies and regulations so that water-depen-

dent development is consistent with comprehensive ecological protection and enhancement objectives. Harbor areas and areas that are generally considered navigable for commercial purposes should be reserved for water-dependent and water-related uses unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related needs. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Reserve shoreline areas for water-related and water-enjoyment uses that are compatible with water-dependent uses and ecological protection and restoration objectives.

(iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

(v) Limit nonwater-oriented uses to those locations where either water-oriented uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Local conditions and environmental constraints may result in lower priority uses being accommodated. For example, an undeveloped shoreline may not be an appropriate site for a water-dependent use, such as a cargo facility, but may accommodate a recreational trail (water-enjoyment) of a lower priority.

For shorelines of state-wide significance, apply the preferences as indicated in WAC 173-26-350(2).

(e) Cumulative impacts.

Some types of shoreline developments do not cause measurable ecological harm as individual development projects but can cause significant ecological impacts when considered together with similar projects on a specific shoreline. Examples may include a group of residential bulkheads that, taken together, disrupt sediment drift, cause erosion down-current, and cause loss of forage fish habitat, and incremental construction of impervious surfaces, which prevent water infiltration and retention, exacerbate flooding, and cause stream bed scouring.

Cumulative impacts due to incremental development can also cause significant damage to habitat. Therefore, shoreline master programs must not allow classes of actions that, when considered cumulatively, cause significant ecological impact to shoreline functions or would hinder or prevent the attainment or maintenance of properly functioning condition for PTE species.

The method to accomplish this requirement is to identify potential ecological impacts that could occur from the maximum amount and extent of development allowed by the master program and establish master program provisions and/or mitigation requirements to address the maximum possible ecological impact, as described in WAC 173-26-300 (3)(d)(iii).

In areas where degradation has already occurred, such requirements may be part of restoration of functions that contribute to properly functioning condition.

(f) Environmental impact mitigation.

Because the Shoreline Management Act recognizes both the appropriate use and environmental protection of the state's shorelines, situations may arise in which otherwise allowable development must include measures to mitigate environmental impacts and implement the Shoreline Management Act's environmental protection objectives. Rules implementing Washington's State Environmental Policy Act of 1971, chapter 43.21C RCW, also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Where these guidelines call for mitigation or mitigation sequencing, shoreline master programs shall include provisions for providing environmental impact mitigation. This may be done by prescribing specific mitigation actions for specific uses as called for in WAC 173-26-340 (2)(a), by requiring conditional use permits as described in WAC 173-26-340 (2)(b), and/or by implementing a plan for comprehensive environmental mitigation.

To this end, master programs shall indicate that, where required, mitigation measures shall be applied in the sequence described in WAC 173-26-020. In determining appropriate mitigation measures, avoidance of impacts by means such as relocating or redesigning the proposed development shall be applied first. Lower priority measures shall be applied only after higher priority measures are demonstrated to be not feasible or not applicable.

(g) Assurance of development compliance.

(i) Letters of exemption.

A mechanism must be established to ensure that new development meets the conditions and objectives of these guidelines, even if the development is exempt from the requirement to obtain a shoreline permit. Therefore, local governments shall require that no development normally exempted from the requirement to obtain a shoreline permit be undertaken without a letter of exemption from the applicable local government if the proposed development is any of the following:

- Waterward of the ordinary high-water mark or bank full width, whichever applies, including any form of stream channel modification.
- Shoreline stabilization, including the construction, addition to, or repair of residential bulkheads.
- Development associated with the construction of or addition to a single-family residence.
- Clearing and grading.
- Road construction when a shoreline permit is not required.

The letters of exemption shall describe conditions, requirements, or limitations placed upon the proposed development where necessary to ensure that the development does not cause significant ecological impacts or contribute to potential adverse cumulative impacts. Projects to improve fish or wildlife habitat or fish passage that meet the criteria of RCW 90.58.147 do not require a letter of exemption.

(ii) Compliance assurance mechanism.

Master programs must include a mechanism for assuring that the completed development meets the conditions and mitigation requirements of the permit or letter of exemption, the master program, this chapter, and the act. Such a mecha-

nism may include a performance bond or expressed enforcement conditions or penalties. In the case of a bond, the bond shall not be released before a final inspection indicates the bond conditions have been met. Bonding requirements for projects by local governments and state agencies are limited by RCW 36.32.590.

Local governments participating in the program must perform a final inspection of all development permitted or conditioned with a letter of exemption and take measures to ensure correction of conditions not in compliance. Local governments shall send results of final inspections, including descriptions of noncompliant conditions and violations, to

the department. (See chapter 173-27 WAC for permit enforcement provisions.)

(3) Steps in preparing and amending a master program.

(a) Process overview.

Figure 4 below illustrates a generalized process to prepare or comprehensively amend a shoreline master program. Local governments may modify the timing of the various steps, integrate the process into other planning activities, add steps to the process, or work jointly with other jurisdictions or regional efforts, provided the provisions of this chapter are met.

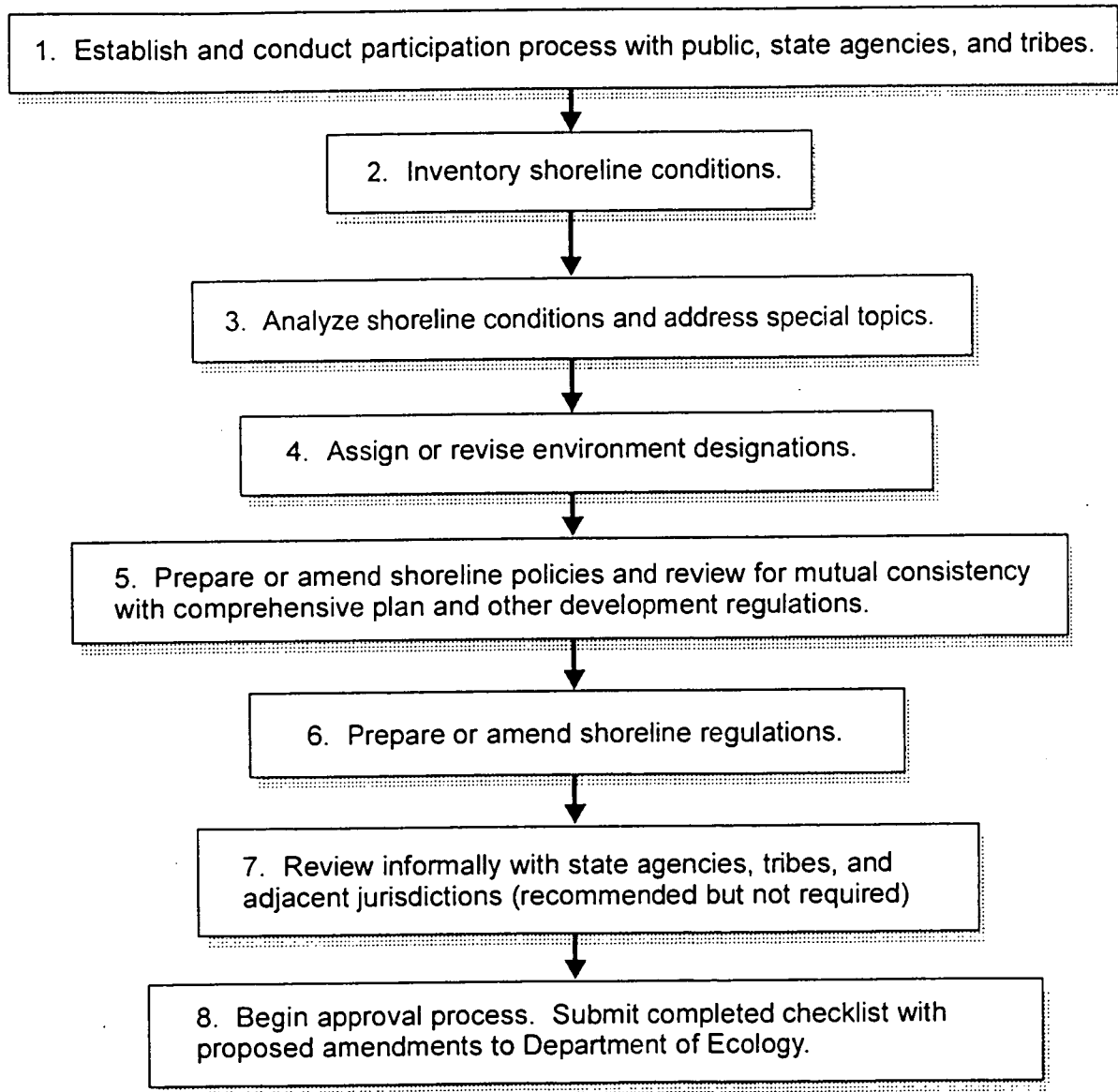


Figure 4. Steps in preparing comprehensive shoreline master program amendments. (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

PROPOSED

The department will provide a shoreline master program amendment checklist to help local governments identify issues to address. The checklist will not create new or additional requirements beyond the provisions of this chapter. The checklist is intended to aid the preparation and review of master program amendments. Local governments shall submit the completed checklist with the proposed master program amendments. The department will send completed checklists to other resource agencies and affected Indian tribes reviewing the master program.

(b) Participation process.

Establish a public and intergovernmental participation process.

(i) Public participation.

RCW 90.58.130 states:

To insure that all persons and entities having an interest in the guidelines and master programs developed under this chapter are provided with a full opportunity for involvement in both their development and implementation, the department and local governments shall:

(1) Make reasonable efforts to inform the people of the state about the shoreline management program of this chapter and in the performance of the responsibilities provided in this chapter, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and

(2) Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the state. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments.

For local governments planning under the Growth Management Act, the provisions of RCW 36.70A.140 also apply.

At a minimum, all local governments shall be prepared to describe and document their methods to ensure that all interested parties have a meaningful opportunity to participate. If a local committee or other group is appointed to advise the amendment process, local governments shall ensure that that body represents the full range of interests of all citizens within the local jurisdiction.

(ii) Communication with state agencies.

Before undertaking substantial work, local governments shall notify applicable state resource agencies to identify state interests, relevant regional and state-wide efforts, available information, and methods for coordination and input. Contact the department for a list of applicable agencies to be notified.

(iii) Communication with affected Indian tribes.

Prior to undertaking substantial work, local governments shall notify affected Indian tribes to identify tribal interests, relevant tribal efforts, available information and methods for coordination and input. Contact the individual tribes or coordinating bodies, such as the Northwest Indian Fisheries Commission, for a list of affected Indian tribes to be notified.

(c) Inventory shoreline conditions.

Gather and incorporate all pertinent and available information, existing inventory data and materials from state agencies, affected Indian tribes, watershed management planning, and other appropriate sources. Ensure that, whenever possible, inventory methods and protocols are consistent with those of neighboring jurisdictions and state efforts. Map inventory information at an appropriate scale.

This chapter requires that several shoreline issues, such as critical area protection, vegetation management, and shoreline stabilization, be addressed on a comprehensive basis to achieve properly functioning condition. To accomplish this requires an inventory that is sufficiently comprehensive to characterize the shoreline ecosystems and sufficiently detailed to provide baseline information for monitoring and adaptive management.

The preferred method for local governments to accomplish a detailed, comprehensive inventory of ecological conditions is to participate in an interjurisdictional state-wide, regional, or watershed-based inventory. If such an inventory is being conducted to improve resource management efforts, local governments preparing master program amendments should work with the applicable state agencies and affected Indian tribes to determine the level of detail, methodology, and cooperative steps necessary to provide a baseline for monitoring purposes.

The department will secure services and resources for coordinated, interjurisdictional inventory work. Contact the department to determine information sources and other relevant efforts.

Local governments shall be prepared to demonstrate how the inventory information was used in preparing their local master program amendments.

Collection of additional inventory information is encouraged and should be coordinated with other watershed, regional, or state-wide inventory and planning efforts in order to ensure consistent methods and data protocol as well as effective use of fiscal and human resources. Local governments should be prepared to demonstrate that they have coordinated with applicable interjurisdictional shoreline inventory and planning programs where they exist. Two or more local governments are encouraged to jointly conduct an inventory in order to increase the efficiency of data gathering and comprehensiveness of inventory information. Data from interjurisdictional, watershed, or regional inventories may be substituted for an inventory conducted by an individual jurisdiction, provided it meets the requirements of this section.

Collect and analyze the following information:

(i) Shoreline and adjacent land use patterns and transportation facilities, including the extent of existing structures, impervious surfaces, and vegetation and shoreline modifications in shoreline jurisdiction.

(ii) Critical areas, including wetlands, aquifer recharge areas, critical wildlife habitats, geologically hazardous areas, and frequently flooded areas, as required by RCW 36.70.170.

(iii) Degraded areas and sites with potential for ecological restoration.

(iv) Areas of special interest, such as priority habitats, rapidly developing waterfronts, clean-up sites, or eroding shorelines, to be addressed through new master program provisions.

(v) Conditions and regulations in shoreland and adjacent areas that affect shorelines, such as surface water management and land use regulations. This information may be useful in achieving mutual consistency between the master program and other development regulations.

(vi) Existing and potential shoreline public access sites, including public rights-of-way.

(vii) General location of bank full width limits, channel migration zones, and flood plains.

(viii) Gaps in existing information. During the initial inventory, local governments should identify what additional information may be necessary for more effective shoreline management and develop strategies to collect this information.

(ix) If the shoreline is rapidly developing or subject to substantial human changes such as clearing and grading, past and current records or historical aerial photographs may be necessary to identify cumulative impacts, such as bulkhead construction, intrusive development on priority habitats, and conversion of harbor areas to nonwater-oriented uses.

(x) Consult with the state historic preservation office and local affected Indian tribes regarding existing archaeological, and historical information.

For those shorelines that affect PTE species, the inventory information shall establish baseline conditions for the items listed below:

Natural:

Physical:

- Location and extent of populations of PTE species
- Drift cells
- Direction of littoral drift (primary)
- Sediment accretion areas (marine and riverine)
- Sediment transport zones (marine and riverine)
- Erosional zones and "feeder" bluffs
- Geological hazard areas
- Wave energy or fetch
- Intertidal substrate description
- Shallow subtidal (-10 feet MLLW) substrate description
- Channel migration zones
- Pool/riffle ratios
- Flood plains
- Ground water upwellings or springs
- Hydric soils

Biological:

- Forage fish spawning and holding areas
- Shellfish areas (both certified and uncertified)
- Eelgrass beds

- Algae and kelp beds
- Spit berm vegetation (gravelly and sandy soils)
- Condition of riverine vegetation (native, nonnative) age and width
- Submerged and emergent vegetation
- Wetland (associated and isolated)
- Salmon and bull trout spawning, rearing, feeding, and migration areas
- Marine riparian vegetation

Alter Conditions:

Land use:

- Zoning density (units per acre)
- Single-family residences and appurtenant structures
- Agricultural structures and practices
- Aquacultural practices
- Industrial complexes and appurtenant structures
- Commercial buildings and appurtenant structures
- Bulkheads and shore hardening, including levees and dikes
- Filled areas
- Docks, piers, and other over-water structures
- Storm water outfalls
- Sewer outfalls
- Roads within shoreline jurisdiction
- Extent of impermeable surfaces
- Identified contaminated sediments
- Tide gates, ditches, diversions, culverts, and barriers to wildlife migration
- Utilities
- Shoreline designations
- Land use overlays
- Development within channel migration zones

For those items inventoried for protection and restoration of habitat for PTE species, document the information at a scale sufficiently detailed to be able to identify changing conditions over time. Washington state resource agencies have inventory information available for most items. Contact the department for access to inventory records.

(d) Analyze shoreline issues of concern.

To support policies of the Shoreline Management Act and ensure properly functioning condition for listed PTE species, analyze shoreline conditions based on information gathered in (c) of this subsection and address special topics. Before establishing specific master program provisions, local governments shall perform analysis and planning tasks nec-

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essary to ensure effective shoreline management provisions, addressing the topics below, where applicable.

(i) Characterization of functions and ecosystem-wide processes.

Prepare a characterization of shoreline ecological systems. These systems include riverine, lacustrine, and tidal systems as listed in WAC 173-26-020. The characterization consists of three steps:

(A) Identify which of the ecosystem-wide processes and ecological functions listed in WAC 173-26-020 apply within the shoreline jurisdiction and identify which have been significantly altered and which may be missing or significantly impacted;

(B) Assess the ecosystem-wide processes to determine their effect/impact on shoreline systems present within a jurisdiction and their individual functions; and

(C) Develop the specific master program provisions necessary to protect and/or restore ecological functions and ecosystem-wide processes. The characterization may be achieved by using one or more of the approaches below:

(I) If a regional plan, such as a watershed plan and limiting habitat factors analysis, is ongoing or has been completed, then the master program should conduct the characterization either within the framework of the watershed plan or use the data provided in the watershed plan. This methodology is intended to provide an in-depth and comprehensive assessment and characterization.

(II) If a regional management plan has not been completed, the local government shall use available scientific and technical information, including flood studies, habitat evaluations and studies, water quality studies, and data and information from environmental impact statements. The characterization of ecosystem-wide processes and the impact upon the functions of specific habitats and human health and safety objectives may be of a generalized nature.

(III) One or more local governments may pursue a characterization, which includes a greater scope and complexity than listed in items (I) and (II) of this subsection.

Local governments shall ensure that master program provisions protect the shoreline processes within the subject jurisdiction that are critical to creating and sustaining properly functioning condition and other ecological functions. To achieve this, the level of resource protection must account for risks to the environment and cumulative impacts from development allowed by the master program. Local governments shall use this analysis to prepare master program provisions to protect and to contribute to the restoration of the ecosystem-wide processes and individual ecological functions on a comprehensive basis over time. This does not necessarily require that each development or action on the shoreline individually improve ecological functions.

For shoreline areas that affect PTE species, the ecosystem characterization shall include an identification of those functions and processes limiting the sustainability and recovery of those species. This analysis should be done for discrete reaches or shoreline segments of differing characteristics. It shall be sufficiently detailed to determine the current performance of shoreline functions relative to properly functioning condition for PTE species. The analysis shall identify those master program provisions necessary to attain properly

functioning condition. Local governments shall use scientific and technical information and should consult with department technical assistance materials and work with federal, state, and local resource agency teams and affected Indian tribes when analyzing ecological conditions and their implications for priority species' survival.

(ii) **Shoreline use analysis and priorities.**

Conduct an analysis to determine the future demand for shoreline space and the methods to resolve potential use conflicts. Characterize current shoreline use patterns and projected trends to ensure a balance of uses consistent with chapter 90.58 RCW and subsection (2)(d) of this section and WAC 173-26-210(5).

If the jurisdiction includes a harbor area or urban waterfront with intensive uses or significant development issues, work with the Washington state department of natural resources and port authorities to ensure consistency with harbor area statutes and regulations. Identify measures and strategies to encourage appropriate use of these shoreline areas while pursuing opportunities for ecological restoration.

(iii) **Cumulative impacts.**

At a minimum, local governments, with the assistance of state agencies, should project the ultimate allowed full build-out condition for existing and proposed master program provisions being considered. This assessment should include potential impacts due to all development, including current conditions and those uses not requiring a shoreline permit. Master programs should address cumulative adverse impacts caused by incremental development, such as residential bulkheads, residential piers, or runoff from newly developed properties, and shall include master program provisions to assess, minimize, and mitigate cumulative impacts.

For shorelines that affect priority species, local governments shall prepare a biological evaluation of the full build-out condition allowed by the master program. The full build-out condition assumes the maximum impact of development permitted by the proposed master program. Where projected cumulative impacts are found to adversely affect priority species populations, master program provisions or mitigation requirements shall be added for each development so that there will be no cumulative impacts significantly affecting ecological functions at full build-out. At a minimum, biological evaluation shall address the following:

- Shoreline stabilization and impacts to the near-shore habitat and critical aquatic habitats.
- Residential development.
- Over-water structures, including residential docks, and impacts to the near-shore habitat and critical aquatic habitats.
- Vegetation conservation and impacts to shoreline stability, water quality, and aquatic habitats.
- Control of exotic species.
- Water quality and quantity, including storm water runoff, discharges, hydrographic response, and pollutant levels.
- Forest and agricultural practices.

Cumulative impact analysis shall incorporate scientific and technical information. Local governments should consult with technical assistance materials for addressing cumulative impacts produced by the department.

(iv) **Shorelines of state-wide significance.**

PROPOSED

If the area contains substantial amounts of shorelines of state-wide significance, undertake the steps outlined in WAC 173-26-350.

(v) Public access.

Identify public access needs and opportunities within the jurisdiction and explore actions to enhance shoreline recreation facilities, as described in WAC 173-26-320(4).

(vi) Enforcement and coordination with other regulatory programs.

Local governments planning under the Growth Management Act shall review their comprehensive plan policies and development regulations to ensure mutual consistency in accordance with chapter 36.70A RCW and RCW 90.58.340. In order to effectively administer and enforce master program provisions, local governments should also review their current permit review and inspection practices to identify ways to increase efficiency and effectiveness and to ensure consistency.

(vii) Water quality and quantity.

Identify water quality and quantity issues relevant to master programs, including those that affect human health and safety. At a minimum, consult with appropriate federal, state, tribal, and local agencies.

(viii) Vegetation conservation.

Identify how existing shoreline vegetation provides ecological functions and determine methods to ensure protection of those functions. Identify important ecological functions that have been degraded through loss of vegetation and feasible means to restore those functions. Consider the amount of vegetated shoreline area necessary to achieve ecological objectives. While there may be less vegetation remaining in urbanized areas than in rural areas, the importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity. Identify measures to ensure that new development meets vegetation conservation objectives.

(ix) Ecological restoration.

Where restoration of the shoreline is necessary for recovery efforts for PTE species or management of priority species or habitats, local governments shall base restoration requirements on comprehensive restoration planning, using scientific and technical information that identifies specific sites, preferred methods, implementation incentives, requirements, and projects.

(x) Special area planning.

If the jurisdiction includes complex shoreline ecological issues, changing uses, or other unique features, the local government is encouraged to undertake special area planning. Special area planning may be used to address: Public access, vegetation conservation, shoreline use compatibility, port development master planning, ecological restoration, or other issues best addressed on a comprehensive basis.

The resultant plans may serve as the basis for facilitating state and local government coordination and permit review. Special-area planning shall provide for public and affected Indian tribe participation.

(e) Establish environment designations.

Establish environment designations and identify permitted uses, and development standards for each environment designation.

Based on the inventory of (c) of this subsection and the analysis of (d) of this subsection, assign each shoreline segment an environment designation.

Prepare specific environment designation policies and regulations where necessary to address different shoreline conditions and objectives, including those necessary to maintain properly functioning condition for PTE species.

Review the environment designations for mutual consistency with comprehensive plan land use designations as indicated in WAC 173-26-310(3).

In determining the boundaries and classifications of environment designations, adhere to the priorities in WAC 173-26-300 (2)(d).

In accordance with WAC 173-26-310, environment designation policies and regulations shall identify and protect ecologically intact shorelines that are largely free of human influence, prevent further loss of ecological functions on a comprehensive basis, and identify urban areas suitable for water-dependent uses and ecological rehabilitation.

In the master program environment designation provisions and boundaries, identify the areas where structural shoreline stabilization measures are prohibited or greatly restricted to avoid damage to natural shoreline functions, those areas where restoration of natural shoreline processes are encouraged or required, and those areas where shoreline stabilization may be appropriate because of the potential for property damage or the needs of water-dependent uses.

(f) Establish shoreline policies.

Address all of the elements listed in RCW 90.58.100(2). Review for mutual consistency with the comprehensive plan policies. If there are shorelines of state-wide significance, ensure that the other comprehensive plan policies affecting shoreline jurisdiction are consistent with the objectives of RCW 90.58.020 and 90.58.090(4). If the shorelines affect PTE species, include a policy in the master program calling for properly functioning condition for the PTE species and review the comprehensive plan for consistency.

(g) Prepare shoreline regulations.

Prepare shoreline regulations based on the analyses described in this section and consistent with the guidelines of this chapter. The level of detail of inventory information and planning analysis will be a consideration in setting shoreline regulations. As a general rule, the less known about existing resources, the more stringent shoreline master program provisions should be to avoid irreparable damage to shoreline resources. If there is a question about the extent or condition of an existing ecological resource, then the master program provisions shall be sufficiently restrictive to ensure that the resource is protected. Shorelines that affect PTE species shall be afforded special consideration to maintain or contribute to the restoration of properly functioning condition.

The regulations shall be sufficient to address cumulative impacts as described in WAC 173-26-300 (2)(e) and (3)(d)(iii).

(h) Submit for review and approval.

Local governments are encouraged to work with department personnel during preparation of the master program and to submit draft master program provisions to the department for informal advice and guidance prior to formal submittal.

Local governments shall submit the completed checklist, as described in WAC 173-26-300 (3)(a), with their master program amendments proposed for adoption. Master program review and formal adoption procedures are described in Parts I and II of this chapter. The checklist will include a monitoring and adaptive management program described in WAC 173-26-300 (2)(b).

NEW SECTION

WAC 173-26-310 Environment designation system.

(1) Applicability.

This section applies to the establishment of environment designation boundaries and provisions as described in WAC 173-26-290 (1)(d).

(2) Basic requirements for environment designation classification and provisions.

Master programs shall contain a system to classify shoreline areas into specific environment designations. Each master program's classification system shall be consistent with that described in WAC 173-26-310 (4) and (5) unless there is a compelling reason to the contrary and the alternative proposed provides equal or better implementation of the act, particularly with respect to protection of PTE species.

Master programs shall contain a map delineating the environment designations and their boundaries.

An up-to-date and accurate map of the shoreline area and environments shall be prepared and maintained in the local government office that administers shoreline permits. If it is not feasible to accurately designate individual parcels on a map, the master program text shall include a clear basis for identifying the boundaries, physical features, explicit criteria, or "common" boundary descriptions to accurately define and distinguish the environments on the ground.

To facilitate consistency with land use planning, local governments planning under chapter 36.70A RCW are encouraged to illustrate shoreline designations on the comprehensive plan Future Land Use Map as described in WAC 365-195-300 (2)(d).

The map should clearly illustrate what environment designations apply to all lands in Shoreline Management Act jurisdictional limits including flood plains, river deltas, and associated wetlands.

The master program should also make it clear that in the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in chapter 173-22 WAC pertaining to wetlands, as amended, rather than the incorrect or outdated map.

The map and the master program should note that all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "rural conservancy" designation until the shoreline can be redesignated through a master program amendment.

The following diagram summarizes the components of the environment designation provisions.

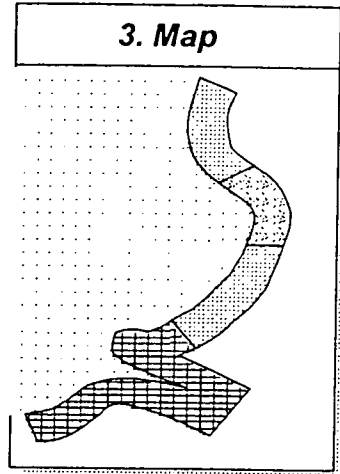
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PROPOSED

1. List of Designations

- & Aquatic
- & Shoreline Residential
- & Rural Conservancy
- & Natural
- & Others

2. Common Legal Descriptions



4. For Each Designation

- & Purpose of Designation
- & Designation Criteria
- & Management Policies

6. Environment Specific Regulations

- & Site Development
- & Vegetation Management
- & Public Access
- Etc.

5. Matrices (Optional)

Use Category	Environment			
	S. Resid.	Rural Cons.		
	P	C		
	P	C		
	X	P		
Activities				
	P	P		
	C	P		
	C	P		
Height	20'	30'		
Setback	60'	120'		
Etc.				

Figure 5. Diagram summarizing the components of the environment designation provisions. (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

For each environment designation, the shoreline master program shall describe:

(a) Purpose statement.

The statement of purpose shall describe the shoreline management objectives of the designation in a manner that distinguishes it from other designations.

(b) Classification criteria.

Clearly stated criteria shall provide the basis for classifying or reclassifying a specific shoreline area with an environment designation.

(c) Management policies.

These policies shall be in sufficient detail to assist in the interpretation of the environment designation regulations and, for jurisdictions planning under chapter 36.70A RCW, to evaluate consistency with the local comprehensive plan.

(d) Regulations.

Environment-specific regulations shall address the following where necessary to account for different shoreline conditions:

- Regulations to maintain or restore properly functioning condition for PTE species relevant to each designation.
- Preferred shoreline use requirements;
- Types of shoreline uses permitted, conditionally permitted, and prohibited;
- Building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards;
- Native vegetation conservation, shoreline stabilization, parking, signs, public access, and other topics not covered in general use regulations.

(3) Consistency between shoreline environment designations and the local comprehensive plan.

As noted in WAC 173-26-290 (2)(a), RCW 90.58.340 requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the applicable master program. Conversely, local comprehensive plans constitute the underlying framework within which master program provisions should fit. The Growth Management Act, where applicable, designates shoreline master program policies as an element of the comprehensive plan and requires that all elements be internally consistent. Chapter 36.70A RCW also requires development regulations to be consistent with the comprehensive plan.

The following criteria are intended to assist local governments and the department in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

(a) Provisions not precluding one another.

The comprehensive plan provisions and shoreline environment designation provisions do not preclude one another. To meet this criteria, the provisions of both the comprehensive plan and the master program must be able to be met. For example, a local comprehensive plan may identify a large tract of land with a stream corridor running through it as suitable for a new residential development. The comprehensive plan and the master program may be consistent even if the stream is designated "natural," because these two objectives could be achieved in a number of ways: Development could be restricted to two hundred feet landward of the ordinary high-water mark or the stream corridor could be dedicated as a passive park and trail system. In this case, the comprehensive plan should make specific provisions for resolving any apparent inconsistency. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded. For example, if the property is designated as within the shoreline residential environment, it should not be zoned exclusively for industrial use.

(b) Use compatibility.

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline

areas because of impacts to nearby nonwater-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred use or development. For example, new residential development should not be allowed near heavy shoreline industrial areas unless the impacts can be mitigated through design standard applied to the new residential development.

(c) Sufficient infrastructure.

Infrastructure and services provided in the comprehensive plan are sufficient to support allowed shoreline uses. Shoreline uses shall not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. For example, high-density residential development and industrial uses shall not be allowed unless the comprehensive plan makes provision for needed infrastructure and services at appropriate locations. However, supporting infrastructure is not a justification for more intense development if that development causes significant ecological impact to habitat for PTE species.

In delineating environment designations, local governments shall ensure that shoreline ecological functions and properly functioning condition for PTE species can be maintained or enhanced with the proposed pattern and intensity of urban growth. Conversely, infrastructure plans must be consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

(4) Recommended environment designation classifications.

The recommended classification system consists of six basic environments: "High-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic." Local governments shall assign all shoreline areas an environment designation consistent with WAC 173-26-310(5).

Local governments may establish different subdesignations, provided they are consistent with this chapter. For example, a local government wishing to differentiate between "conservancy" shorelines used for park purposes and those for habitat restoration might establish "conservancy-park" and "conservancy-habitat" designations, each with separate purposes, criteria, policies, and use provisions. Or, a local government may wish to set site-specific standards for pier and dock construction in more sensitive aquatic areas and restrict aquaculture in harbor areas by establishing "aquatic-conservancy" and "aquatic-harbor" environments, each with different allowable uses and development standards.

Local governments may use "parallel environments" where appropriate. Parallel environments divide shorelands into different sections generally running parallel to the shoreline or along a physical feature such as a bluff or railroad right of way. Such environments may be useful, for example, to accommodate both resource protection near the shoreline and development opportunities further from the shoreline. Where parallel environments occur, development allowed in one must not preclude the maintenance or restoration of eco-

logical functions or properly functioning condition for PTE species.

Local governments may retain their current environment designations provided they can demonstrate that existing environment designation provisions are consistent with this chapter.

(a) **"Natural" environment.**

(i) **Purpose.**

The purpose of the "natural" environment is to preserve and enhance those shoreline areas that are relatively free of human influence or with intact or minimally degraded shoreline functions intolerant of human use. These systems require restrictions on the intensities and types of uses permitted to maintain the ecological functions and ecosystem-wide processes.

(ii) **Management policies.**

(A) Any use that would substantially degrade the ecological functions, particularly PFC for PTE species, or natural character of the shoreline area shall be prohibited.

(B) The following new uses shall not be allowed in the "natural" environment:

- Residences (except as noted below).
- Commercial uses.
- Industrial uses.
- Agriculture that involves tilling the earth or clearing of native plant communities.
- Nonwater-oriented recreation.

Roads and parking areas that can be located outside of natural-designated shorelines.

However, limited single-family residential development may be allowed as a conditional use within the natural environment if such shoreline master program provisions result in a greater level of ecological functions and properly functioning condition.

(C) Commercial forestry may be allowed as a conditional use in the natural environment provided it meets the conditions of the State Forest Practices Act and its implementing rules.

(D) Access may be permitted for scientific, historical, cultural, educational, and low-intensity recreational purposes, provided that no significant ecological impact on the area will result.

(E) Do not allow new development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions or maintain PFC for PTE species. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal that adversely impacts ecological functions. That is, each new property parcel must be able to support its intended development without significant damage to the vegetation necessary to maintain ecological functions.

(b) **"Rural conservancy" environment.**

(i) **Purpose.**

The purpose of the "rural conservancy" environment is to protect, conserve, and enhance ecological functions, existing natural resources, and valuable historic and cultural areas in order to achieve ecological protection, sustain resource use, achieve natural flood plain processes, and provide recre-

ational opportunities. Examples of uses that are appropriate in a "rural conservancy" environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, low-intensity aquaculture, residential development consistent with the local comprehensive plan's rural element and chapter 36.70A RCW, and other related low-intensity uses.

(ii) **Management policies.**

(A) Uses in the "rural conservancy" environment should be limited to those which are nonconsumptive (i.e., do not deplete over time) of the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions, PFC for PTE species, or the rural or natural character of the shoreline area. Shoreline habitat restoration and environmental enhancement are preferred uses.

Except as noted below, commercial and industrial uses should not be allowed. Agricultural practices, commercial forestry, and aquaculture when consistent with provisions of this chapter may be allowed. Nonconsumptive, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.

Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as limited boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant ecological impacts to the shoreline are avoided or mitigated.

(B) Developments and uses that would substantially degrade or permanently deplete the physical or biological resources of the area or that preclude maintenance or attainment of properly functioning condition shall not be allowed.

(C) Construction of new structural shoreline stabilization and flood control works shall not be allowed except where there is a documented and imminent need to protect an existing structure or ecological functions and mitigation is applied, consistent with WAC 173-26-330. New development shall be designed and located to preclude the need for such work.

(D) For jurisdictions planning under the Growth Management Act, new residential development in the "rural conservancy" environment shall be consistent with the comprehensive plan rural element and with RCW 36.70A.070(5). Residential development standards shall prevent significant cumulative adverse impacts to the shoreline environment that prevent properly functioning condition for PTE species. If existing development does not conform to rural element provisions, then the master program should address nonconforming uses in ways that restore ecological functions over time.

For jurisdictions not planning under the Growth Management Act, development shall be limited to a maximum of ten percent total impervious surface area within the lot or parcel lying in shoreline jurisdiction, unless an alternative standard is developed based on scientific information that meets the provisions of this chapter and protects shoreline ecological functions and properly functioning condition.

Master programs for jurisdictions not planning under the Growth Management Act may allow greater lot coverage to allow development of lots legally created prior to the adoption of these guidelines. In these instances, master programs shall require that lot coverage is minimized, that impacts are mitigated according to the mitigation sequence in WAC 173-26-020, and that development of lots created after the adoption of these guidelines does not exceed ten percent impervious surface area within shoreline jurisdiction.

(E) New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications shall be designed and managed to ensure that the natural shoreline functions are protected and restored over time. Shoreline ecological restoration should be required of new development or redevelopment where the shoreline ecological functions have been degraded.

(c) **"Aquatic" environment.**

(i) **Purpose.**

The purpose of the "aquatic" environment is to protect the unique characteristics and resources of the areas waterward of the ordinary high-water mark by managing uses and by assuring compatibility between shoreland and aquatic uses while ensuring that properly functioning condition and shoreline ecological functions are protected and restored over time.

(ii) **Management policies.**

(A) Provisions for the "aquatic" environment shall be directed towards maintaining and restoring PFC for PTE species.

(B) Allow over-water structures only for water-dependent uses or public access that will not preclude attainment of PFC for PTE species.

(C) The size of over-water structures should be limited to the minimum necessary to support the structure's intended use.

(D) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

(E) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(F) Uses that cause significant ecological impacts to critical saltwater and freshwater habitats shall not be allowed. Where those uses are necessary to achieve the objectives of RCW 90.58.020, their impacts shall be mitigated according to the sequence in WAC 173-26-020.

(G) Shoreline uses and modifications shall be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

(d) **"High-intensity" environment.**

(i) **Purpose.**

The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial and industrial uses. Also, the high-intensity environment is designed to ensure use of shorelines that are industrial or commercial in nature while preserving existing ecological

functions and restoring ecological functions in areas that have been previously degraded."

(ii) **Management policies.**

(A) In regulating uses in the high-intensity environment, first priority shall be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments or existing developed areas supporting water-dependent uses. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-300 (3)(d).

If an analysis of water-dependent use needs as described in WAC 173-26-300 (3)(d) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and nonwater-dependent uses may be established. If those shoreline areas also provide ecological functions, particularly properly functioning condition for PTE species, apply use standards as described in WAC 173-26-340 to prevent significant ecological impacts to those functions.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed, provided that as development occurs, ecological functions are maintained or enhanced. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated high-intensity. However, nonwater-oriented uses shall not be considered when determining full utilization of urban waterfronts.

(C) Development should restore shoreline ecological functions, with particular emphasis on the attainment of properly functioning condition for PTE species. Where applicable, development shall include environmental cleanup in accordance with state and federal requirements.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-320 (4)(d).

(E) Aesthetic objectives should be actively implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers. Local governments may implement this guideline by adopting a master program policy for aesthetic objectives and implementing the policy through other development regulations, such as sign or design review ordinances.

(e) **"Urban conservancy" environment.**

(i) **Purpose.**

The purpose of the "urban conservancy" environment is to protect and restore ecological functions, including properly functioning condition for PTE species and ecological functions in urban and developed settings, while allowing a variety of water-oriented uses.

(ii) **Management policies.**

(A) During development and redevelopment, efforts shall be taken to restore PFC for PTE species and other ecological functions. Shoreline restoration and public access

should be required of all nonwater-dependent development on previously developed shorelines.

(B) Standards shall be established for shoreline stabilization measures, vegetation conservation as described in WAC 173-26-320(5), water quality, and shoreline modifications within the "urban conservancy" designation to ensure that development maintains and contributes to the restoration of ecological functions and properly functioning condition for PTE species.

(C) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(D) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

(f) **"Shoreline residential" environment.**

(i) **Purpose.**

The purpose of the "shoreline residential" environment is to accommodate residential development in those instances where consistent with protection and restoration of ecological functions and PFC for PTE species. An additional purpose is to provide appropriate public access and recreational uses.

(ii) **Management policies.**

(A) Developments should be permitted only in those shoreline areas where adequate setbacks or buffers are possible to protect ecological functions, where there are adequate water and sewage disposal systems, and where the environment can support the proposed use in a manner which protects or enhances the ecological functions.

(B) Densities and minimum frontage width standards in the "shoreline residential" environment shall be set to protect the shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions, provided both environments adhere to the standards in this chapter.

(C) Development standards for shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be established to protect and, where significant ecological degradation has occurred, contribute to the restoration of properly functioning condition and other ecological functions over time.

(D) Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.

(E) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(F) Commercial development should be limited to water-oriented uses.

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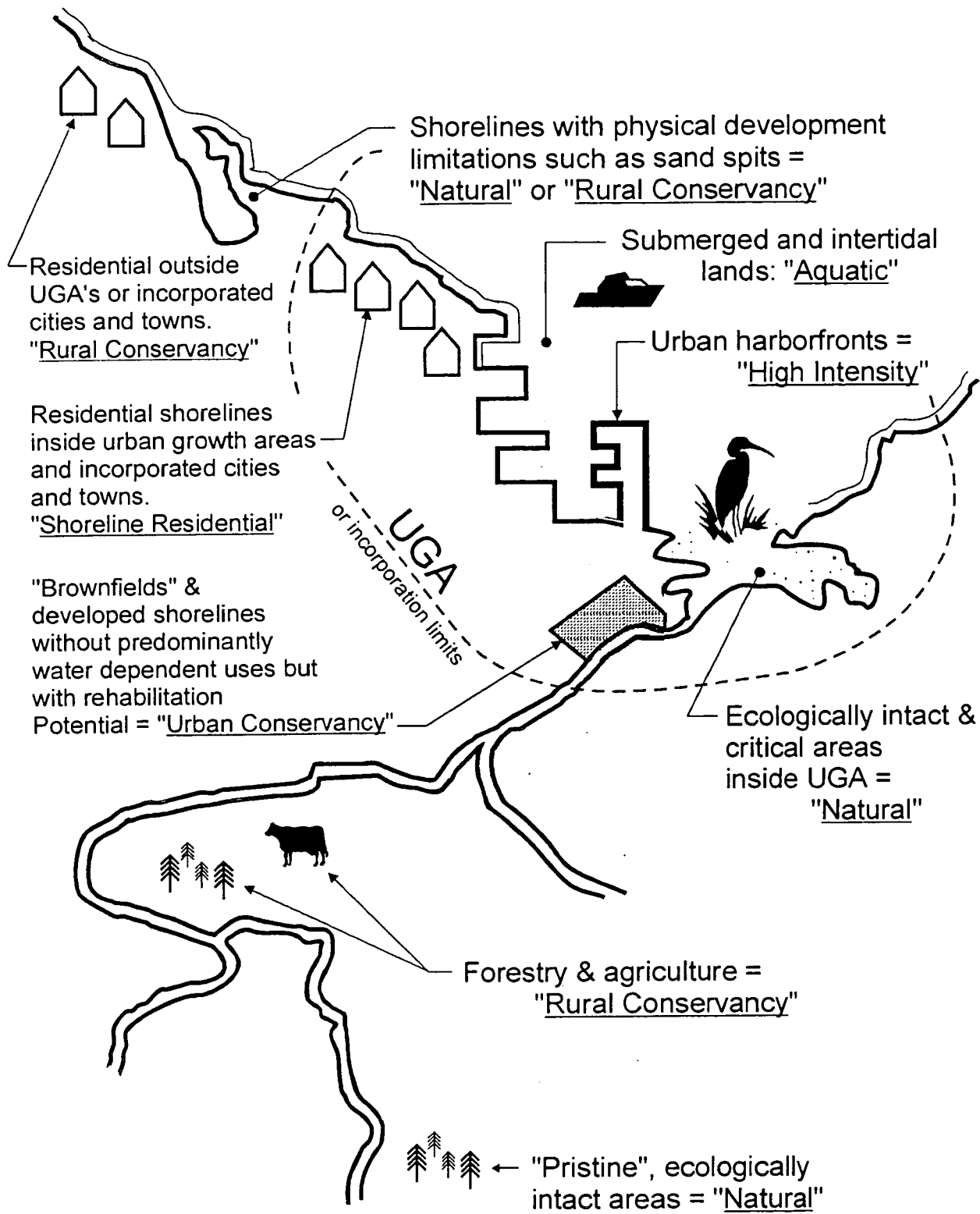


Figure 6. Schematic illustration of typical environment designations.
(This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(5) Criteria for assigning environment designation boundaries.

Local governments shall assign shoreline environment designations (environments) to all shoreline areas consistent with the criteria in (a) through (f) of this subsection.

(a) "Natural" environment criteria.

Assign a "natural" environment designation to shoreline areas that have any of the following characteristics:

(i) The shoreline is ecologically intact or currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

(ii) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest;

(iii) The shoreline is unable to support new development or uses without significant ecological impacts to ecological functions or risk to human safety; or

(iv) The shoreline is especially sensitive to human disturbance and important for the conservation and recovery of PTE species; or

(v) The shoreline is programmed for substantial restoration to PFC.

Such shoreline areas include largely undisturbed wetlands, marine estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

Local governments are encouraged to designate parallel environments as "natural" in order to achieve a higher level of protection for PTE species. For example, an undisturbed area between a shoreline and a roadway may be designated as "natural" even if the area landward of the roadway is no longer ecologically intact.

(b) "Rural conservancy" environment criteria.

Assign a "rural conservancy" environment designation to shoreline areas outside incorporated municipalities and outside urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:

(i) The shoreline is currently supporting lesser-intensity, resource-based uses, such as agriculture, forestry, or recreational uses;

(ii) The shoreline is currently accommodating residential uses outside urban growth areas and incorporated cities or towns;

(iii) The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, flood plains, or flood-prone areas;

(iv) The shoreline is of high recreational value or with unique historic or cultural resources; or

(v) The shoreline has low-intensity water-dependent uses.

Areas designated in a local comprehensive plan as "rural areas of more intense development," as provided for in chapter 36.70A RCW, may be designated an alternate shoreline environment, provided it is consistent with the objectives of the Growth Management Act and this chapter. Master planned resorts as described in RCW 36.70A.360 may be designated an alternate shoreline environment, provided the

applicable master program provisions do not allow significant ecological impacts to ecological functions.

(c) "Aquatic" environment criteria.

Assign an "aquatic" environment designation to lands waterward of the ordinary high-water mark for marine and lacustrine shorelines and bank full width for riverine shorelines. Additionally, local governments may assign an "aquatic" environment designation to wetlands.

(d) "High-intensity" environment criteria.

Assign a "high-intensity" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.-070, if they currently support or are suitable and planned for high-intensity water-dependent uses related to commerce or navigation.

(e) "Urban conservancy" environment criteria.

Assign an "urban conservancy" environment designation to shoreline areas planned for development that are less suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" if any of the following characteristics apply:

(i) They are suitable for a mix of water-enjoyment recreational uses with other uses that allow a substantial number of people to enjoy the shoreline;

(ii) They are flood plains or other areas that should not be more intensively developed;

(iii) They have the potential for ecological restoration;

(iv) They retain important ecological functions, even though partially developed; or

(v) They have the potential for development that is compatible with ecological restoration.

(f) "Shoreline residential" environment criteria.

Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

NEW SECTION

WAC 173-26-320 General master program provisions. (1) Archaeological and historic resources.

(a) Applicability.

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

(b) Principles.

Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site

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having historic, cultural, scientific, or educational value as identified by the appropriate authorities including affected Indian tribes and the office of archaeology and historic preservation.

(c) Standards.

Local shoreline master programs shall include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines and implement the following standards. A local government may reference historic inventories or regulations. Contact the office of archaeology and historic preservation and affected Indian tribes for additional information.

(i) Require that developers and property owners immediately stop work and notify the local government and affected Indian tribes and the office of archaeology and historic preservation if anything of possible archaeological interest is uncovered during excavation.

(ii) Require that permits issued in areas documented to contain archaeological artifacts and data require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

(2) Critical areas.

(a) Applicability.

The provisions of this section shall apply to all critical areas as defined by chapter 36.70A RCW that lie within shoreline jurisdiction. Implementation of RCW 90.58.020 includes the management of critical areas in the shoreline in order to protect public health and safety and the state's natural resources. RCW 36.70A.030 defines critical areas as stated below:

(5) "Critical areas" include the following areas and ecosystems:

(a) Wetlands;

(b) Areas with a critical recharging effect on aquifers used for potable waters;

(c) Fish and wildlife habitat conservation areas;

(d) Frequently flooded areas; and

(e) Geologically hazardous areas.

See WAC 365-190-080 for further definition of critical area categories and management policies.

(b) Principles.

Local master programs shall implement the following principles:

(i) Protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. Promote and enhance the public interest by protecting, restoring, and preserving ecological functions and ecosystem-wide processes. Take necessary measures to help attain the survival and recovery of PTE species.

(ii) In addressing issues related to critical areas, include scientific and technical information, as provided for in WAC 173-26-300 (2)(a). When science is lacking, base decisions related to the protection of PTE species on an approach that minimizes risk to those species and places the highest priority on their protection and recovery.

(iii) Where necessary for the protection of the functions of a critical area, including properly functioning condition for

PTE species, review provisions outside the designated critical area pursuant to RCW 90.58.340.

(iv) In protecting and restoring critical areas within shoreline jurisdiction, integrate the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs. For shoreline areas affecting PTE species, make full use of such provisions to maintain or achieve properly functioning condition.

(v) The objective of shoreline management provisions for critical areas shall be the protection of existing ecological functions and ecosystem-wide processes and restoration of degraded areas to upgrade ecological functions and ecosystem-wide processes. Appropriate systems to address this goal include a littoral drift cell for marine waters or a watershed sub-basin for freshwaters. Local governments should accomplish this on a comprehensive basis, as described in WAC 173-26-300 (3)(d)(i), (e), (f) and (g).

(vi) Promote human uses and values, such as aesthetic values, provided they do not adversely impact ecological functions.

(vii) Implement, where applicable and consistent with the objectives of the Shoreline Management Act, the minimum guidelines in WAC 365-190-080.

(c) Standards.

Shoreline master programs shall adhere to the following standards, unless it is demonstrated through scientific and technical information that an alternative approach provides better resource protection. Provisions for frequently flooded areas are included in WAC 173-26-320(3) and WAC 173-26-330(3).

(i) Wetlands.

(A) Wetland use regulations.

In developing regulations for the protection of wetlands, local governments shall use scientific and technical information, as described in this chapter. Local governments should consult department technical guidance documents on wetlands.

Use regulations shall address the following uses to achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function:

- The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;

- The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrially treated wastewater;

- The draining, flooding, or disturbing of the water level, duration of inundation, or water table;

- The driving of pilings;

- The placing of obstructions;

- The construction, reconstruction, demolition, or expansion of any structure;

- Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; or

- Other uses or development that result in a significant ecological impact of physical, chemical, or biological characteristics of wetlands.

- Activities that may result in a change in the physical, biological, thermal, or chemical characteristics of wetlands water sources that inhibit the recovery of PTE species.

- Activities reducing the functions of buffers described in (D) of this subsection.

(B) Wetland rating or categorization.

Wetlands shall be categorized based on the rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. Local governments should consult the Washington State Wetland Rating System, Eastern or Western Washington version as appropriate.

(C) Alterations to wetlands.

Master program provisions addressing alterations to wetlands shall be consistent with the policy of no net loss of wetland area and functions, wetland rating, scientific and technical information, and the mitigation priority sequence defined in WAC 173-26-020.

(D) Buffers.

Wetland buffers shall be established, restored, and/or maintained in a natural condition. Master programs shall contain requirements for buffer zones around wetlands. Buffer requirements shall be adequate to ensure that wetland functions are protected and maintained in the long-term. Requirements for buffer zone widths and management shall be based on scientific and technical information and shall consider the ecological functions of the wetland that need to be protected.

(E) Mitigation.

Master programs shall contain wetland mitigation requirements that are consistent with the definition of mitigation in WAC 173-26-020 and which are based on the wetland rating and include scientific and technical information.

(F) Compensatory mitigation.

Compensatory mitigation should be allowed only after mitigation sequencing is applied.

Requirements for compensatory mitigation must include provisions for:

(I) Mitigation replacement ratios or a similar method of addressing the following:

- The risk of failure of the compensatory mitigation action;

- The length of time it will take the compensatory mitigation action to adequately replace the impacted wetland functions and values;

- The gain or loss of the type, quality and quantity of the ecological functions of the compensation wetland as compared with the impacted wetland.

(II) Establishment of performance standards for evaluating the success of compensatory mitigation actions;

(III) Establishment of long-term monitoring and reporting procedures to determine if performance standards are met; and

(IV) Establishment of long-term protection and management of compensatory mitigation sites.

Credits from a state certified mitigation bank may be used to compensate for unavoidable impacts related to wet-

land functions only, in accordance with chapter 90.84 RCW and chapter 173-700 WAC, provided that impacts to wetland functions contributing to PTE species are adequately mitigated within the same stream reach.

(ii) Geologically hazardous areas.

New development shall be restricted on unstable bluffs, active river channel migration zones, and landslide areas in consideration of minimum guidelines for geologically hazardous areas, WAC 365-190-080(4).

Do not allow new development or the creation of new lots that would cause foreseeable risk from geological conditions to people or ecological functions during the life of the development. Allow development on or adjacent to a geologically hazardous area only if the results of a geotechnical report indicate that such development is safe and will not require shoreline stabilization or channel modification. Allowable development must incorporate adequate drainage control to prevent erosion or significant ecological impacts.

Do not allow new development that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed water-dependent uses where no alternative locations are available and adverse impacts are mitigated. The stabilization measures shall conform to WAC 173-26-330.

(iii) Critical saltwater habitats and shorelands associated with marine waters and estuaries.

(A) Applicability.

Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt, and sandlance, commercial and recreational shellfish beds, mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association. Critical saltwater habitats require a higher level of protection due to the important ecological functions and contribution to properly functioning condition they provide. Ecological functions of marine shorelands can affect the viability of critical saltwater habitats. Therefore, effective protection and restoration of critical saltwater habitats should integrate management of shorelands as well as submerged areas.

(B) Comprehensive saltwater habitat management principles.

Master programs shall implement saltwater management planning to protect and restore critical saltwater habitats and properly functioning condition for PTE species by establishing coordinated master program policies and regulations. Local governments shall review relevant comprehensive plan policies and development regulations for shorelands and adjacent lands to achieve consistency as directed in RCW 90.58.340. The management planning shall incorporate the participation of state resource agencies and affected Indian tribes and serve as the basis for master program provisions. Local governments should base management planning on information provided by state resource agencies and affected Indian tribes unless they demonstrate that they possess more accurate and reliable information.

The management planning shall include an evaluation of current data and trends regarding the following:

- Available inventory and collection of necessary data regarding physical characteristics of the habitat, including upland conditions, and any information on species population trends;

- Terrestrial and aquatic vegetation;
- The level of human activity in such areas, including the presence of roads and level of recreational types (passive or active recreation may be appropriate for certain areas and habitats);
- Restoration potential;
- Tributaries and small streams flowing into marine waters;
- Dock and bulkhead construction, including an inventory of bulkheads serving no protective purpose;
- Conditions and ecological functions in the near-shore area;
- Land uses surrounding the critical saltwater habitat areas that may negatively impact these areas; and
- An analysis of what data gaps exist and a strategy for gaining this information.

The management planning shall address the following, where applicable:

- Protecting a system of fish and wildlife habitats with connections between larger habitat blocks and open spaces and restoring such habitats and connections where they are degraded;
- Protecting existing and restoring degraded riparian and estuarine ecosystems, especially salt marsh habitats;
- Establishing adequate buffer zones around these areas to separate incompatible uses from the habitat areas;
- Protecting existing and restoring degraded near-shore habitat;
- Protecting existing and restoring degraded or lost salmonid habitat;
- Protecting existing and restoring degraded upland ecological functions important to critical saltwater habitats, including riparian vegetation;
- Improving water quality; and
- Protecting existing and restoring degraded sediment inflow and transport regimens.

Local governments, in conjunction with state resource agencies and affected Indian tribes, shall classify critical saltwater habitats and protect and restore seasonal ranges and habitat elements for priority species.

Local governments should consider both commercial and recreational shellfish areas. Local governments should review the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination or potential for recovery. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas. Local governments shall classify kelp and eelgrass beds identified by the department of natural resources' aquatic lands division, the department, and affected Indian tribes as critical saltwater habitats.

Comprehensive saltwater habitat management planning shall identify methods for monitoring conditions and adapting management practices to new information.

(C) Standards.

Docks, bulkheads, bridges, fill, floats, jetties, and other human-made structures shall not intrude into or over critical saltwater habitats except as a conditional use for a water-dependent use or ecological restoration and when all of the conditions below are met:

- PFC for PTE species is protected or restored as determined by the department in consultation with natural resource agencies and affected Indian tribes. The proponent of a structure over critical saltwater habitat must demonstrate that there will be no loss of ecological functions provided by the habitat upon completion of the project. The analysis demonstrating no loss must account for potential cumulative impacts and risks to the environment resulting from the proposed action;

- The public's need for such a structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

- Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;

- The project is designed to minimize its impacts on critical saltwater habitats and the environment;

- Significant ecological impacts will be mitigated through the mitigation sequence described in WAC 173-26-020; and

- The project is consistent with the state's interest in resource protection and species recovery.

Until an inventory of critical saltwater habitat has been done, shoreline master programs shall condition all over-water and near-shore developments with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with WAC 173-26-300 (3)(c).

(iv) Riverine corridors and other freshwater fish and wildlife conservation areas.

(A) Applicability.

The following provisions apply to master program provisions and shoreline management activities affecting freshwater critical areas within shoreline jurisdiction, including streams, rivers, wetlands, lakes, their associated channel migration zones, and flood plain.

(B) Principles.

Many ecological functions, including PFC for PTE species, of riverine corridors depend both on the continuity of the natural environment along the length of the shoreline and on the conditions of the surrounding lands on either side of the river channel. Significant damage to the environment, such as a polluting outfall, vegetation loss, or imperviousness within the watershed, can destroy ecological functions downstream. Likewise, gradual destruction or loss of the vegetation along the corridor or extensive flood plain development can raise water temperatures and alter hydrographic conditions, thereby making the corridor uninhabitable for priority species and susceptible to catastrophic flooding, droughts, and landslides. These conditions can also threaten human health, safety, and property. Therefore, effective management of riverine corridors depends on:

(I) Planning, protecting, and restoring the length of the corridor from river headwaters to the mouth; and

(II) Conservatively regulating the uses within shoreline jurisdiction, the stream channel, associated channel migration zone, wetlands, and the flood plain. Water quality and hydrological processes also depend upon subsurface flows through the adjacent hyporheic zone, surface water run-off, and ground water in lands outside the flood plain. For this reason, comprehensive watershed efforts are the most effective approach to corridor management.

Recognizing that long stretches of riverine shorelines have been altered or degraded from their natural condition, effective riverine management usually requires a two-part strategy of:

- Preventing damage to river shoreline areas that retain their ecological functions; and
- Restoring degraded shoreline areas wherever feasible. Redevelopment activities along shorelines provide opportunities to achieve setbacks and ecological restoration.

Local governments shall base master program provisions for critical freshwater conservation areas on a comprehensive approach, as described in WAC 173-26-300 (3)(d)(i), (e), (f) and (g). As part of this comprehensive approach, local governments shall integrate categories of master program provisions, including shoreline stabilization, fill, vegetation conservation, water quality, flood damage minimization, and specific use provisions, to protect human health and safety and to protect and restore the corridor's ecological functions and ecosystem-wide processes.

Applicable master programs shall contain provisions to protect and restore hydrologic connections between water bodies, water courses, and associated wetlands. For example, master programs should require that dikes, roads, or other structures, when allowed, be constructed or refitted to allow the unrestricted natural flow of water between dry or braided channels, associated wetlands, the main river channel, and associated water bodies. Incentives should be provided to restore those connectors that have been impeded by previous development.

Master program provisions for riverine corridors shall, where applicable, be based on the information from comprehensive watershed management planning, as indicated in WAC 173-26-300 (3)(c) and (d).

A natural channel configuration with features such as pools, off-channel habitat, and refugia is especially important to PTE species. These habitat features depend upon natural channel formation, natural flood plain function, and unrestricted channel movement within the channel migration zone. Therefore, applicable master programs shall include provisions that prevent restrictions to channel movement within the channel migration zone and that contribute to achieving more natural channel characteristics on a comprehensive basis over time.

(C) Standards.

New structures, flood control measures, structural shoreline stabilization measures, significant vegetation removal, reconfiguration of the channel bed and associated areas, and other new shoreline modifications that affect natural channel movement or natural flood plain function in areas affecting

PTE species shall not be allowed within a stream's channel migration zone. However, the following development and uses may be allowed:

- Protection and restoration actions that increase the ecosystem-wide process or ecological functions toward more properly functioning condition.
- Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.
- Existing and ongoing agricultural practices, provided that no new structures, flood control measures, or restrictions to channel movement occur and there is no clearing and grading within the channel migration zone.
- Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists. Where such structures are allowed, mitigation shall be required to maintain or restore impacted functions and processes in the affected section of watershed or drift cell.
- Repair and maintenance of an existing legal use, provided that such actions do not create significant ecological impacts to PTE species.
- Development on a previously altered site where it is demonstrated that the development restores ecological functions and processes of the applicable section of the watershed or drift cell to a more natural condition.
- Development consistent with special area planning as described in WAC 173-26-300 (2)(d)(x) for a riverine corridor that is directed toward protecting and restoring properly functioning condition for priority species and habitats on a comprehensive basis.

• Modifications or additions to an existing legal development, provided that channel migration is not further limited and that the new development includes appropriate ecological restoration of properly functioning condition.

• New development in incorporated municipalities and designated urban growth areas, as defined in chapter 36.70A RCW, where existing human-made structures prevent active channel movement. In this exception, the new development must not adversely affect hydrological conditions and must include where otherwise required under the provisions of this chapter appropriate restoration which contributes to the attainment of properly functioning condition.

Do not allow the creation of new lots that would require development in the CMZ in order to achieve a viable use.

(3) Flood hazard reduction.

(a) Applicability.

The following provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, and storm water management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, elevation of structures consistent with the National Flood Insurance Program and biotechnical measures. Additional relevant critical area provisions are in WAC 173-26-320(2).

(b) Principles.

Flooding of rivers, streams, and other shorelines is a natural process that is dependent upon factors and land uses

occurring throughout the watershed. Past land use practices have disrupted habitat processes, thereby exacerbating flood hazards and reducing ecological functions. Flood hazard reduction measures are most effective when integrated into comprehensive strategies that recognize the natural hydrogeological and biological processes of water bodies. Over the long term, the most effective means of flood hazard reduction is to prevent or remove development in flood-prone areas, to manage storm water within the flood plain, and to maintain or restore the riverine system's natural hydrogeological processes.

Structural flood hazard reduction measures, such as diking, even if effective in reducing inundation in a portion of the watershed, will intensify flooding elsewhere. Moreover, structural flood hazard reduction measures will damage ecological functions crucial to fish and wildlife species, bank stability, and water quality. Therefore, structural flood hazard reduction measures shall be avoided whenever possible. When necessary, they shall be accomplished in a manner to minimize change to shoreline ecological functions and ecosystem-wide processes. In such cases, set-back levees shall be preferred over levees located near the floodway.

Master programs shall implement the following principles:

(i) Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures. For example, setback or relocation of structures is generally preferred over new dikes or seawalls.

(ii) Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and this chapter. Integrate, when consistent with principles in this section, other regulations and programs associated with flood hazard reduction, including (if applicable):

- Storm water management plans;
- Flood plain regulations, as provided for in chapter 86.16 RCW;
- Critical areas ordinance and comprehensive plan, as provided in chapter 36.70A RCW; and
- National Flood Insurance Program.

(iii) Protect and restore the ecological functions while reducing risk to human safety and property. When preparing master program provisions for flood hazard reduction measures, address the protection and restoration of ecological functions and ecosystem-wide processes on a comprehensive basis consistent with WAC 173-26-300 (3)(d)(i) and 173-26-320 (2)(iv).

(iv) Implement management efforts to return riverine corridors to more natural hydrological conditions that maintain properly functioning condition. Recognize that seasonal flooding is an essential natural process.

(v) When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.

(c) Standards.

Master programs shall implement the following standards within shoreline jurisdiction:

(i) Do not allow new development that increases flood hazard or that is inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been adopted after 1994. Do not allow new development or uses in shoreline jurisdiction, including the subdivision of land, that will require structural flood hazard reduction measures, except water-dependent uses in the "high-intensity" environment.

(ii) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures, including relocation of the structure to be protected, are not feasible, that impacts to the existing shoreline conditions can be successfully mitigated, and that vegetation conservation actions are undertaken consistent with WAC 173-26-320(5). In such cases, structural flood hazard reduction measures must be set back as far as feasible from the channel migration zone.

Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department that evaluates cumulative impacts to the watershed system and effects on properly functioning condition for PTE species.

(iii) Require that all new structural flood hazard reduction measures and improvements to existing structures include measures to restore ecological functions.

Place new structural/flood hazard reduction measures landward of the floodway, channel migration zone, associated wetlands, and associated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration. Consult with Washington's department of fish and wildlife and affected Indian tribes with respect to ecological restoration measures.

Exception: Flood hazard reduction projects as described in this section may occur in a channel migration zone only if it is determined that no other alternative to protect existing development is feasible. The need for structural improvements shall be documented through a hydrogeological analysis. If the hydrogeological analysis demonstrates a need for the structural measure, assess and mitigate impacts to priority species through a habitat evaluation and application of mitigation sequencing.

Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable environmental harm to properly functioning condition, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(iv) Require that the removal of gravel for flood management purposes be phased out consistent with an adopted flood hazard reduction plan and with this chapter and allowed in the near term only after a biological and geomorphological study shows that extraction does not adversely impact priority species and priority habitats.

(v) Require shoreline permit applications for structural flood control projects to include the following information

unless the proposed projects are consistent with standards set in a comprehensive flood hazard management plan:

(A) River channel hydraulics and floodway characteristics up and downstream from the project;

(B) Existing shoreline stabilization and flood protection works within the affected area;

(C) Physical, geological, and soil characteristics of the affected area;

(D) Biological resources and predicted impact to fish, vegetation, and animal habitat associated with shoreline ecological systems;

(E) Predicted impact upon shore and hydraulic processes, adjacent properties, and shoreline and water uses;

(F) Analysis of alternative flood protection measures, both structural and nonstructural;

(G) Within the local governments shoreline jurisdiction approximate percentage of the flood plain that is already uncoupled from the river corridor; and

(H) Approximate percentage of stream channel that is currently prevented from meandering within the local governments shoreline jurisdiction.

(4) Public access.

(a) Applicability.

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) Principles.

Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) Planning process to address public access.

Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible off-site or special area public access provisions

in the master program. Public participation requirements in WAC 173-26-300 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits and policies, project descriptions, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians—including disabled persons—bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) Standards.

Shoreline master programs shall implement the following policy standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-320 (4)(c) demonstrates that a more effective public access system can be achieved through an alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access shall be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-320 (4)(c); or

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security or impact to the shoreline environment.

In determining the undesirability or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and

maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Do not allow public access improvements that would cause significant ecological impacts to shoreline ecological functions that cannot be mitigated. Require that public access improvements with the potential to degrade ecological functions be designed to minimize adverse impacts.

(5) Shoreline vegetation conservation.

(a) Applicability.

Vegetation conservation includes activities to protect and restore native vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions shall include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species detrimental to PFC for PTE plant and animal species.

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those activities over which local governments have authority.

As with all master program provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing structures or existing agricultural practices. However, local master programs shall implement vegetation restoration objectives to help attain PFC for PTE species. Vegetation conservation for aquatic plants is covered in WAC 173-26-320 (2)(c)(iii).

(b) Principles.

Vegetation conservation along shorelines is critical to protect aquatic resources, including many priority species and their critical habitat. The intent of vegetation conservation is to protect existing and restore degraded habitat so as to contribute to ecological functions, including PFC, and ecosystem-wide processes performed by vegetation along shorelines. Vegetation conservation should also be undertaken to protect human safety and property, to increase the stability of river banks and coastal bluffs, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, to protect plant species and their habitats, or to enhance shoreline uses.

Master programs shall include provisions to protect and restore vegetation needed to sustain the ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

In ecologically degraded areas, master program provisions shall contribute to the restoration of properly functioning condition and other ecological processes and functions provided by vegetation as development or redevelopment occurs. Master programs should be directed toward achieving the vegetation characteristics described in *Management Recommendations for Washington's Priority Habitats*, pre-

pared by the Washington state department of fish and wildlife.

Local governments shall address properly functioning condition and other ecological functions and ecosystem-wide processes provided by vegetation as described in WAC 173-26-300 (3)(d)(i) and ensure the protection or restoration of these functions.

(c) Relationship of shoreline vegetation to ecological functions.

Current scientific evidence indicates that the length, width, and species composition of a shoreline vegetation community contribute substantively to the aquatic ecological functions. Likewise, the biota within the aquatic environment is essential to ecological functions of the adjacent upland vegetation.

In the Pacific Northwest, aquatic environments, as well as their associated upland vegetation and wetlands, provide significant habitat for a myriad of fish and wildlife species. Properly functioning condition for aquatic species is inseparably linked with the ecological integrity of the surrounding terrestrial ecosystem. For example, except for arid conditions, a nearly continuous corridor of mature, conifer-dominated forests characterizes the natural riparian conditions of the Pacific Northwest. Riparian corridors along marine shorelines provide many of the same functions as their freshwater counterparts. The most commonly recognized functions of the shoreline vegetation include:

- Providing shade necessary to maintain the cool temperatures required by salmonids, spawning forage fish, and other aquatic biota.
- Providing organic inputs critical for aquatic life.
- Providing food in the form of various insects and other benthic macroinvertebrates.
- Stabilizing banks, minimizing erosion, and reducing the occurrence of landslides. The roots of trees and other riparian vegetation provide the bulk of this function.
- Reducing fine sediment input into the aquatic environment through storm water retention and vegetative filtering.
- Filtering and vegetative uptake of nutrients and pollutants from ground water and surface runoff.
- Providing a source of large woody debris into the aquatic system. Large woody debris is the primary structural element that functions as a hydraulic roughness element to moderate flows. Large woody debris also serves a pool-forming function, providing critical salmonid rearing and refuge habitat. Abundant large woody debris increases aquatic diversity and stabilization.
- Regulation of microclimate in the stream-riparian and intertidal corridors.
- Providing critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refugia areas.
- Providing habitat for PTE plant species.

The ability of vegetated areas to contribute to properly functioning condition and other critical ecological functions diminishes as the length and width of the vegetated area along shorelines is reduced. Many ecological functions will not be performed when shoreline vegetation is removed. The smaller the area of remaining vegetation, the greater the reduction of properly functioning condition and other critical functions.

Sustaining different individual functions requires different widths of vegetation. The importance of the different functions, in turn, varies with the type of shoreline setting. For example, in forested shoreline settings, periodic recruitment of fallen trees, especially conifers, into the stream channel is an important attribute, critical to natural stream channel maintenance. Therefore, vegetated areas along streams should be wide enough to accomplish this periodic recruitment process.

For riverine shoreline environments where trees naturally grow, achieving the full suite of vegetation-related shoreline functions requires a vegetated area of one mature site potential tree height in width, measured perpendicular from bank full width or outer edge of the channel migration zone. Absent a channel migration zone, bank full width is used as the reference point because it usually corresponds to the top of the bank nearest the stream or river channel that supports mature tree growth.

For marine shorelines where trees naturally grow, achieving the full suite of vegetation-related shoreline functions requires approximately one half the height of a mature native tree measured from ordinary high-water mark.

Woody vegetation normally classed as trees may not be a natural component of plant communities in some environments, such as in arid climates and on coastal dunes. In these instances, the width of a vegetated area necessary to achieve the full suite of vegetation-related shoreline functions may not be related to vegetation height.

Therefore, local governments shall work with resource agencies and affected Indian tribes to identify ecological processes and functions important to the local aquatic and terrestrial ecology and conserve sufficient vegetation to protect, restore, and maintain them.

In addressing the restoration of degraded shorelines, local governments shall develop provisions to ensure that required vegetated areas are large enough to help attain properly functioning condition for PTE species and ecological benefits, even if they are not sufficiently wide to achieve all ecological functions.

Local governments may implement objectives through a variety of measures, where consistent with Shoreline Management Act policy, including:

- Clearing and grading regulations;
 - Setback and buffer standards;
 - Critical area regulations;
 - Conditional use requirements for specific uses or areas;
- and
- Mitigation requirements.

In establishing vegetation conservation regulation objectives, local governments must use all available scientific and technical information, as described in WAC 173-26-300 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department.

(d) Standards.

Master programs shall implement the following requirements in shoreline jurisdiction.

(i) Do not allow significant vegetation removal that would likely result in soil erosion or in the need for structural

shoreline stabilization measures as described in WAC 173-26-330 (3)(a).

(ii) Establish vegetation conservation minimum standards to implement principles in WAC 173-26-320 (5)(b) and (c). Methods to do this may include setback or buffer requirements, clearing and grading standards, native vegetation retention standards, environmental designation standards, or other master program provisions.

(iii) Additional vegetation conservation standards for specific uses are included in WAC 173-26-340(3).

(iv) Notwithstanding other provisions of this chapter, for shorelines that affect PTE species, the following will apply.

Master programs shall include vegetation conservation provisions to provide the ecological functions necessary to the survival and recovery of PTE species. As part of the ecosystem characterization described in WAC 173-26-300 (3)(d)(i) and using scientific and technical information, local governments shall establish provisions to protect and restore vegetation-related functions affecting PFC. Local governments shall institute protective setbacks, buffers, standards for retention or restoration of native species, clearing restrictions, and/or other provisions to ensure that those functions are provided. At a minimum, local governments shall address the following functions unless they are shown to be not applicable for a particular shoreline: Natural channel stability, water quality, hydrographic response, large woody debris recruitment, water temperature (shading), nutrient and sediment filtering, and food production.

In the absence of more detailed or current scientific and technical information or specific ecological analysis of local conditions, master programs shall contain provisions to conserve the vegetation necessary to maintain or restore PFC for PTE species within the following vegetation conservation areas within shoreline jurisdiction, including all environment designations:

- For riverine shorelines where trees naturally grow: One site potential tree height measured perpendicular from the channel migration zone or, absent a channel migration zone, bank full width.

- For shorelines where trees do not naturally grow, such as arid areas: Sixty feet, measured perpendicularly, from the channel migration zone or bank full width for riverine shorelines without a channel migration zone.

- For marine and lacustrine shorelines where trees naturally grow: One-half site potential tree height or one hundred feet, whichever is greater, measured perpendicular from the ordinary high-water mark. If conditions for tree blowdown occur, local governments should include a wider vegetation conservation area, if necessary, to reduce the probability of wind or erosion downing trees.

Master programs shall include provisions to implement the following minimum standards within the areas described above except as noted.

- In the "natural" environment, allow no significant vegetation removal that reduces PFC or hampers the achievement of PFC for PTE species. For activities conducted under the Washington State Forest Practices Act, conform to the provisions of that act.

- In the "rural conservancy" environment, allow no reduction in PFC resulting from vegetation removal. Allow

no significant vegetation removal except as demonstrated to be necessary for an allowed development. Where possible, locate new development or clearing and grading outside the vegetation conservation areas described above. If vegetation is removed as part of an allowed development, require restoration with native shoreline vegetation to provide at least an equal degree of PFC. The proponent for such development must demonstrate that the PFC is maintained or restored, taking into account the time lost for revegetation and risks to the environment. The intent of this provision is to allow limited development away from the shoreline if PFC is maintained or enhanced.

For activities conducted under the Washington State Forest Practices Act, conform to the provisions of that act.

- In the "high-intensity" environment, allow no significant removal of existing native vegetation except for water-dependent uses. Require protection of existing native vegetation or restoration of degraded areas in portions of the site that are not occupied by structures necessary for the use. Because of the importance of shoreline vegetation to PFC, even in intensely developed urban settings, master programs shall implement the vegetation conservation principles described in (b) and (c) of this subsection through a restoration strategy based on the ecological characterization and analysis described in WAC 173-26-300 (3)(d)(i). The strategy shall give special emphasis to those functions necessary to PFC for PTE within the particular reach of the shoreline.

- In the "urban conservancy" environment, require that new development for nonwater-dependent uses on degraded sites include the restoration of native shoreline vegetation. As a general rule, provide the maximum natural vegetation strip feasible along the shoreline. Mitigate impacts from water-dependent development according to the mitigation sequence described in WAC 173-26-020.

- In the "shoreline residential" environment, avoid or, if that is not possible, minimize significant vegetation removal as provided for in the provisions for residential areas, below.

- For properties within areas planned for residential development within the "rural conservancy," "urban conservancy," or "shoreline residential" environments, do not allow new development that will have significant ecological impacts to PFC for PTE species, and restrict significant vegetation removal to the minimum necessary to accommodate permitted primary residential structures. Where the dimensions of existing lots or parcels are not sufficient to accommodate permitted primary residential structures outside of the vegetation conservation area, apply the mitigation sequence in WAC 173-26-020 to minimize ecological impacts. Generally, this will mean placing the development away from the shoreline as far as possible, locating the development to avoid tree cutting, and modifying building dimensions to reduce vegetation removal. Do not allow the removal of native vegetation for replacement with lawn or nonnative plant materials.

For shoreline properties with existing residential uses located within a vegetation conservation area, do not allow new development, building additions, or significant vegetation removal that would cause significant ecological impacts to PFC for PTE species. Reconstruction of or additions to buildings within an existing building footprint or paved area

may be allowed. New development associated with existing residences may be allowed landward of an existing structure or if native vegetation is enhanced where vegetation has been degraded.

The minimum standards may be altered where it is demonstrated through scientific and technical information that certain vegetation functions are not important for properly functioning condition or where the functions are provided by other means. In these cases, the vegetation conservation provisions do not need to address this function. Local governments are encouraged to consult with technical assistance materials provided by the department in determining the extent of vegetation conservation provisions.

Development may be allowed within the minimum vegetation conservation areas described above, provided that vegetation-related ecological functions necessary for PTE species are not diminished and other provisions of this chapter are met.

The department will only approve vegetation conservation provisions if the department determines that the provisions will, over the long term, restore properly functioning condition.

(v) For residential and other nonwater-dependent uses, do not allow the creation of lots that will require significant vegetation removal in order to be developed for the use allowed by the local government's development regulations. That is, make sure that each lot is large enough to allow development without significant vegetation removal that reduces properly functioning condition or other ecological functions.

(6) Water quality, storm water, and nonpoint pollution.

(a) Applicability.

The following section applies to all development and uses in shoreline jurisdiction that affect water quantity and quality, including hydrological, physical, chemical, aesthetic, recreation-related, or biological characteristics within shoreline areas.

(b) Principles.

Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

(i) Prevent impacts to water quality and storm water quantity that significantly reduce properly functioning condition and other shoreline ecological functions, aesthetic qualities, or recreational opportunities.

(ii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity, including public health, storm water, and water discharge standards. The regulations that are most protective of ecological functions shall apply.

(c) Standards.

(i) Shoreline master programs shall include provisions to ensure that new development within shoreline jurisdiction does not cause significant ecological impacts to ecological functions or ecosystem-wide processes by altering storm water quality, quantity, or flow characteristics.

(ii) Shoreline master programs for jurisdictions with PTE species shall include a policy that land use and storm water run-off policies and regulations shall maintain or contribute to the attainment of PFC for those species, including ground water recharge and hydrological base flow considerations.

(iii) Shoreline master programs shall also include standards to ensure that storm water outfalls do not adversely affect PFC.

NEW SECTION

WAC 173-26-330 Shoreline modifications. (1) Applicability.

Local governments are encouraged to prepare master program provisions that distinguish between shoreline modifications and shoreline uses. Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basins, or fill, but they can include other actions such as clearing, grading, or application of chemicals that constitute significant vegetation removal. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use).

The provisions in this section apply to all shoreline modifications within shoreline jurisdiction.

(2) Principles.

Master programs shall implement the following principles.

(a) Allow structural shoreline modifications only where demonstrated to be necessary to support or protect a legally existing or allowed development and only when ecological functions will be maintained or improved, including maintenance or improvement of ecological functions necessary for the attainment of properly functioning condition.

(b) Avoid significant ecological impacts of new shoreline modifications and limit shoreline modifications in number and extent.

(c) Only allow shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which it is proposed.

(d) Give preference to those types of shoreline modifications that have a lesser impact on ecological functions or contribute to the attainment of properly functioning condition or other ecological functions.

(e) Where applicable, base provisions on scientific and technical information and a comprehensive analysis of drift cells for marine waters or reach conditions for riverine systems. Contact the department for available drift cell characterizations.

(f) Enhance ecological functions while accommodating existing legally permitted uses. As shoreline modifications occur, incorporate all feasible measures to restore ecological shoreline functions. Apply conditions to permits and letters of exemption so that structural shoreline modifications for nonwater-dependent uses on degraded sites restore properly functioning condition and other ecological functions.

(g) Avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-020.

(h) Prohibit the use of materials with toxic effects and do not allow construction and site development techniques that may affect PFC and other ecological functions.

(i) Master program environment designation provisions and boundaries should identify the areas where structural shoreline stabilization measures are prohibited or greatly restricted to avoid harm to natural shoreline functions and those areas where restoration of natural shoreline processes are encouraged or required.

(j) Conduct baseline and post-construction monitoring to assess the impacts of shoreline modifications and application of adaptive management instituted to reconcile problems.

(k) Conduct monitoring and regulatory response activities as described in WAC 173-26-300 (2)(b) in order to identify and address negative trends or cumulative impacts due to shoreline modifications. The department will also examine impacts and trends specific to shoreline modifications and adopt guidelines to correct deficiencies in shoreline management practices.

(l) Develop incentives for the use of innovative alternative approaches for shoreline modifications that help attain PFC.

(3) Provisions for specific shoreline modifications.

(a) Shoreline stabilization.

(i) Applicability.

Shoreline stabilization includes actions taken to address erosion impacts to dwellings, businesses, or essential structures caused by natural processes, such as current, flood, tides, or wind. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning, and regulatory measures to avoid the need for structural stabilization.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on softer materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Shoreline armoring typically results in the following adverse effects:

- **Beach starvation.** Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.

- **Habitat degradation.** Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish.

- **Sediment impoundment.** As a result of shoreline armoring, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile fish (including threatened Hood Canal chum and Puget Sound Chinook salmon) is produced. Sediment starvation may lead to accelerated erosion in down-drift areas. Also, as sediments become coarser, they become less suitable for forage fish. Forage fish provide food for bull trout and other salmonids in the marine environment.

- **Exacerbation of erosion.** The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion.

- **Bulkhead failure.** In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems.

- **Ground water impacts.** Erosion control structures often raise the water table on the landward side, which leads to higher pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.

- **Hydraulic impacts.** Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure.

- **Loss of shoreline vegetation.** Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining properly functioning condition for listed PTE species and other ecological functions.

- **Loss of large woody debris.** Changed hydraulic regimes and the loss of the high tide beach, along with the prevention of natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase heterogeneity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms, including young salmon.

- **Restriction of channel movement and creation of side channels.** Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour.

- **Loss of rearing habitat for juvenile salmonids.** Hardened channels can decrease habitat.

Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat and shoreline corridors. Therefore, master program shoreline stabilization provisions shall also be consistent with WAC 173-26-320(5), vegetation conservation, and WAC 173-26-320(2), critical areas.

The following standards, where applicable to residential bulkheads, implement RCW 90.58.100(6), which states:

Each master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.

RCW 90.58.020 includes the statement:

The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefor, [sic] a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

Therefore, it is also necessary that master program regulations include provisions to ensure against ecological harm from the cumulative impacts of incremental development actions, including residential development.

As applied to shoreline stabilization measures, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures, the replenishment of sand or other material that has been washed away, and the replacement of less than twenty percent of the original structure. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impacts is not considered normal maintenance and repair.

As applied to shoreline stabilization measures, "replacement" means the construction of a structure to perform a shoreline stabilization function of the existing structure, which can no longer adequately serve its purpose. Replacement includes removal of the existing structure.

Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

Local governments should consult with technical assistance materials provided by the department. Local govern-

ments are encouraged to offer incentives, such as expedient permitting, for removal of unnecessary shoreline stabilization measures and contribution to properly functioning condition for priority species.

(ii) **Standards.**

Master programs shall implement the following standards:

(A) New structural stabilization measures shall not be allowed except to protect or support an existing or approved development or for the restoration of ecological functions. This is to prevent speculative shoreline stabilization consistent with WAC 173-26-320(5).

(B) New development shall, where feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization.

(C) On shorelines where PTE species and their prey have a primary association, new nonwater-dependent development, including single-family homes, that includes structural shoreline stabilization shall not be allowed unless all of the conditions below apply:

- The need to protect the development from imminent destruction due to erosion caused by natural processes, such as tidal action, currents, and waves, is demonstrated through a geotechnical report.

- The erosion is not being caused by upland conditions, such as loss of vegetation and drainage.

- Nonstructural measures as described in WAC 173-26-330 (3)(a)(i), such as placing the development further from the shoreline or installing on-site drainage improvements, are not feasible.

- The structure will not affect priority species in other locations.

New water-dependent development requiring shoreline stabilization shall not cause adverse ecological impacts to PFC for PTE species. Where allowed, new shoreline stabilization for water-dependent development shall be conditioned with the requirement to help attain PFC for PTE species.

(D) Do not allow shoreline stabilization for new development that would cause significant ecological impacts to adjacent or down-current properties and shoreline areas.

(E) Do not allow the subdivision of land into parcels, or the creation of new lots, that will require shoreline stabilization for development to occur.

(F) New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis.

(G) New or enlarged shoreline stabilization measures for an existing structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in imminent danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering shoreline stabilization. The geotechnical analysis should also evaluate vegetation enhancement as a means of reducing

undesirable erosion. If the geotechnical analysis demonstrates a need for shoreline stabilization, impacts to PTE species shall be assessed through a habitat evaluation and conditioned to maintain properly functioning condition and other ecological functions.

(H) An existing shoreline stabilization structure shall not be replaced with a similar structure unless a geotechnical analysis demonstrates there is a need to protect preferred or priority structures identified in RCW 90.58.020 from erosion caused by currents, tidal action, or waves. The demonstration of need must identify the reason for erosion, the protective benefit that the shoreline stabilization measures will perform, and the minimum measures necessary to accomplish the protective function. The replacement structure shall be designed, located, sized, and constructed to minimize harm to the natural shoreline environment. Replacement walls or bulkheads shall be located landward to the greatest extent possible unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing structure. Soft shoreline stabilization that restores properly functioning condition or other ecological functions may be permitted waterward of the ordinary high-water mark.

(I) Where structural shoreline stabilization measures are demonstrated to be necessary, as in the above provisions, limit the size of stabilization measures to the minimum necessary. Use measures designed to minimize harm to the natural shoreline environment and apply mitigation through mitigation sequencing. Mitigation shall address the functions lost. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

(J) In the design of shoreline stabilization measures, use the habitat evaluation as a basis to maintain or restore, as much as possible, properly functioning condition for PTE species and the ecological functions of the shoreline. Require mitigation of adverse impacts to shoreline functions in accordance with the mitigation sequence defined in these guidelines. Include vegetation conservation, as described in WAC 173-26-320(5), as part of shoreline stabilization, where applicable.

(K) Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions; WAC 173-26-320(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

(L) Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a Beach Management District or other institutional mechanism to provide comprehensive

mitigation for the adverse impacts of erosion control measures.

(b) Piers and docks.

Piers and docks shall be allowed only for water-dependent uses or public access. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed use.

New pier or dock construction should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

For new multiunit residential developments, master programs shall limit new dock construction to joint-use or community dock facilities rather than allow individual docks for individual residences.

Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid impacts to critical saltwater habitats consistent with WAC 173-26-320 (2)(c)(iii)(B). Master program provisions for piers and docks shall prevent cumulative impacts to PFC consistent with WAC 173-26-300 (2)(e).

(c) Fill.

Fills shall be located and designed to protect shoreline ecological functions and specifically shall not adversely affect or preclude the attainment of PFC and hydrological and geomorphological processes, including channel migration.

Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support a water-dependent use, public access, clean-up and disposal of contaminated sediments as part of an interagency environmental clean-up plan, mitigation action, environmental restoration, or beach nourishment or enhancement project. Fills waterward of the ordinary high-water mark for any use except ecological enhancement shall require a conditional use permit.

(d) Breakwaters, jetties, groins, and weirs.

Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures shall require a conditional use permit, except for those structures installed to enhance ecological functions, such as large woody debris installed in streams. Such structures shall be designed to support the attainment of properly functioning condition, ecological processes, and critical area protection and shall provide for mitigation according to the sequence described in WAC 173-26-020.

(e) Beach and dunes management.

Washington's dunes and their associated beaches lie along the Pacific Ocean coast between Point Grenville and

Cape Disappointment, and as shorelines of state-wide significance shall be managed from a state-wide perspective. Dunes and their beaches within shoreline jurisdiction shall be managed to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal dunes. Dune modification shall not be allowed where it would cause significant ecological impacts to PFC for PTE species. Dunes and associated beaches should also be managed to reduce the hazard to human life and property from natural or human-induced actions associated with these areas.

Shoreline master programs in coastal marine areas shall provide for diverse and appropriate use of beach and dune areas consistent with their ecological, recreational, aesthetic, and economic values, and consistent with the natural limitations of beaches, dunes, and dune vegetation for development. Coastal master programs shall institute development setbacks from the shoreline to prevent impacts to the natural, functional, ecological and aesthetic qualities of the dune.

"Dune modification" is the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune's shape or sediment migration. Dune modification may be proposed for a number of purposes, including protection of property, flood and storm hazard reduction, erosion prevention, restoration, and ecological restoration.

Coastal dune modification shall be allowed only as a conditional use unless a jurisdiction-wide or regional plan for dune management, including grading, revegetation, and monitoring, is carried out consistent with state and federal flood protection standards and approved by the local government and the department. Where vegetation is used, native dunal vegetation should be required.

Dune modification to protect views of the water shall be allowed only where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of construction.

(f) Dredging and dredge material disposal.

Dredging and dredge material disposal shall be done in a manner which avoids adverse ecological impacts.

New development shall be sited and designed to avoid the need for new and maintenance dredging where significant ecological impacts to properly functioning condition for PTE species result. Dredging for the purpose of establishing, expanding, or relocating navigation channels and basins should be allowed only when significant ecological impacts are minimized and when suitable mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width unless necessary to improve navigation.

Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of properly functioning condition for PTE species, or restoration of other ecological functions on sites not associated with PTE species. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with

a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat restoration project. Master programs should include provisions for uses of suitable dredge material that benefit shoreline resources. Where applicable, master programs should provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning.

Disposal of dredge material into river channel migration zones or 100-year flood plains within shoreline jurisdiction but outside of harbor areas shall be discouraged and shall not be allowed in an area supporting priority species. In the limited instances where it is allowed, such disposal shall require a conditional use permit.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-26-340 Shoreline uses. (1) Applicability.

The provisions in this section apply to uses and development within the shoreline area and to those where the requirement for compatibility with shoreline uses, ecological protection, and other objectives of the Shoreline Management Act apply.

(2) **General use provisions.**

(a) **Principles.**

Shoreline master programs shall implement the following principles:

- Establish a system of use and environment designation provisions consistent with WAC 173-26-310 that gives preference to those uses that are consistent with the prevention of pollution and damage to the ecological functions, or are unique to or dependent upon uses of the state's shoreline areas.

- Ensure that all shoreline master program provisions concerning proposed development of property are established, as necessary, to protect the public's health, safety, and welfare, as well as the land and its vegetation and wildlife, and to protect property rights while implementing the policies of the Shoreline Management Act.

- Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

- Establish regulations to mitigate existing and potential impacts affecting the attainment of PFC and other ecological functions.

- Establish use provisions that preserve unique shorelines. Shoreline master programs shall establish use provisions that take advantage of shorelines with unique attributes or resources.

- Establish use provisions that encourage the restoration of ecological functions on degraded shorelines.

- Address the impacts from specific uses through the monitoring and regulation response program described in WAC 173-26-300 (2)(b). As part of this program, the department will examine impacts and trends specific to different uses and adopt guidelines to correct deficiencies in shoreline management practices.

(b) **Conditional uses.**

Define the types of uses and development that require shoreline conditional use permits. Requirements for a conditional use permit can be used for a variety of purposes, including:

- To effectively address unanticipated uses not classified in the master program as described in WAC 173-27-030.

- To address cumulative impacts.

- To provide the opportunity to require design modifications or environmental analysis of a proposal that would otherwise be inconsistent with Shoreline Management Act policies.

In these cases, allowing a given use as a conditional use could provide greater flexibility within the master program than if the use were prohibited outright.

If master programs permit the following types of uses and development, they shall require a conditional permit.

- Uses and development that may significantly impair or alter the public's use of the water areas of the state.

- Uses and development which, by their intrinsic nature, may have a significant ecological impact on shoreline ecological functions or shoreline resources depending on location, design, and site conditions, such as fill landward of the ordinary high-water mark, disposal of dredge material within a river channel migration zone but outside a harbor area, class IV general forest practices where shorelines are being converted or are expected to be converted to nonforest uses, breakwaters, jetties, groins, and weirs.

- Development in critical saltwater habitats.

- Other uses and development as identified by local governments.

Master programs shall contain provisions that assure that uses requiring a conditional use permit shall not be allowed if they would cause significant ecological impacts to properly functioning condition for PTE species.

(3) **Standards.**

Establish master program regulations to address the potential impacts and opportunities of specific shoreline uses that may occur in the jurisdiction.

(a) **Agriculture.**

Applicable master programs shall address new agricultural development that does not meet the definition of existing and ongoing agriculture.

RCW 90.58.030 (3)(e) defines substantial development for agricultural uses. New shoreline master program provisions should not apply retroactively to existing agricultural uses. Existing and ongoing agriculture includes, but is not limited to, the production of horticultural, viticultural, floricultural, livestock, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, or Christmas trees; the operation and maintenance of farm and stock ponds, drainage ditches, or irrigation systems; and the normal

maintenance and repair of existing structures, facilities, and lands currently under production or cultivation.

New development, clearing, and grading in support of agricultural uses shall be located and designed to avoid impacts to shoreline environments.

Applicable master programs shall include standards for setbacks, water quality protection, environmental impacts, and vegetation conservation, as described in WAC 173-26-320(5), for new agricultural development, clearing, and grading in shoreline jurisdiction.

Requirements for setbacks for new development shall be based on scientific and technical information and management practices adopted by the applicable state agencies necessary to preserve the functions and qualities of the shoreline environment. In riverine corridors with priority species, the regulations shall be sufficient to ensure no net loss of habitat viability. If the shoreline habitat has been degraded through development or agriculture practices, the master program shall include provisions that result in improved habitat over time.

Agricultural lands within jurisdiction of the Shoreline Management Act which are enrolled in set-aside programs administered by the Natural Resources Conservation Service or the Farm Services Administration of the United States Department of Agriculture, or any other federal, state, or local agency, are considered to remain existing, ongoing agriculture for purposes of the Shoreline Management Act and this rule. This provision is intended to ensure that master program provisions do not prevent agriculture from being resumed after the period of the set-aside program.

(b) Aquaculture.

Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. This activity is of state-wide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity. The technology associated with present-day aquaculture is still in its formative stages and experimental. Local shoreline master plans should therefore recognize the necessity for some latitude in the development of this emerging economic water use as well as its potential impact on existing uses and natural systems.

Aquaculture shall not be permitted in areas where it would significantly degrade ecological functions over the long term, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses. Aquacultural facilities shall be designed and located so as not to spread disease to native aquatic life, establish non-native species, or significantly impact the aesthetic qualities of the shoreline. Impacts to ecological functions shall be mitigated according to the mitigation sequence described in WAC 173-26-020.

(c) Boating facilities.

For the purposes of this chapter, "boating facilities" excludes docks serving three or fewer single-family residences. Shoreline master programs shall contain provisions to address potential impacts while providing the boating public recreational opportunities on waters of the state.

Where applicable, shoreline master programs shall, at a minimum, contain:

(i) Provisions to ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses and where significant ecological impacts to PFC for PTE can be avoided.

(ii) Provisions that assure that facilities meet health, safety, and welfare requirements. Master programs may reference other regulations to accomplish this requirement.

(iii) Regulations to avoid or, if that is not possible, mitigate visual impacts.

(iv) Provisions for public access in new marinas, particularly where water-enjoyment uses are associated with the marina, in accordance with WAC 173-26-320(4).

(v) Regulations to limit the impacts from boaters living in their vessels (live-aboards).

(vi) Regulations reducing the impacts of parking.

(vii) Regulations restricting or mitigating the impacts of covered moorage.

(viii) Regulations to protect the rights of navigation.

(ix) Regulations restricting vessels from permanently mooring on waters of the state unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

(d) Commercial development.

Master programs shall give preference to water-dependent commercial uses on the shoreline. Master programs shall consider public access and ecological restoration requirements for all water-oriented commercial uses. Shoreline ecological protection, maintenance, or restoration shall be a condition of all nonwater-dependent commercial development where necessary to achieve properly functioning condition. Public access shall be a condition of all nonwater-dependent development as described in WAC 173-26-320(4) except where such improvements are demonstrated to be infeasible or inappropriate. Master programs shall exclude nonwater-oriented commercial uses from locating on the shoreline unless they provide public access and ecological enhancement and they meet at least one of the following criteria:

(i) The use is part of a mixed-use project that includes water-dependent uses.

(ii) Navigability is severely limited at the proposed site.

(iii) The commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives.

Nonwater-oriented commercial use may be allowed if the site is physically separated from the shoreline by another property or public right of way.

New nonwater-dependent commercial development shall be required to protect existing shoreline vegetation contributing to ecological functions. Where shoreline vegetation

has been removed or degraded, nonwater-dependent commercial development shall contribute to the restoration of ecological functions provided by vegetation.

New water-dependent development shall mitigate impacts to shoreline vegetation according to WAC 173-26-300 (2)(f).

(e) Forest practices.

Local master programs shall, where applicable, rely on the Forest Practices Act and rules implementing the act and the Forest and Fish Report as adequate management of commercial forest uses within shoreline jurisdiction. However, local governments shall, where applicable, apply this chapter to Class IV-General forest practices where shorelines are being converted or are expected to be converted to nonforest uses.

Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses shall avoid significant adverse impacts to the shoreline environment and maintain the ecological quality of the watershed hydrologic system. Master programs shall establish provisions to ensure that all such timber removal is consistent with the master program environment designation provisions and the provisions of this chapter. Applicable shoreline master programs shall contain provisions to ensure that when forest lands are converted to another use, including a residential use, significant vegetation removal, grading, and development, except for low-intensity water-dependent uses and public access that sustains ecological functions, are not allowed within one site potential tree height measured from the CMZ or within shoreline jurisdiction, whichever is less.

Master programs shall implement the provisions of RCW 90.58.150 regarding selective removal of timber harvest on shorelines of state-wide significance. Exceptions to this standard shall be by conditional use permit only.

Lands designated as "forest lands of long-term commercial significance" shall be designated either "natural," "rural conservancy," or equivalent environment designation.

Where forest practices fall within the applicability of the Forest Practices Act, local governments should consult with the department of natural resources, other applicable agencies, and local timber owners and operators.

(f) Industry.

Regional and state-wide needs for water-dependent and water-related industrial facilities should be carefully considered in establishing master program environment designations, use provisions, and space allocations for industrial uses and supporting facilities.

Industrial development shall not be located or designed in a manner that causes significant ecological impacts to the ecological functions or properly functioning condition for PTE species. Particular scrutiny shall be given to ecological functions necessary to support priority species.

New industrial development shall incorporate public access to the water except when such access causes significant interference with operations or hazards to life or property, as provided in WAC 173-26-320(4). Industrial development and redevelopment shall, where feasible, incorporate environmental cleanup and restoration of the shoreline area. New nonwater-oriented industrial development—that is,

industrial development that is neither water-dependent nor water-related—shall only be allowed on nonnavigable shorelines and shall include ecological restoration of the shoreline and, where feasible, public access. In such cases, no new structural shoreline stabilization measures should be permitted, except to protect or restore ecological functions or public access.

New nonwater-dependent development shall be required to protect existing shoreline vegetation contributing to ecological functions. Where shoreline vegetation has been removed or degraded, nonwater-dependent development shall provide restoration of ecological functions provided by vegetation consistent with WAC 173-26-320(5).

New water-dependent development shall mitigate impacts to shoreline vegetation.

(g) In-stream structures.

In-stream structures shall provide for the protection, preservation, and restoration of ecological functions and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on priority habitats and species.

(h) Mining.

Mining and the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses alters the natural character, resources, and ecology of shorelines of the state and may adversely impact critical shoreline resources. Activities associated with mining, including processing and transportation, also have the potential to adversely impact shoreline resources. Master programs shall include policies and regulations that assure:

(i) Mining and associated activities are not allowed where such uses would result in short-term or long-term significant ecological impacts to shoreline ecological functions or ecosystem-wide processes.

(ii) Where mining and associated activities are allowed, they must be conducted in a manner that is consistent with the policies of the environment designation in which they are located, impacts to fish and wildlife habitat shall be avoided, and all disturbed areas must be restored upon completion of mining. Destruction of PTE or priority species habitat is prohibited.

(iii) Surface mining shall be conducted in conformance with the Washington State Surface Mining Reclamation Act, chapter 78.44 RCW.

(iv) Surface mine reclamation plans shall provide for subsequent use of the property that is consistent with the policies of the environment designation in which they are located and shall assure that ecological functions of the shoreline are restored.

(v) Removal of sand and gravel resources from a location waterward of the ordinary high-water mark of a river shall be prohibited unless:

(A) A hydrogeological study, conducted by a qualified professional and approved by appropriate state agencies, demonstrates that removal of specific quantities at specific

locations will not significantly alter the natural processes of gravel transportation for the river system as a whole; and

(B) A biological study, conducted by a qualified professional and approved by appropriate state agencies, demonstrates that removal will not significantly degrade habitat values for priority species or damage other ecological functions.

Removal of sand and gravel from a location waterward of the channel migration zone shall require a conditional use permit.

In locations where gravel removal has been allowed in the past, any future authorization to continue shall be based on studies as required above, and no further authorization shall be granted except in conformance with this provision.

(i) Recreational development.

Provision shall be made in master programs for the public to enjoy the waters of the state. Master program provisions shall ensure that shoreline recreational facilities, now and in the future, can reasonably tolerate, during peak use periods, a balance of active and passive uses without causing significant ecological impacts to ecological functions.

In accordance with RCW 90.58.100(4), ensure that master program provisions reflect that state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public and give appropriate special consideration to the same.

For all jurisdictions planning under the Growth Management Act, master program recreation policies shall be consistent with growth projections and level-of-service standards established by the applicable comprehensive plan. Private recreational development shall not be a substitute for publicly owned, publicly accessible recreational facilities on the shorelines. Recreational development should provide for a spectrum of recreational needs and opportunities. Where possible, shoreline recreational facilities should be linked to other recreational attractions by pedestrian and bicycle trails. Master program recreation provisions shall be consistent with public access and environmental protection provisions of this chapter.

Master program provisions shall give preference to water-dependent recreation as a first priority and water-enjoyment and water-related recreational uses as a second priority. Nonwater-oriented recreational uses should be discouraged on the shoreline and, where allowed, shall include public access and ecological protection and restoration.

The impacts of recreational developments, including water-dependent facilities such as marinas and swimming beaches, and nonwater-oriented uses shall be mitigated. Nonwater-dependent recreational uses shall be located away from the water unless their significant ecological impacts can be avoided. Nonwater-recreational uses, such as beach driving, shall be restricted where necessary to maintain PFC for PTE species, including forage fish habitat.

(j) Residential development.

Single-family residences are a priority use when consistent with control of pollution, prevention of damage to the natural ecology, and provisions of this chapter. However, residential uses can cause significant damage to the shoreline area through cumulative impacts from shoreline bulkheading, storm water runoff, septic system failure, eelgrass damage,

introduction of pollutants, and vegetation removal. Residential development includes single-family and multifamily development and the creation of new residential lots through land division or conversion from another use. Master programs shall include shoreline setbacks, bulkhead restrictions, vegetation conservation requirements, and, where applicable, on-site sewage system standards and density regulations for residential uses, including single-family residences and appurtenant structures and uses, in accordance with the provisions of this chapter. Master programs may provide the above standards either by direct language within the master program or by specific reference to the applicable development regulations. New residential development, including appurtenant structures and uses, shall be sufficiently set back from shorelines so that structural improvements, including bluff walls and other stabilization structures, are not required to protect property. (See RCW 90.58.100(6).)

New over-water residences, including floating homes are not a preferred use and shall be prohibited.

New multiunit residential development, including duplexes, fourplexes, and the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter.

If piers, docks, breakwaters, jetties, groins, and weirs are allowed in residential development, local governments should consult the department technical assistance materials and afford the best possible protection to priority species and shoreline processes.

Local governments shall not allow residential development of a scale and location that will reduce the ecological functions performed by vegetation. Limit significant vegetation removal to the minimum necessary to accommodate permitted primary residential structures. Where the dimensions of existing platted lots are not sufficient to accommodate development of a permitted use without significant vegetation removal, apply the mitigation sequence in WAC 173-26-020 to minimize adverse impacts to vegetation.

Applicable master programs shall include standards for the creation of new residential lots through land division or conversion from another use that accomplish the following:

(i) Prevent significant vegetation removal, development within the CMZ, or significant ecological impacts to properly functioning condition and other ecological functions. That is, all residential lots resulting from such platting or subdivision must be large enough or configured in a way that a residence may be developed without causing significant ecological impacts to properly functioning condition and other ecological functions. For example, master programs shall prevent the creation of new residential lots that will require structural shoreline stabilization or deviation from vegetation conservation or water quality standards.

When land is converted to residential use from agriculture, forestry, or other less intensive land use, ensure that the resulting lots are sufficient in size and configuration to allow protection of ecological functions or, if vegetation supporting ecological functions has been removed, the restoration of ecological functions.

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(ii) Prevent the need for new shoreline stabilization measures that would cause significant ecological impacts to ecological functions.

(iii) Implement the provisions of WAC 173-26-310 and 173-26-320.

(k) Transportation and parking.

Establish and implement master program policies and regulations to provide safe, reasonable, and adequate circulation systems to shorelines.

Transportation and parking plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

Circulation system planning to and on shorelands shall include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects shall support existing shoreline uses and those provided for by the master program.

Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological functions or on existing or future water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction or one site potential tree height, whichever is less.

Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support a preferred use. Shoreline master programs shall include policies and regulations to minimize the environmental and visual impacts of parking facilities.

Restoration of shoreline ecological functions shall be a condition of new and expanded nonwater-dependent transportation and parking facilities where they affect PFC for PTE species.

(l) Utilities.

These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water line to a residence, are "accessory utilities" and shall be considered a part of the allowed use.

All utility facilities shall be designed and located to minimize harm to properly functioning condition and shoreline functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

Utility production and processing facilities, or parts of those facilities, such as power plants and sewage treatment plants that are nonwater-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available. In such cases, significant ecological impacts to properly functioning condition shall be avoided.

Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located to cause minimum harm to the shoreline, shall be located outside of the shoreline area where feasible. Utilities should be

located in existing rights of way and corridors whenever possible.

Development of underwater pipelines and cables on tidelands shall be discouraged. When permitted, those facilities shall include adequate provisions to ensure against significant ecological impacts.

Restoration of ecological functions shall be a condition of new and expanded nonwater-dependent utility facilities where they may affect PFC for PTE species.

NEW SECTION

WAC 173-26-350 Shorelines of state-wide significance. (1) Applicability.

The following section applies to local governments preparing master programs that include shorelines of state-wide significance as defined in RCW 90.58.030.

(2) Principles.

Chapter 90.58 RCW raises the status of shorelines of state-wide significance in two ways. First, the Shoreline Management Act sets specific preferences for uses of shorelines of state-wide significance. RCW 90.58.020 states:

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of state-wide significance. The department, in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state-wide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the state-wide interest over local interest;*
- (2) Preserve the natural character of the shoreline;*
- (3) Result in long term over short term benefit;*
- (4) Protect the resources and ecology of the shoreline;*
- (5) Increase public access to publicly owned areas of the shorelines;*
- (6) Increase recreational opportunities for the public in the shoreline;*
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

Second, the Shoreline Management Act calls for a higher level of effort in implementing its objectives on shorelines of state-wide significance. RCW 90.58.090(4) states:

The department shall approve those segments of the master program relating to shorelines of state-wide significance only after determining the program provides optimum implementation of the policy of this chapter to satisfy the state-wide interest.

Optimum implementation involves special emphasis on state-wide objectives and consultation with state agencies. The state's interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Shoreline Management Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems. For

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example, optimum implementation places a greater imperative on identifying and understanding ecosystem-wide processes and ecological functions that sustain resources of state-wide importance.

(3) Master program provisions for shorelines of state-wide significance.

Because shorelines of state-wide significance are major resources from which all people of the state derive benefit, local governments that are preparing master program provisions for shorelines of state-wide significance shall implement the following:

(a) State-wide interest.

To recognize and protect state-wide interest over local interest, consult with applicable state and federal agencies, affected Indian tribes, and state-wide interest groups and consider their recommendations in the shoreline master program provisions. Recognize and take into account state agencies' policies, programs, and recommendations in developing use regulations. For example, if an anadromous fish species is affected, the Washington state departments of fish and wildlife and ecology, as well as affected Indian tribes, should, at a minimum, be consulted.

(b) Preserving resources for future generations.

Prepare master program provisions on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of state-wide significance should be severely limited. Where natural resources of state-wide importance are being diminished over time, master programs shall include provisions to contribute to the restoration of those resources.

(c) Priority uses.

Establish shoreline environment designation policies, boundaries, and use provisions that give priority to uses that implement the priorities of RCW 90.58.020. More specifically:

(i) Identify the extent and importance of priority species and ecological resources of state-wide importance and potential impacts to those species and resources, both inside and outside the local government's geographic jurisdiction.

(ii) Preserve sufficient shorelands and submerged land to accommodate current and projected demand for economic resources of state-wide importance, such as commercial shellfish beds and navigable harbors. Base projections on state-wide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes and state agencies.

(iii) Base public access, recreation, and utilization requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

(d) Resources of state-wide importance.

Establish development standards that:

(i) Ensure the long-term viability and enhancement of functions supporting properly functioning condition and ecological resources of state-wide importance, such as anadromous fish, shellfish beds, and unique environments. Standards shall consider incremental and cumulative impacts of

permitted development and include provisions to improve the functions of shoreline ecosystems as a whole.

(ii) Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of state-wide importance.

(iii) Provide for the right of the public to use, access, and enjoy public shoreline resources of state-wide importance.

(e) Comprehensive plan consistency.

Ensure that other local comprehensive plan provisions are consistent with and support as a high priority the policies for shorelines of state-wide significance. Specifically, shoreline master programs shall include policies that incorporate the priorities and optimum implementation directives of chapter 90.58 RCW into comprehensive plan provisions and implementing development regulations. Where necessary for the survival and recovery of PTE species, ensure that comprehensive plan policies and other development regulations are consistent with master program provisions to protect and restore ecological functions necessary for properly functioning condition.

**PART V
OCEAN MANAGEMENT**

NEW SECTION

WAC 173-26-360 Ocean management. (1) Purpose and intent. This section implements the Ocean Resources Management Act, (RCW 43.143.005 through 43.143.030) enacted in 1989 by the Washington state legislature. The law requires the department of ecology to develop guidelines and policies for the management of ocean uses and to serve as the basis for evaluation and modification of local shoreline management master programs of coastal local governments in Jefferson, Clallam, Grays Harbor, and Pacific counties. The guidelines are intended to clarify state shoreline management policy regarding use of coastal resources, address evolving interest in ocean development and prepare state and local agencies for new ocean developments and activities.

(2) Geographical application. The guidelines apply to Washington's coastal waters from Cape Disappointment at the mouth of the Columbia River north one hundred sixty miles to Cape Flattery at the entrance to the Strait of Juan De Fuca including the offshore ocean area, the near shore area under state ownership, shorelines of the state, and their adjacent uplands. Their broadest application would include an area seaward two hundred miles (RCW 43.143.020) and landward to include those uplands immediately adjacent to land under permit jurisdiction for which consistent planning is required under RCW 90.58.340. The guidelines address uses occurring in Washington's coastal waters, but not impacts generated from activities offshore of Oregon, Alaska, California, or British Columbia or impacts from Washington's offshore on the Strait of Juan de Fuca or other inland marine waters.

(3) Ocean uses defined. Ocean uses are activities or developments involving renewable and/or nonrenewable resources that occur on Washington's coastal waters and includes their associated offshore, near shore, inland marine,

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shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments. Ocean uses involving nonrenewable resources include such activities as extraction of oil, gas and minerals, energy production, disposal of waste products, and salvage. Ocean uses which generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity.

(4) Relationship to existing management programs. These guidelines augment existing requirements of the Shoreline Management Act, chapter 90.58 RCW, and those chapters in Title 173 of the Washington Administrative Code that implement the act. They are not intended to modify current resource allocation procedures or regulations administered by other agencies, such as the Washington department of fisheries management of commercial, recreational, and tribal fisheries. They are not intended to regulate recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources. Every effort will be made to take into account tribal interests and programs in the guidelines and master program amendment processes. After inclusion in the state coastal zone management program, these guidelines and resultant master programs will be used for federal consistency purposes in evaluating federal permits and activities in Washington's coastal waters. Participation in the development of these guidelines and subsequent amendments to master programs will not preclude state and local government from opposing the introduction of new uses, such as oil and gas development.

These and other statutes, documents, and regulations referred to or cited in these rules may be reviewed at the department of ecology, headquarters in Lacey, Washington, for which the mailing address is Mailstop PV-11, Olympia, WA 98504.

(5) Regional approach. The guidelines are intended to foster a regional perspective and consistent approach for the management of ocean uses. While local governments may have need to vary their programs to accommodate local circumstances, local government should attempt and the department will review local programs for compliance with these guidelines and chapter 173-16 WAC: Shoreline Management Act guidelines for development of master programs. It is recognized that further amendments to the master programs may be required to address new information on critical and sensitive habitats and environmental impacts of ocean uses or to address future activities, such as oil development. In addition to the criteria in RCW 43.143.030, these guidelines apply to ocean uses until local master program amendments are adopted. The amended master program shall be the basis for review of an action that is either located exclusively in, or its environmental impacts confined to, one county. Where a proposal clearly involves more than one local jurisdiction, the guidelines shall be applied and remain in effect in addition to the provisions of the local master programs.

(6) Permit criteria: Local government and the department may permit ocean or coastal uses and activities as a substantial development, variance or conditional use only if the criteria of RCW 43.143.030(2) listed below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia River, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations.

(7) General ocean uses guidelines. The following guidelines apply to all ocean uses, their service, distribution, and supply activities and their associated facilities that require shoreline permits.

(a) Ocean uses and activities that will not adversely impact renewable resources shall be given priority over those that will. Correspondingly, ocean uses that will have less adverse impacts on renewable resources shall be given priority over uses that will have greater adverse impacts.

(b) Ocean uses that will have less adverse social and economic impacts on coastal uses and communities should be given priority over uses and activities that will have more such impacts.

(c) When the adverse impacts are generally equal, the ocean use that has less probable occurrence of a disaster should be given priority.

(d) The alternatives considered to meet a public need for a proposed use should be commensurate with the need for the proposed use. For example, if there is a demonstrated national need for a proposed use, then national alternatives should be considered.

(e) Chapter 197-11 WAC (SEPA rules) provides guidance in the application of the permit criteria and guidelines of this section. The range of impacts to be considered should be consistent with WAC 197-11-060 (4)(e) and 197-11-792 (2)(c). The determination of significant adverse impacts should be consistent with WAC 197-11-330(3) and 197-11-794. The sequence of actions described in WAC 197-11-768 should be used as an order of preference in evaluating steps to avoid and minimize adverse impacts.

(f) Impacts on commercial resources, such as the crab fishery, on noncommercial resources, such as environmentally critical and sensitive habitats, and on coastal uses, such as loss of equipment or loss of a fishing season, should be considered in determining compensation to mitigate adverse environmental, social and economic impacts to coastal resources and uses.

(g) Allocation of compensation to mitigate adverse impacts to coastal resources or uses should be based on the magnitude and/or degree of impact on the resource, jurisdiction and use.

(h) Rehabilitation plans and bonds prepared for ocean uses should address the effects of planned and unanticipated closures, completion of the activity, reasonably anticipated disasters, inflation, new technology, and new information about the environmental impacts to ensure that state of the art technology and methods are used.

(i) Local governments should evaluate their master programs and select the environment(s) for coastal waters that best meets the intent of chapter 173-16 WAC, these guidelines and chapter 90.58 RCW.

(j) Ocean uses and their associated coastal or upland facilities should be located, designed and operated to prevent, avoid, and minimize adverse impacts on migration routes and habitat areas of species listed as endangered or threatened, environmentally critical and sensitive habitats such as breeding, spawning, nursery, foraging areas and wetlands, and areas of high productivity for marine biota such as upwelling and estuaries.

(k) Ocean uses should be located to avoid adverse impacts on proposed or existing environmental and scientific preserves and sanctuaries, parks, and designated recreation areas.

(l) Ocean uses and their associated facilities should be located and designed to avoid and minimize adverse impacts on historic or culturally significant sites in compliance with chapter 27.34 RCW. Permits in general should contain special provisions that require permittees to comply with chapter 27.53 RCW if any archeological sites or archeological objects such as artifacts and shipwrecks are discovered.

(m) Ocean uses and their distribution, service, and supply vessels and aircraft should be located, designed, and operated in a manner that minimizes adverse impacts on fishing grounds, aquatic lands, or other renewable resource ocean use areas during the established, traditional, and recognized times they are used or when the resource could be adversely impacted.

(n) Ocean use service, supply, and distribution vessels and aircraft should be routed to avoid environmentally critical and sensitive habitats such as sea stacks and wetlands, preserves, sanctuaries, bird colonies, and migration routes, during critical times those areas or species could be affected.

(o) In locating and designing associated onshore facilities, special attention should be given to the environment, the characteristics of the use, and the impact of a probable disaster, in order to assure adjacent uses, habitats, and communities adequate protection from explosions, spills, and other disasters.

(p) Ocean uses and their associated facilities should be located and designed to minimize impacts on existing water-dependent businesses and existing land transportation routes to the maximum extent feasible.

(q) Onshore facilities associated with ocean uses should be located in communities where there is adequate sewer, water, power, and streets. Within those communities, if space is available at existing marine terminals, the onshore facilities should be located there.

(r) Attention should be given to the scheduling and method of constructing ocean use facilities and the location of temporary construction facilities to minimize impacts on tourism, recreation, commercial fishing, local communities, and the environment.

(s) Special attention should be given to the effect that ocean use facilities will have on recreational activities and experiences such as public access, aesthetics, and views.

(t) Detrimental effects on air and water quality, tourism, recreation, fishing, aquaculture, navigation, transportation, public infrastructure, public services, and community culture should be considered in avoiding and minimizing adverse social and economic impacts.

(u) Special attention should be given to designs and methods that prevent, avoid, and minimize adverse impacts such as noise, light, temperature changes, turbidity, water pollution and contaminated sediments on the marine, estuarine or upland environment. Such attention should be given particularly during critical migration periods and life stages of marine species and critical oceanographic processes.

(v) Preproject environmental baseline inventories and assessments and monitoring of ocean uses should be required when little is known about the effects on marine and estuarine ecosystems, renewable resource uses and coastal communities or the technology involved is likely to change.

(w) Oil and gas, mining, disposal, and energy producing ocean uses should be designed, constructed, and operated in a manner that minimizes environmental impacts on the coastal waters environment, particularly the seabed communities, and minimizes impacts on recreation and existing renewable resource uses such as fishing.

(x) To the extent feasible, the location of oil and gas, and mining facilities should be chosen to avoid and minimize impacts on shipping lanes or routes traditionally used by commercial and recreational fishermen to reach fishing areas.

(y) Discontinuance or shutdown of oil and gas, mining or energy producing ocean uses should be done in a manner that minimizes impacts to renewable resource ocean uses such as fishing, and restores the seabed to a condition similar to its original state to the maximum extent feasible.

(8) Oil and gas uses and activities. Oil and gas uses and activities involve the extraction of oil and gas resources from beneath the ocean.

(a) Whenever feasible oil and gas facilities should be located and designed to permit joint use in order to minimize adverse impacts to coastal resources and uses and the environment.

(b) Special attention should be given to the availability and adequacy of general disaster response capabilities in reviewing ocean locations for oil and gas facilities.

(c) Because environmental damage is a very probable impact of oil and gas uses, the adequacy of plans, equipment, staffing, procedures, and demonstrated financial and performance capabilities for preventing, responding to, and mitigating the effects of accidents and disasters such as oil spills should be major considerations in the review of permits for their location and operation. If a permit is issued, it should ensure that adequate prevention, response, and mitigation can be provided before the use is initiated and throughout the life of the use.

(d) Special attention should be given to the response times for public safety services such as police, fire, emergency medical, and hazardous materials spill response services in providing and reviewing onshore locations for oil and gas facilities.

(e) Oil and gas facilities including pipelines should be located, designed, constructed, and maintained in conformance with applicable requirements but should at a minimum ensure adequate protection from geological hazards such as liquefaction, hazardous slopes, earthquakes, physical oceanographic processes, and natural disasters.

(f) Upland disposal of oil and gas construction and operation materials and waste products such as cuttings and drilling muds should be allowed only in sites that meet applicable requirements.

(9) Ocean mining. Ocean mining includes such uses as the mining of metal, mineral, sand, and gravel resources from the sea floor.

(a) Seafloor mining should be located and operated to avoid detrimental effects on ground fishing or other renewable resource uses.

(b) Seafloor mining should be located and operated to avoid detrimental effects on beach erosion or accretion processes.

(c) Special attention should be given to habitat recovery rates in the review of permits for seafloor mining.

(10) Energy production. Energy production uses involve the production of energy in a usable form directly in or on the ocean rather than extracting a raw material that is transported elsewhere to produce energy in a readily usable form. Examples of these ocean uses are facilities that use wave action or differences in water temperature to generate electricity.

(a) Energy-producing uses should be located, constructed, and operated in a manner that has no detrimental effects on beach accretion or erosion and wave processes.

(b) An assessment should be made of the effect of energy producing uses on upwelling, and other oceanographic and ecosystem processes.

(c) Associated energy distribution facilities and lines should be located in existing utility rights of way and corridors whenever feasible, rather than creating new corridors that would be detrimental to the aesthetic qualities of the shoreline area.

(11) Ocean disposal. Ocean disposal uses involve the deliberate deposition or release of material at sea, such as solid wastes, industrial waste, radioactive waste, incineration, incinerator residue, dredged materials, vessels, aircraft, ordnance, platforms, or other man-made structures.

(a) Storage, loading, transporting, and disposal of materials shall be done in conformance with local, state, and federal requirements for protection of the environment.

(b) Ocean disposal shall be allowed only in sites that have been approved by the Washington department of ecology, the Washington department of natural resources, the United States Environmental Protection Agency, and the United States Army Corps of Engineers as appropriate.

(c) Ocean disposal sites should be located and designed to prevent, avoid, and minimize adverse impacts on environmentally critical and sensitive habitats, coastal resources and uses, or loss of opportunities for mineral resource develop-

ment. Ocean disposal sites for which the primary purpose is habitat enhancement may be located in a wider variety of habitats, but the general intent of the guidelines should still be met.

(12) Transportation. Ocean transportation includes such uses as: Shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports. The following guidelines address transportation activities that originate or conclude in Washington's coastal waters or are transporting a nonrenewable resource extracted from the outer continental shelf off Washington.

(a) An assessment should be made of the impact transportation uses will have on renewable resource activities such as fishing and on environmentally critical and sensitive habitat areas, environmental and scientific preserves and sanctuaries.

(b) When feasible, hazardous materials such as oil, gas, explosives and chemicals, should not be transported through highly productive commercial, tribal, or recreational fishing areas. If no such feasible route exists, the routes used should pose the least environmental risk.

(c) Transportation uses should be located or routed to avoid habitat areas of endangered or threatened species, environmentally critical and sensitive habitats, migration routes of marine species and birds, marine sanctuaries and environmental or scientific preserves to the maximum extent feasible.

(13) Ocean research. Ocean research activities involve scientific investigation for the purpose of furthering knowledge and understanding. Investigation activities involving necessary and functionally related precursor activities to an ocean use or development may be considered exploration or part of the use or development. Since ocean research often involves activities and equipment, such as drilling and vessels, that also occur in exploration and ocean uses or developments, a case by case determination of the applicable regulations may be necessary.

(a) Ocean research should be encouraged to coordinate with other ocean uses occurring in the same area to minimize potential conflicts.

(b) Ocean research meeting the definition of "exploration activity" of WAC 173-15-020 shall comply with the requirements of chapter 173-15 WAC: Permits for oil or natural gas exploration activities conducted from state marine waters.

(c) Ocean research should be located and operated in a manner that minimizes intrusion into or disturbance of the coastal waters environment consistent with the purposes of the research and the intent of the general ocean use guidelines.

(d) Ocean research should be completed or discontinued in a manner that restores the environment to its original condition to the maximum extent feasible, consistent with the purposes of the research.

(e) Public dissemination of ocean research findings should be encouraged.

(14) Ocean salvage. Ocean salvage uses share characteristics of other ocean uses and involve relatively small sites occurring intermittently. Historic shipwreck salvage which

combines aspects of recreation, exploration, research, and mining is an example of such a use.

(a) Nonemergency marine salvage and historic shipwreck salvage activities should be conducted in a manner that minimizes adverse impacts to the coastal waters environment and renewable resource uses such as fishing.

(b) Nonemergency marine salvage and historic shipwreck salvage activities should not be conducted in areas of cultural or historic significance unless part of a scientific effort sanctioned by appropriate governmental agencies.

PROPOSED



WSR 00-11-065

EXPEDITED ADOPTION

DEPARTMENT OF ECOLOGY

[Order 00-13—Filed May 15, 2000, 11:52 a.m.]

Title of Rule: Chapter 173-145 WAC, Administration of flood control assistance account program.

Purpose: The purpose of this rule is to determine priorities and allocate available funds from the flood control assistance account program among those counties applying for assistance and to adopt rules establishing criteria by which the allocations are made.

Statutory Authority for Adoption: RCW 86.26.105.

Statute Being Implemented: RCW 86.26.105.

Summary: This amendment is being proposed to correct errors in grammar and punctuation, and to clarify the language of the rule without changing its effect.

Reasons Supporting Proposal: To comply with executive order on regulatory improvement, this amendment is being proposed to correct errors in grammar and punctuation.

Name of Agency Personnel Responsible for Drafting: Kathy Carpenter, Headquarters, Olympia, (360) 407-6216; Implementation and Enforcement: Gordon White, SEA Program, Olympia, (360) 407-6977.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule determines priorities and allocates available funds from the flood control assistance account program to those counties applying for assistance and adopts rules establishing criteria by which the allocations are made.

This amendment will correct errors in grammar and punctuation, and clarify the language of the rule without changing its effect.

Proposal does not change existing rules.

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 Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, AND RECEIVED BY July 25, 2000.

May 12, 2000
Daniel J. Silver
Deputy Director

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-010 Authority and purpose. RCW 86.26.050 provides that counties and other municipal corporations responsible for flood control maintenance may apply to the department of ecology for financial assistance for the preparation of comprehensive flood control management plans and for flood control maintenance projects. The purpose of ~~((such))~~ those plans is described in RCW 86.26.105. The department shall determine priorities and allocate available funds from the flood control assistance account program (FCAAP) among those counties applying for assistance, and shall adopt ~~((regulations))~~ rules establishing the criteria by which ~~((such))~~ those allocations ~~((shall))~~ must be made. ~~((Such))~~ The criteria ~~((shall))~~ must be based upon proposals ~~((which))~~ that are likely to bring about public benefits commensurate with the amount of state funds allocated thereto. This chapter describes the manner in which ecology will implement the provisions of the act.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-020 Definitions. For the purposes of this chapter, the following definitions ~~((shall be))~~ are used:

- (1) "Applicant." An eligible municipal corporation seeking matching funds for flood control maintenance work.
- (2) "Appropriate local authority." A county, city, or town ~~((having))~~ that has planning and land use jurisdiction within a given area ~~((which))~~ that is covered by the comprehensive flood control management plan.
- (3) "Certification." Certification is the written confirmation between ecology and the appropriate local authority and the county engineer ~~((which))~~ who verifies the understanding as to what the comprehensive flood control management plan will contain, the timing and anticipated product, and a reporting schedule that will allow for ecology review and input during the plan development.
- (4) "Comprehensive flood control management plan (CFCMP)." A document ~~((which))~~ that determines the need for flood control work, considers alternatives to in-stream flood control work, identifies and considers potential impacts of in-stream flood control work on the state's in-stream resources, and identifies the river's meander belt or floodway, as described in WAC 173-145-040.
- (5) "County engineer." The appointed public works director, county engineer, or the person designated to act for the county engineer.
- (6) "Eligible municipal corporation." Counties, cities, towns, conservation districts, flood control zone districts, or any special districts subject to flood conditions.
- (7) "Emergency fund." That portion of the biennial appropriation allocated to the flood control assistance account which is set aside for emergency projects.
- (8) "Emergency project." Flood control work necessary for reasons declared by the appropriate local authority and as authorized and approved by ecology ~~((which))~~ that must be done immediately to protect lives or property.

(9) "Flood compatible land uses." Those uses of the land within the river's meander belt or floodway which comply with the minimum state, federal, and local flood plain management (~~(regulation))~~ rule requirements.

(10) "Flood plain management activities." Activities described in WAC 173-145-050 performed by local governments through ordinances or other means to reduce the damaging effects of flooding.

(11) "Floodway." The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base (one hundred year frequency) flood without cumulatively increasing the water surface elevation more than a designated height.

(12) "Maintenance project." The work necessary to preserve or restore the natural condition or to restore man-made flood control facilities to their former condition using in-kind replacement materials or acceptable alternatives. This work is necessary due to anticipated or actual damage or destruction from flooding by action of erosion, stream flow, sheet runoff, or other damages by the sea or other bodies of water.

(13) "Meander belt." That portion of the flood plain, that can be identified by the evidence of present and previous meanders. This (~~(shall))~~ includes the present stream channel. Where there is no identified floodway, that area which is floodprone and has similar topographic characteristics to present and historic stream channels (~~(shall be))~~ is considered as a meander belt.

(14) "Public benefit." Benefit to the health, safety, or general welfare of the citizens of the state or community at large (~~(which))~~ that results from a flood control project or plan, or some benefit by which their rights or liabilities are affected such as an effect on public property or facilities owned or maintained by an eligible municipal corporation.

(15) "Special district." A district as defined in chapter 85.38 RCW (~~(which))~~ that is either a:

(a) Diking district; (~~(a))~~

(b) Drainage district; (~~(a))~~

(c) Diking, drainage, and/or sewerage improvement district; (~~(an))~~

(d) Intercounty diking and drainage district; (~~(a))~~

(e) Consolidated diking district, drainage district, diking improvement district, and/or drainage improvement district; or (~~(a))~~

(f) Flood control district.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-030 Eligibility criteria for FCAAP funds. Criteria to be used in determining eligibility for FCAAP funds are as follows:

(1) Eligible municipal corporation. The applicant must be an eligible municipal corporation as defined in WAC 173-145-020(6).

(2) Public benefit. The applicant must demonstrate that their comprehensive flood control management plans and flood control maintenance projects (~~(shall))~~ will further the general public and state interest as differentiated from a private interest and that they (~~(shall))~~ will bring about public benefits commensurate with FCAAP funds provided.

(3) Comprehensive flood control management plan. The requirements of WAC 173-145-040 must be complied with by the appropriate local authority with flood control jurisdiction over the area where the proposed project is located.

(4) Flood plain management activities. The appropriate local authority within whose jurisdiction projects are located (~~(shall))~~ must be engaging in approved flood plain management activities as described in WAC 173-145-050.

(5) Budget report. Any eligible municipal corporation seeking FCAAP funds shall submit its annual budget for flood control purposes to the county engineer within thirty calendar days after its final adoption. The county engineer shall then forward the budget report for eligible municipal corporations and for the county to ecology. The information will provide the basis for preparation of a preliminary plan for the most beneficial and orderly allocation of FCAAP funds. Soil conservation districts (~~(shall be))~~ are exempt from the provisions of this section.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-040 Comprehensive flood control management plan (CFCMP). The county engineer of the county within which the maintenance project is located (~~(must))~~ shall certify that the CFCMP has been completed and adopted by the appropriate local authority or is being prepared. Comprehensive flood control management plans, and any revisions to the plans, must be approved by ecology, in consultation with the department of (~~(fisheries))~~ fish and (~~(game))~~ wildlife. The (~~(f))~~ CFCMP(~~(s))~~ must be completed and adopted within three years of the date that it is certified as being prepared. If, after the three-year period has elapsed, such a plan has not been completed and adopted, the appropriate local authority may not make grants to the county for flood control maintenance projects (~~(shall not be made to the county for projects by the appropriate local authority))~~ until the CFCMP is completed and adopted by the appropriate local authority. During the three-year period, projects within a drainage area, designated as the CFCMP study area, may be funded as part of a phased project plan(~~(, provided))~~: Provided, That preliminary studies for the CFCMP have been conducted to identify the one-hundred-year frequency flood plain problem areas(~~(,))~~ and factors contributing to flooding(~~(, and provided that))~~: And provided further, That the proposed projects have been prioritized to achieve the greatest efficiency in flood control for the overall CFCMP study area. These limitations on grants (~~(shall))~~ may not preclude allocations for emergency purposes made (~~(pursuant to))~~ under RCW 86.26.060. The appropriate local authority may require the applicant to fully or partially fund the preparation of the CFCMP. The plan must include:

(1) Determination of the need for flood control work.

(a) Description of the watershed(~~(,))~~;

(b) Identification of types of watershed flood problems(~~(,))~~;

(c) Location and identification of specific problem areas(~~(,))~~;

(d) Description of flood damage history(~~(,))~~;

(e) Description of potential flood damages(~~(,))~~;

(f) Short-term and long-term goals and objectives for the planning area(-);

(g) Description of ~~((regulations which))~~ rules that apply within the watershed(-) including, but not limited to, local shoreline management master programs, and zoning, subdivision, and flood hazard ordinances(-);

(h) Determination ~~((of))~~ that the instream flood control work ~~((being))~~ is consistent with applicable policies and ~~((regulations))~~ rules.

(2) Alternative flood control work.

(a) Description of potential measures of instream flood control work(-);

(b) Description of alternatives to instream flood control work.

(3) Identification and consideration of potential impacts of instream flood control work on the following instream uses and resources.

(a) Fish resources(-);

(b) Wildlife resources(-);

(c) Scenic, aesthetic, and historic resources(-);

(d) Navigation(-);

(e) Water quality(-);

(f) Hydrology(-);

(g) Existing recreation(-);

(h) Other impacts.

(4) Area of coverage for the comprehensive plan shall include, as a minimum, the area of the one-hundred-year frequency flood plain within a reach of the watershed of sufficient length to ensure that a comprehensive evaluation can be made of the flood problems for a specific reach of the watershed. The plan may or may not include an entire watershed. Comprehensive plans shall also include flood hazard areas not subject to riverine flooding such as areas subject to coastal flooding, flash flooding, or flooding from inadequate drainage. Either the meander belt or floodway ~~((shall))~~ must be identified on aerial photographs or maps ~~((which))~~ that will be included with the plan.

(5) Conclusion and proposed solution(s). The CFCMP ~~((shall))~~ must be finalized by the following action from the appropriate local authority:

(a) Evaluation of problems and needs;

(b) Evaluation of alternative solutions;

(c) Recommended corrective action~~((s))~~ with proposed impact resolution measures for resource losses; and

(d) Corrective action priority.

(6) A certification from the state department of community, trade, and economic development that the local emergency management organization is administering an acceptable comprehensive emergency operations plan.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-050 Flood plain management activities. Local jurisdictions within which flood control maintenance projects are located, must be engaging in flood plain management activities. ~~((Pursuant to))~~ Under chapter 86.26 RCW the director of the department of ecology must approve the flood plain management activities of the county, city, or town ~~((having))~~ that has jurisdiction over the area where the

project will be located. To be eligible for FCAAP funding the local jurisdiction ~~((shall))~~ must be required to:

(1) Participate in the National Flood Insurance Program (NFIP) and meet all of the NFIP requirements.

(2) Restrict land uses within the meander belt or floodway of rivers to only flood compatible uses. Where applicable, adopted shoreline management master programs will be considered a minimum land use measure.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-060 FCAAP project application process. The project application process for the eligible municipal corporations' applications ~~((shall))~~ includes the following in the general sequence given.

(1) The applicant shall prepare the project application to comply with the provisions of chapter 86.26 RCW and this chapter. The application ~~((shall))~~ must be made on a form furnished by ecology. A complete application shall include the following:

(a) A written description of the project containing the following as a minimum: Name of applicant, name of affected water body, project summary, location, amount of local match, and proposed local funding source;

(b) A detailed cost estimate identifying major project elements;

(c) A map to identify water body names, stream river mile, section-township-range;

(d) Construction plans; and

(e) A description of the project benefits ~~((which))~~ that describes how the project will mitigate flood damages and describes development which exists on adjacent and nearby lands which are protected by the facility.

(2) The applicant shall review the preliminary project proposal with the county engineer, the Washington department~~((s))~~ of ~~((fisheries or game))~~ fish and wildlife and the department of natural resources and any affected Indian tribes.

(3) The applicant shall submit a prioritized list of project applications to the county engineer.

(4) The county engineer shall submit a prioritized list of all project applications within the county to ecology.

(5) The county engineer shall furnish evidence to ecology that the comprehensive flood control management plan described in WAC 173-145-040 is being prepared or is completed and adopted by the appropriate local authority ~~((of))~~ and the flood plain management activities described in WAC 173-145-050 are being implemented.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-070 FCAAP project approval process. The project approval process for the eligible municipal corporations' applications ~~((shall))~~ includes the following in the general sequence given.

(1) Ecology will review all projects for compliance with the requirements ~~((pursuant to))~~ under this chapter and chapter 86.26 RCW.

(2) Ecology shall consult with the state department(s) of ~~((fisheries)) fish~~ and ~~((game)) wildlife~~ in the development of a project priority list. The state department of natural resources, affected Indian tribes, and other affected parties may review and comment on the proposed project plans ~~((prior to)) before the approval of those plans.~~

(3) Thirty days public notice ~~((shall)) must~~ be given that the project priority list will be the subject of a public hearing. Notice of this hearing shall appear in the *Washington State Register* ~~((pursuant to)) in accordance with~~ chapter 34.08 RCW.

(4) The project priority list will be available at the ~~((flood plain management section)) shorelands and environmental assistance program~~ of the department of ecology, at least fifteen days ~~((prior to)) before~~ the public hearing.

(5) The public comments will be reviewed and ecology shall approve the project priority list as proposed or as revised in accordance with public comments.

(6) Ecology shall prepare and finalize the written agreements with the counties.

(7) The counties shall prepare and finalize the written agreements with the involved eligible municipal corporations within the county.

(8) ~~((The construction plans and specifications shall be prepared by the applicant for approval by the county engineer prior to submission)) The applicant shall prepare the construction plans and specifications for approval by the county engineer before submitting them~~ to ecology for review and approval of each project for compliance with all requirements.

(9) The applicant shall acquire the necessary federal, state, and local permits or authorizations along with any other permission required to complete the project.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-080 Criteria for allocation of funds.

The priority given to projects by ecology, the counties, and other eligible municipal corporations shall involve consideration of the following criteria:

(1) The relationship of public benefits to total project costs~~((:));~~

(2) The priority ~~((which)) that~~ has already been established by each county~~((:));~~

(3) Intensity of local flood control management problems~~((:))~~ including, but not limited to, their inter-relationships with:

- (a) Population affected;
- (b) Property and related development affected;
- (c) Land management and zoning;
- (d) Existing flood control management practices.

(4) Where the CFCMP is completed and adopted, the following will be considered:

- (a) Consistency with the plan or plan recommendations;
- (b) Priority of the project as identified in the plan;
- (c) Implementation of the plan or plan recommendations;
- (d) Potential impacts of instream uses and resources;

(5) Where a CFCMP is being developed or has not been initiated, the following will be considered:

(a) Evidence of multijurisdictional cooperation necessary for development of a comprehensive county or multi-county comprehensive flood control management plan (CFCMP);

(b) Availability of qualified personnel or resources for planning purposes;

(c) Availability of qualified personnel or resources for project construction purposes;

(d) Other planning efforts undertaken or proposed within the planning jurisdiction and their relationship to flood control management;

(e) Ability to make rapid progress toward development of a comprehensive flood control management plan;

(f) Existing and proposed participation of community groups, private industry, professional organizations, the general public, and others toward the development and implementation of the proposed comprehensive flood control management plan.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-090 Flood control assistance account funding and matching requirements. The flood control assistance account is established at four million dollars at the beginning of each biennium. The following criteria ~~((shall)) must~~ be used for allocating FCAAP funds:

(1) The amount of FCAAP funding for any project, except emergency projects described in WAC 173-145-100, ~~((shall)) may~~ not exceed fifty percent of the total project cost, including planning and design costs.

(2) The amount of FCAAP funds to prepare a CFCMP ~~((shall)) may~~ not exceed seventy-five percent of the full planning costs.

(3) The amount of FCAAP funds available for all non-emergency projects and CFCMP's in any county ~~((shall)) may~~ not exceed five hundred thousand dollars per biennium.

(4) In addition to the limits in subsection (3) of this section, an agency formed under chapter 86.13 RCW ~~((shall)) must~~ be allowed up to one hundred thousand dollars in FCAAP funds per biennium.

(5) In those areas where a designated CFCMP area extends into two or more jurisdictions, costs for a CFCMP may be shared by the involved local authorities.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-100 Emergency fund administration. Funds ~~((shall)) must~~ be available for flood control projects in response to unusual, unforeseeable, and emergent flood conditions and ~~((shall)) must~~ be allocated in amounts adequate for the preservation of life and property. The following criteria ~~((shall)) must~~ be the basis of allocating the emergency funds:

(1) Appropriations from the FCAAP fund for emergency projects will require the declaration of an emergency by the appropriate local authority.

(2) Application for emergency funds must be made on the same form used for nonemergency fund applications.

(3) Payment of FCAAP funds for emergency projects will be based on project construction costs. Flood fighting costs may be included.

(4) Payment for emergency work ~~((shall))~~ must be allocated on a first-come first-serve basis and ~~((shall))~~ may not be based on any priority system.

(5) At the discretion of ecology, emergency funds may be made available for use on nonemergency projects.

(6) The maximum amount of emergency funds initially available for any one county is one hundred fifty thousand dollars per biennium. If the total available emergency funds are not needed by other counties, and the amount of emergency funds needed in a county exceeds one hundred fifty thousand dollars, the county can request additional emergency funds.

(7) The flood control assistance account contribution ~~((shall))~~ may not exceed eighty percent of the eligible project cost of an emergency project.

(8) Emergency funds will only be made available to projects ~~((which))~~ that have been given approval for matching funds by the department of ecology ~~((prior to))~~ before construction work ~~((being))~~ is performed.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-110 Multiyear projects. Approval for eligibility by ecology will only be required once for a project ~~((which))~~ that continues more than one biennium, but funding for each subsequent biennium is subject to further FCAAP appropriation by the legislature.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-120 Work standards for all FCAAP projects. All work ~~((which))~~ that is funded from the flood control assistance account shall conform to the standards and specifications of the county engineer.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-130 Project construction monitoring. The following are the responsibilities and criteria for project construction monitoring and final approval:

(1) County engineer responsibilities. Associated with responsibility for project plan approval and supervision of the project work, the county engineer shall provide inspection to assure that all project work is conducted and completed according to the construction plans and specifications.

(2) Ecology's responsibilities. The authorized representative of the department of ecology ~~((shall have))~~ has the right to enter at all reasonable times in or upon any property, public or private, for the purpose of monitoring and inspecting the project work as necessary to assure compliance with the terms of the appropriate written agreement. The authorized representative of the department of ecology is the contract

officer and ~~((shall))~~ must be identified in the written agreement. The county engineer will be informed ~~((prior to))~~ before any inspection for purposes of construction monitoring and guidance by any representative of ecology other than the contract officer. Representatives of ecology may observe the construction process without prior notification of the county engineer.

(3) Final inspection and approval. Upon completion of the work, ~~((a final detailed inspection shall be made by))~~ the county engineer, along with representatives from ecology and the applicant, shall make a final detailed inspection. Results of the final inspection ~~((shall))~~ must be displayed in a written report prepared by ecology and, when appropriate, on "as built" construction plans. "As built" construction plans ~~((shall))~~ must be submitted to ecology within thirty days after the final project inspection.

AMENDATORY SECTION (Amending Order 86-36, filed 1/28/87)

WAC 173-145-155 Approval of changes to written agreements. All flood control maintenance and comprehensive flood control management planning (CFCMP) projects subject to the provisions of this ~~((regulation shall))~~ rule must be conducted in accordance with the plans, specifications, and conditions approved by ecology. Any contemplated changes during construction or planning process ~~((which))~~ that are significant deviations from conditions of the approved agreement, ~~((shall))~~ must first be submitted to ecology for approval. Any changes to the total cost of the project following execution of the written agreement must be submitted to ecology for approval ~~((prior to))~~ before the construction or ~~((plan))~~ the completion of the plan.

WSR 00-11-066

EXPEDITED ADOPTION

DEPARTMENT OF ECOLOGY

[Order 00-12—Filed May 15, 2000, 11:54 a.m.]

Title of Rule: Chapter 173-15 WAC, Permits for oil and natural gas exploration.

Purpose: The purpose of this rule is to establish the basic requirements for the exploration activity permit system.

Statutory Authority for Adoption: RCW 90.58.550(6).

Statute Being Implemented: RCW 90.58.550(6).

Summary: This amendment is being proposed to correct errors in grammar and punctuation, and to clarify the language of the rule without changing its effect.

Reasons Supporting Proposal: To comply with executive order on regulatory improvement, this amendment is being proposed to correct errors in grammar and punctuation.

Name of Agency Personnel Responsible for Drafting: Kathy Carpenter, Headquarters, Olympia, (360) 407-6216; Implementation and Enforcement: Gordon White, SEA Program, Olympia, (360) 407-6977.

Name of Proponent: [Department of Ecology], governmental.

EXPEDITED ADOPTION

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes the basic requirements for the exploration activity permit system.

This amendment will correct errors in grammar and punctuation, and clarify the language of the rule without changing its effect.

Proposal does not change existing rules.

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 Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, AND RECEIVED BY July 25, 2000.

May 12, 2000
Daniel J. Silver
Deputy Director

AMENDATORY SECTION (Amending Order DE 83-35, filed 12/12/83)

WAC 173-15-010 Authority and purpose. These rules are ~~((promulgated pursuant to))~~ adopted under RCW 90.58.550(6) for the purpose of establishing the basic requirements for the exploration activity permit system.

AMENDATORY SECTION (Amending Order DE 83-35, filed 12/12/83)

WAC 173-15-020 Definitions. The following definitions ~~((shall))~~ apply:

- (1) "Department" means the department of ecology.
- (2) "Exploration activity" means reconnaissance or survey work related to ~~((gather))~~ gathering information about geologic features and formations underlying or adjacent to marine waters. ~~((Such))~~ Those activities include sonic, ultrasonic, seismic, sparker, side-scan sonar, infrared, heat sensor, chemical analysis (sniffer), or other remote sensing techniques ~~((which))~~ that do not disturb the surface of the aquatic lands, as well as drilling, core sampling, or other exploratory techniques ~~((which))~~ that penetrate the beds underlying or adjacent to marine waters.
- (3) "Marine waters" includes the waters of Puget Sound north to the Canadian border, the waters of the Strait of Juan de Fuca, the waters between the western boundary of the state and the ordinary high water mark, and related bays and estuaries. RCW 90.58.550 (1)(b).
- (4) "Normal public use of the marine waters of the state" means those activities generally enjoyed by members of the

public including, but not limited to, recreation, fishing (commercial and sports), navigation and commerce.

(5) "Vessel" includes ships, boats, barges, or any other floating craft. RCW 90.58.550 (1)(c).

(6) "Director" means the director of the department of ecology.

(7) "Person" means any individual, public or private corporation, agency, or other entity ~~((whatsoever))~~, except for state or federal agencies.

AMENDATORY SECTION (Amending Order DE 83-35, filed 12/12/83)

WAC 173-15-030 Exploration activity permit system. The permit system established by RCW 90.58.550 ~~((shall be))~~ is as follows:

- (1) Applicability.
 - (a) A person ~~((desiring))~~ who desires to perform oil or natural gas exploration activities by vessel located on or within marine waters of the state shall first obtain a permit from the department.
 - (b) An exploration activity permit obtained under (a) of this subsection ~~((shall be))~~ is the sole permit a person is required to ~~((be obtained))~~ obtain for exploration activity under chapter 90.58 RCW.
 - (c) Except as provided in (b) of this subsection, nothing ~~((herein shall))~~ in this chapter may modify any powers of local governments set forth in chapter 90.58 RCW.
- (2) Exploration activity permit application.
 - (a) Applications for an exploration activity permit ~~((shall))~~ must be supplied by the department.
 - (b) Applications ~~((shall))~~ must be filed with the Shorelands ~~((Division))~~ and Environmental Assistance Program, Department of Ecology, ~~((Headquarters Office))~~ P.O. Box 47600, Olympia, WA 98504-7600.
 - (c) No application ~~((shall))~~ may be processed until it is deemed complete by the department.
 - (d) Each application for an exploration activity permit ~~((shall))~~ must be accompanied by a completed environmental checklist as provided in Title 197 WAC.
- (3) Processing of complete application.
 - (a) A complete application will be forwarded to state natural resource management agencies and local governments and Indian tribes affected by the proposed exploration activity.
 - (b) Comments will be requested regarding the proposed exploration activity and its compatibility with the criteria established under RCW 90.58.550(2). Normally, reviewing agencies will be allowed fifteen days~~(;)~~ from receipt of the application, as provided by the department, in which to submit comments to the department.
- (4) Public notice.
 - (a) Upon receipt of a completed application, the department shall instruct the applicant to publish a notice ~~((thereof))~~ of the proposed exploration activity.
 - (b) Notices of the proposed exploration activity ~~((shall))~~ must be published in the newspaper of the largest general circulation within each of the counties in which the activity is proposed.

EXPEDITED ADOPTION

(c) Any person wishing to express views on the proposed exploration activity will be given fifteen days to comment to the department.

(d) All notices of applications for exploration activity permits shall contain, as a minimum, the information called for in the following form:

Notice of Application for
Exploration Activity Permit

Notice is hereby given that (company name or institution) has filed an application for an exploration activity permit for oil and/or natural gas survey and reconnaissance work in (list major bodies of water)

The exploration activity consists of (describe survey gear, vessel, and other equipment in sufficient detail to inform public of the nature of the operation)

The exploration activity is proposed to ((commence)) begin on (date) and end (date).

Any person desiring to express views or to be notified of the action taken on this application should notify the department of ecology in writing of ((his/her)) his or her interest within fifteen days of the final date of publication of this notice, which is (date). Written comments should be mailed or delivered to the Washington Department of Ecology, ((Shorelands Division, Mail Stop PV-11, Olympia, WA 98504, (360) 459-6272)) Shorelands and Environmental Assistance Program, P.O. Box 47600, Olympia, WA 98504-7600. (360) 407-6000. Comment period deadline is (date).

(e) ((An affidavit that the notice has been properly published pursuant to this section shall be provided to the department by the applicant.)) The applicant shall provide an affidavit to the department of ecology that the notice has been properly published in accordance with this section.

(5) Public hearing. A public hearing on the proposed exploration activity permit will be held by the department if it determines, upon consideration of ((such)) factors such as location, timing, duration, method of operation, and public comments, that a hearing would assist it in implementing the intent of RCW 90.58.550(2).

(6) Department exploration activity permit decision.

(a) The department will approve an exploration activity permit application if it determines that the proposed activity meets the criteria set forth in RCW 90.58.550(2). Exploration activities may not:

- (i) Interfere materially with the normal public uses of the marine waters of the state;
- (ii) Interfere with activities authorized by a permit issued under RCW 90.58.140(2);
- (iii) Injure the marine biota or other fish and wildlife, beds, or tidelands of the waters;
- (iv) Violate water quality standards established by the department;
- (v) Create a public nuisance; or
- (vi) Conflict with a shoreline master program approved by the department under RCW 90.58.090 or 90.58.190.

(b) The department, as lead agency, will comply with the provisions of the State Environmental Policy Act as governed by the procedures established under chapter 43.21 RCW and its implementing rules.

(c) No application for an exploration activity permit ((shall be approved by the department under this section which relates)) relating to surface drilling for oil or gas in the waters of Puget Sound north to the Canadian boundary or the Strait of Juan de Fuca seaward of the ordinary high water mark may be approved by the department under this section. RCW 90.58.160.

(7) Exploration activity permit terms and conditions.

(a) The department shall place terms and conditions in the exploration activity permit as necessary to assure that the permitted activity meets the requirements of RCW 90.58.550(2).

(b) ((Such)) The terms and conditions may include, but are not limited to:

- (i) Geographic limits on the area of operation;
- (ii) Timing of the operation;
- (iii) Limitations on hours of operation;
- (iv) Placement of on-board observers;
- (v) Use of lead boats;
- (vi) Insurance or bond; ((and/or))
- (vii) Fishermen (or other users group) notification procedures; or
- (viii) Any combination of the terms and conditions in (b)(i) through (vii) of this subsection.

(8) Modifications of exploration activity permits. When a permittee seeks to modify an exploration activity permit, detailed maps ((f)) or charts and text describing the nature of the modification ((shall)) must be submitted to the department. Modifications to the permit may be made by the department when the department determines that ((such)) the changes are of a minor nature.

(9) Request for review. All requests for review of any final permit decision under RCW 90.58.550(2) and these rules are governed by the procedures established in chapter 43.21B RCW and its implementing rules.

WSR 00-11-179
EXPEDITED ADOPTION
DEPARTMENT OF
FISH AND WILDLIFE
[Filed May 24, 2000, 11:10 a.m.]

Title of Rule: Personal use rules.

Purpose: Amend personal use rules to reflect changes from the North of Falcon process, and housekeeping changes.

Statutory Authority for Adoption: RCW 75.08.070, 77.12.040.

Statute Being Implemented: RCW 75.08.070, 77.12.040.

Summary: 2000 salmon rules, consolidation of similar sections, and elimination of duplicate sections.

Reasons Supporting Proposal: Provide for salmon fisheries and clarify rules.

EXPEDITED ADOPTION

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The North of Falcon subgroup of the Pacific Fisheries Management Council hold public meetings on proposed salmon seasons, and allows input from all segments of industry and recreational users of the salmon resource in Washington state waters. Once agreed upon, these rules are not subject to unilateral changes, and expedited adoption of rules to implement PFMC recommendations is appropriate. These rules provide for harvest opportunity on available salmon stocks in both saltwater and freshwater, while providing protection for depressed or endangered stocks. For purposes of clarity, several housekeeping changes are included. These are: Merging salmon river, lake and landlocked lake fisheries into exceptions to state-wide rules; merging nonbuoyant lure and night closure restrictions into state-wide rules; elimination of salmon catch limit codes in favor of plain language; moving salmon saltwater seasons into the "seasons and limits" chapter; and merging definitions.

Proposal Changes the Following Existing Rules: Salmon seasons.

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 Evan Jacoby, Rules Coordinator, Washington State Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY July 24, 2000.

May 24, 2000

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 99-13, filed 3/30/99, effective 5/1/99)

WAC 220-56-100 Definitions—Personal use fishing.

((1) "Daily limit" means the maximum number or pounds of food fish, shellfish or seaweed of the required size of a given species or aggregate of species which a person may legally retain in a single day.

(2) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

"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.

(3) "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. 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 or filed off or pinched down.

(4) "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, which does not float in freshwater.

"Bait" means any substance which attracts fish by scent and/or flavors. 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.

(5) The term "processed" as it applies in this chapter is defined as food fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled or canned.

(6) The term "fresh" is defined as food fish or shellfish that are refrigerated, iced, salted or surface glazed.

(7) The term "frozen" is defined as fish or shellfish that are hard frozen throughout.

(8) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with three hooks in the act of fishing for personal use and not for sale or barter, to be attached to a pole held in hand while landing fish, or the use of a hand-operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(9) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

"Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

"Spearing" or "spear fishing" means an effort to take fish by impaling the fish on a shaft, arrow, or other device.

(10) The term "bow and arrow fishing" is defined as any method of taking, or attempting to take, food fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.

(11) The term "freshwater area" means, for purposes of this chapter:

(a) Within any freshwater river, lake, stream, or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream, or pond.

(e) ~~On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream, or pond.~~

(12) ~~The term "Bonilla-Tatoosh Line" is defined as a line projected from the most westerly point on Cape Flattery to the lighthouse on Tatoosh Island to the buoy adjacent Duntz Rock then to Bonilla Point on Vancouver Island.~~

(13) ~~The term "Buoy 10 Line" is defined as a true north-south line projected through Buoy 10 at the mouth of the Columbia River.~~

(14) ~~The term "Buoy 10 Fishery" is defined as a fishery between the down-stream side of the Megler-Astoria Bridge and the Buoy 10 Line.~~

(15) ~~The term "Channel Marker 13 Line" is defined as a true north-south line through Grays Harbor Channel Marker 13.~~

(16) ~~The term "selective gear rules" means terminal gear is limited to artificial flies with a barbless single hook or lures with a barbless single hook, bait is prohibited, and fishing from a floating device equipped with a motor is prohibited unless otherwise provided. In waters under selective gear rules, fish may be released until the daily limit is retained.)) The following definitions apply to personal use fishing in Titles 220 and 232 WAC:~~

(1) "Bait" means any substance which attracts fish by scent or flavors. Bait includes any lure which uses scent or flavoring to attract fish.

(2) "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.

(3) "Bow and arrow fishing" means any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.

(4) "Buoy 10 line" means a true north-south line projected through Buoy 10 at the mouth of the Columbia River. "Buoy 10 fishery" means a fishery between a line in the Columbia River from Tongue Point in Oregon to Rocky Point in Washington and the Buoy 10 line.

(5) "Channel Marker 13 line" means a true north-south line through Grays Harbor Channel Marker 13.

(6) "Daily limit" means the maximum number or pounds of fish, shellfish, or seaweed of the required size of a given species or aggregate of species which a person may retain in a single day.

(7) "Fresh" means fish or shellfish that are refrigerated, iced, salted, or surface glazed.

(8) "Freshwater area" means:

(a) Within any freshwater river, lake, stream or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream or pond.

(9) "Frozen" means fish or shellfish that are hard frozen throughout.

(10) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(11) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish means a fish missing an adipose fin or a ventral fin with a healed scar at the location of the missing fin.

(12) "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. A "treble hook" means a hook having three points on a common shank.

(13) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottom fish, "angling" and "jigging" shall be identical in meaning.

(14) "In the field or in transit" means at any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motor home or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

(15) "Juvenile" means a person under fifteen year of age.

(16) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent or flavoring to attract fish. "Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

(17) "Night closure" means closed to fishing from one hour after official sunset to one hour before official sunrise.

(18) "Nonbuoyant lure restriction" means nonbuoyant lures may have only one single hook measuring not more than 3/4 inch point to shank, no weights may be attached below or less than twelve inches above a buoyant lure, and all hooks must be attached within three inches of the bait or lure.

(19) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(20) "Processed" means fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled, or canned.

(21) "Seasonal wild steelhead limit" means the maximum number of wild steelhead trout any one angler may retain from April 1st through the following March 31st.

(22) "Selective gear rules" means terminal fishing gear is limited to artificial flies with a barbless single hook or lures with a barbless single hook, bait is prohibited, and fishing from a floating device equipped with a motor is prohibited unless otherwise provided. In waters under selective gear rules, fish may be released until the daily limit is retained.

(23) "Slough" means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Waters called sloughs that are not connected to a river are considered lakes.

(24) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(25) "Spearing" or "spear fishing" means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device.

(26) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish means a fish with all fins intact.

AMENDATORY SECTION (Amending Order 99-102, filed 7/20/99, effective 8/20/99)

WAC 220-56-115 Angling—Lawful and unlawful acts. (1) It is unlawful for any person to use more than one line with three hooks while angling for food fish for personal use except:

(a) It is unlawful to use more than two hooks while fishing for bottomfish or halibut.

(b) It is lawful to use forage fish jigger gear as provided for in WAC 220-56-265 and squid jig gear as provided for in WAC 220-56-390.

(c) A second line using forage fish jigger gear is lawful while fishing in Catch Record Card Areas 5, 6, 7, 8-1, 8-2, 9, 10, 11, 12, and 13.

(2) It shall be unlawful for any person to take, fish for or possess food fish taken for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel except as follows:

(a) It is lawful to leave the pole in a pole holder while playing or landing the fish if the pole is capable of being readily removed from the pole holder.

(b) It is lawful to use an electric power-operated reel designed for sport fishing attached to a pole.

(c) It is lawful to fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) except use of hand lines is unlawful in those waters west of the mouth of the Sekiu River, the Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(3) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

~~((4) In the following Catch Record Card Areas or designated portions during the following periods it is unlawful to use a downrigger, to use more than two ounces of weight attached to a line, or to use a lure or diver weighing more than two ounces:~~

~~(a) Area 9—August 1 through August 31.~~

~~(b) Area 10—July 1 through August 31.~~

~~(c) Area 12 north of Ayock Point—August 1 through August 31.)~~

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-56-128 Food fish fishing—Closed areas. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within 400 feet

below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times, and all contiguous waters lying between the Fourth Avenue Bridge and a line from the northwesterly corner of the Thriftway Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the Thriftway Market Building are closed during the period July 16 through October 31.

(3) The waters of Percival Cove are closed at all times.

(4) Those waters of Hood Canal inshore from yellow marker buoys to the mouth of Finch Creek and waters within the channel created when tidelands are exposed are closed the entire year.

(5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters saltwater are closed at all times.

(6) Those waters of Sinclair Inlet inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.

(7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.

(8) In Shilshole Bay waters east of a line 175 feet west of the Burlington Northern Railroad Bridge are closed to fishing.

(9) Those waters of the Chinook River upstream from tide gate at the Highway 101 Bridge are closed at all times.

(10) Those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) are closed October 23 through June 15.

(11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.

(12) Waters of the Lake Washington Ship Canal west of a north-south line 400 feet east of the eastern end of the north wing wall of Chittenden Locks to the mouth of the Lake Washington Ship Canal are closed to food fish angling at all times.

(13) Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to food fish angling from January 1 through March 31.

(14) Waters ((~~within 200 yards~~) of the ((~~salmon net pens located near~~)) Sund Rock Marine Preserve in Hood Canal are closed to the taking of food fish other than salmon at all times.

(15) Waters of the Titlow Beach Marine Preserve Area are closed to the taking of food fish at all times except that it is lawful to fish for salmon with artificial lures only from shore or a nonmotorized vessel.

(16) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to ((~~boat~~)) fishing from a floating device downstream of Chief Joseph Dam to the Corps of Engineers Safety Zone Marker.

(17) Wells Dam - waters between the upstream line of Wells Dam to boundary markers 400 feet below the spawning channel discharge on the Chelan County side and the fish ladder on the Douglas County side.

(18) Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and boundary markers 400 feet downstream of the fish ladders at Rocky Reach and Rock Island Dams and boundary markers at Wanapum Dam 750 feet below the east fish ladder and 500 feet below the west fish ladder.

(19) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and boundary markers 650 feet below the fish ladders.

(20) Jackson (Moran) Creek - all waters of the Priest Rapids hatchery system including Columbia River waters out to midstream between markers located 100 feet upstream and 400 feet downstream of the mouth of the hatchery outlet.

(21) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(22) John Day Dam - waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(23) The Dalles Dam - waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(24) Spring Creek - waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(25) The following conservation areas are closed year round:

- (a) Brackett's Landing Shoreline Sanctuary Conservation Area.
- (b) City of Des Moines Park Conservation Area.
- (c) Octopus Hole Conservation Area.
- (d) Orchard Rocks Conservation Area.
- (e) South 239th Street Park Conservation Area.

AMENDATORY SECTION (Amending WSR 98-06-031, filed 2/26/98, effective 5/1/98)

WAC 220-56-180 ((Daily limit codes.)) Salmon state-wide rules. (1) ((Code A: In waters having this code designation, the daily limit in any one day is six salmon not less than 12 inches in length, not more than two of these six salmon may be any combination of the following)) In fresh water and in Marine Areas 2-1 and 2-2, adult salmon are:

Chinook over 24 inches in length,

Coho over 20 inches in length,

Pink, chum or sockeye over 12 inches in length, and

Atlantic salmon ~~((no minimum length))~~ of any size. In these waters the minimum size for salmon is 12 inches, except no minimum size for Atlantic salmon.

(2) ~~((Code C: In waters having this code designation, the daily limit in any one day is six chinook and coho salmon in~~

~~the aggregate not less than 12 inches in length or more than the following:~~

~~24 inches in length for chinook; 20 inches in length for coho.~~

~~(3) Code D: In waters having this code designation, the daily limit in any one day is six salmon including Atlantic salmon not less than 12 inches in length not more than two of which may be sockeye salmon; all chinook salmon greater than 24 inches in length and all coho salmon greater than 20 inches in length must be released.~~

~~(4) Code F: In waters having this code designation, the daily limit in any one day is two salmon including Atlantic salmon provided that:~~

~~(a)) In Marine Areas 1 through 4, except for Areas 2-1 and 2-2, chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.~~

~~((b) During the period April 16 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.~~

~~(5) Code G: In waters having this code designation, the daily limit is four salmon including Atlantic salmon, not more than two of which may be chinook salmon and the minimum size for chinook salmon is 22 inches in length.~~

~~(6) Code H: In waters having this code designation, the daily limit in any one day is three salmon including Atlantic salmon provided that:~~

~~(a)) (3) In Marine Areas 5 through 13, chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.~~

~~((b) During the period April 16 through June 15 in Catch Record Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.~~

~~(e) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily limit may be chinook, except the daily limit in Catch Record Card Area 12 is three salmon of any species.~~

~~(d) During the period July 1 through September 30 the daily limit is 2 salmon of any species in Catch Record Card Areas 5, 6, 7, 8-1, 8-2, and 9.~~

~~(7) Code I: In waters having this code designation, the daily and possession limits, size restrictions, and opening and closing dates are the same as those for trout (except Lake Chelan) as regulated under Title 77 RCW by the Washington fish and wildlife commission. A salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.~~

~~(8)) (4) The salmon possession limit ((in all waters regulated under Daily Limits A, C, D, F, G, H, and special daily limits)) shall not exceed the equivalent of two daily limits in fresh form. An additional 40 pounds of salmon may be possessed in frozen or processed form.~~

~~((9)) (5) In all areas where the daily limit allows adult salmon to be taken, it is unlawful to continue to fish for salmon after the adult portion of the daily limit has been retained.~~

(6) Where landlocked salmon rules apply, no sport catch record card is required for salmon, the season, daily limit, and size and gear restriction rules for salmon are the same as trout rules. The angler's combined catch of landlocked salmon and trout applies toward the trout limit.

AMENDATORY SECTION (Amending Order 99-102, filed 7/20/99, effective 8/20/99)

WAC 220-56-190 Coastal salmon—Saltwater seasons and daily limits. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following coastal areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the daily limit codes in WAC 220-56-180:

(1) Catch Record Card Area 1 - ~~((Special))~~ Daily limit of two salmon not more than one of which may be a chinook salmon, except release wild coho salmon~~(, special cumulative limit of six salmon in any Sunday through the following Thursday period))~~ - Sundays through Thursdays only, July ~~((+9))~~ 10 through September 30, except closed in the Columbia River Mouth Control Zone 1, see WAC 220-56-195.

(2) Catch Record Card Area 2 and Catch Record Card Area 2-2 west of the Buoy 13 line - ~~((Special))~~ Daily limit of two salmon only one of which may be a chinook salmon, except release wild coho salmon~~(, special cumulative limit of six salmon in any Sunday through the following Thursday period))~~ - Sundays through Thursdays only, July ~~((+9))~~ 3 through September 30, except closed ~~((0-3 miles offshore August 22 through September 30))~~ July 3 through August 10 inside a line from the Westport Light (46° 53.30N, 124° 07.01W) to Grays Harbor Buoy 2 to Grays Harbor Buoy 3 to the Grays Harbor North Jetty and Catch Record Card Area 2-2 west of the Buoy 13 line closed during this period.

(3) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line) (a) ~~((Special))~~ Daily limit of six salmon, not more than two of which may be adult salmon except ~~((release))~~ no more than one of which may be a wild adult ~~((chinook))~~ coho - September ~~((+6))~~ 1 through October 31. ~~((Single point barbless hooks required.))~~

Westport Boat Basin and Ocean Shores Boat Basin: ~~((Special))~~ Daily limit of six salmon not more than four of which may be adult salmon - August 16 through January 31. ~~((Barbed hooks are allowed.))~~

(4) Willapa Bay (Catch Record Card Area 2-1) ~~((Special))~~ Daily limit of six salmon, not more than two of which may be adult salmon and release wild coho salmon - August 16 through January 31. ~~((Single point barbless hooks required.))~~

(5) Catch Record Card Area 3 - ~~((Special))~~ Daily limit of two salmon except no more than one of which may be a chinook and release wild coho salmon - July ~~((+9))~~ 3 through September 30.

(6) Catch Record Card Area 4 - ~~((Special))~~ Daily limit of two salmon except ~~((release))~~ no more than one of which may be a chinook salmon and release wild coho salmon - July ~~((+9))~~ 3 through September 30.

(7) Minimum size 24 inches for chinook salmon and 16 inches for coho salmon except minimum size 12 inches for

chinook and coho salmon in Areas 2-1, 2-2 and the Westport Boat Basin and Ocean Shores Boat Basin. No minimum size for other salmon.

(8) For purposes of this section, adult chinook salmon are 24 inches or greater in length and adult coho salmon are 20 inches or greater in length.

AMENDATORY SECTION (Amending Order 99-215, filed 12/16/99, effective 1/16/00)

WAC 220-56-191 Puget Sound salmon—Saltwater seasons and daily limits. It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas, during the seasons, in the quantities, ~~((sizes,))~~ and for the species designated in this section and sizes as defined in ~~((the daily limit codes))~~ in WAC 220-56-180. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters as provided for in WAC 220-56-190. ~~((In all fisheries provided for in this section, chinook salmon minimum size 22 inches and no minimum size for other salmon.))~~

(1) Catch Record Card Areas 5 and 6 -

(a) August 1 through September 30, ~~((special))~~ daily limit of 2 salmon, except release chinook, chum and wild coho salmon.

(b) Dungeness Bay inside a line from Dungeness Spit Light to the No. 2 red buoy and then to the Port Williams boat ramp open only October 1 through October 31 - ~~((Special))~~ Daily limit of 2 coho salmon, release all salmon except coho salmon.

(c) November 1 through November 30 - ~~((Special))~~ Daily limit of 2 salmon of which no more than one may be a chinook salmon and release all coho salmon.

(d) February 16 through April 10 - ~~((Special))~~ Daily limit of 1 salmon.

(2) Catch Record Card Area 7:

(a) July 1 through September 30 - ~~((Special))~~ Daily limit of 2 salmon, not more than 1 of which may be a chinook salmon.

(b) October 1 through October 31 - ~~((Special))~~ Daily limit of 2 salmon, except release chinook salmon.

(c) November 1 through November 30 - ~~((Special))~~ Daily limit of 2 salmon, no more than one of which may be a chinook salmon.

(d) February 16 through April 10 - ~~((Special))~~ Daily limit of one salmon.

(e) Notwithstanding the provisions of this subsection during the period August 16 through October 31 the ~~((special))~~ daily limit in Bellingham Bay and adjacent waters described in WAC 220-56-195(1) is 4 salmon no more than 1 of which may be chinook.

(3) Catch Record Card Area 8-1:

(a) September 1 through October 31 - ~~((Special))~~ Daily limit of 2 salmon except release chinook ~~((and pink))~~ salmon.

(b) November 1 through November 30 - ~~((Special))~~ Daily limit of 2 salmon, not more than 1 of which may be a chinook salmon.

(c) February 16 through April 10 - ~~((Special))~~ Daily limit of one salmon.

(4) Catch Record Card Area 8-2:

(a) ~~((August 1))~~ September 16 through October 31 - ~~((Special))~~ Daily limit of 2 salmon except release chinook salmon.

(b) Waters adjacent to Tulalip Bay west of a line from Mission Point to Hermosa Point and within 2,000 feet of shore between pilings at Old Bower's Resort on the south and a fishing marker 1.4 miles northwest of Hermosa Point open only 12:01 a.m. each Friday through 11:59 a.m. the following Monday, ~~((August 1))~~ July 14 through September 30. ~~((Special))~~ Daily limit of 2 salmon not more than 1 of which may be a chinook salmon.

(c) February 16 through April 10 - ~~((Special))~~ Daily limit of one salmon.

(5) Catch Record Card Area 9:

(a) ~~((August))~~ September 1 through ~~((October 31))~~ September 15 - ~~((Special))~~ Daily limit of 2 salmon except release chinook ((salmon the entire time)) and ((release)) chum salmon ((August 1 through September 30)).

(b) October 1 through October 31 - Daily limit of 2 salmon except release chinook.

(c) November 1 through November 30 - ~~((Special))~~ Daily limit of 2 salmon not more than one of which may be a chinook salmon.

~~((e))~~ ~~((d))~~ Notwithstanding the provisions of this subsection, salmon fishing is permitted year-round from the Edmonds Fishing Pier - ~~((Special))~~ Daily limit of 2 salmon not more than one of which may be a chinook salmon.

~~((d))~~ ~~((e))~~ Notwithstanding the provisions of this section, salmon fishing is permitted ~~((May 1 through June 30 and August))~~ September 1 through ~~((April))~~ June 30 from the Hood Canal Bridge Fishing pontoon - ~~((Special))~~ Daily limit of 2 salmon not more than one of which may be a chinook salmon, and release chum salmon ((August)) September 1 through September 30 ~~((and release chinook August 1 through August 31)).~~

~~((e))~~ ~~((f))~~ February 16 through April 10 - ~~((Special))~~ Daily limit of one salmon.

(6) Catch Record Card Area 10:

(a) July 1 through September 15 and October 1 through October 31 - ~~((Special))~~ Daily limit of 2 salmon except release chinook salmon, and:

(i) During the period July 1 through August ~~((16))~~ 15, Elliott Bay east of a line from West Point to Alki Point is closed, except waters east of a line from Pier 91 to Duwamish Head open noon August ~~((6))~~ 4 to noon August ~~((9))~~ 7 and noon August ~~((13))~~ 11 to noon August ~~((16))~~ 14 - ~~((Special))~~ Daily limit of 2 salmon not more than one of which may be a chinook salmon. ((The 2 ounce weight restriction does not apply in this subsection.))

(ii) During the period July 1 through October 31, Shilshole Bay east of a line from Meadow Point to West Point is closed.

(iii) During the period ~~((August 1))~~ July 16 through September ~~((30))~~ 15, waters of Sinclair Inlet and Port Orchard south of the Manette Bridge, south of a line projected true ~~((east from Illahee State Park))~~ west from Battle Point and west of a line projected true south from Point White - ~~((Special))~~ Daily limit of 2 salmon ((not more than one of which may be a chinook salmon)). ((The 2 ounce weight restriction does not apply in this subsection.))

(iv) During the period July 1 through August 31 waters east of a line from Point Wells to Meadow Point are closed.

(b) November 1 through November 30 - ~~((Special))~~ Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(c) February 16 through April 10 - ~~((Special))~~ Daily limit of one salmon.

(d) Notwithstanding the provisions of this subsection, salmon fishing is permitted year-round from the Elliott Bay public fishing pier at Terminal 86 and Seacrest Pier - ~~((Special))~~ Daily limit of 2 salmon not more than one of which may be a chinook salmon.

(7) Catch Record Card Area 11.

(a) June 1 through ~~((November 30))~~ September 15 - Daily limit of 2 salmon not more than one of which may be a chinook salmon ~~((and release pink salmon)).~~

(b) September 16 through October 15 - Daily limit of one salmon.

(c) October 16 through November 30 - Daily limit of 2 salmon not more than one of which may be a chinook salmon.

(d) February 16 through April 10 - ~~((Special))~~ Daily limit of one salmon.

~~((e))~~ ~~((e))~~ Notwithstanding the provisions of this subsection, salmon fishing is permitted year-round from the Dash Point Dock and the Point Defiance Boathouse Dock - ~~((Special))~~ Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(8) Catch Record Card Area 12:

(a) July 1 through August 31 in waters south of Ayock Point - ~~((Special))~~ Daily limit of 2 salmon, not more than one of which may be a chinook salmon and release chum ((and pink)) salmon.

(b) ~~((August 1 through August 31 in waters north of Ayock Point - Special daily limit of 4 salmon except release chinook, chum and pink salmon.))~~ August 16 through October 15 in waters north of a true east-west line from Point Whitney to the Toandos Peninsula only - Daily limit of 4 salmon except release chinook and chum.

(c) September 1 through October 15 - ~~((Special))~~ Daily limit of ((4)) 2 salmon except release chinook((;)) and chum ((and pink)) salmon.

(d) October 16 through December 31 - ~~((Special))~~ Daily limit of ((4)) 2 salmon, not more than one of which may be a chinook salmon.

(e) February 16 through April 10 - ~~((Special))~~ Daily limit of 1 salmon.

(f) Waters of the Hoodsport Hatchery Zone are managed separately as provided for in WAC 220-56-124.

(g) The Hood Canal Bridge fishing pier is managed under Area 9.

(9) Catch Record Card Area 13:

(a) May 1 through December 31 - ~~((Special))~~ Daily limit of 2 salmon not more than one of which may be a chinook salmon May 1 through June 30 and November 1 through December 31 and release wild coho salmon July 1 through October 31.

(b) January 1 through February 15 - Release all salmon.

(c) February 16 through April 10 - ~~((Special))~~ Daily limit of one salmon.

(d) Notwithstanding the provisions of this section, salmon fishing is permitted year-round from the Fox Island Public Fishing Pier - ((Special)) Daily limit of 2 salmon, not more than one of which may be a chinook salmon and release wild coho salmon July 1 through October 31.

(10) In the above waters there are specified closures as provided for in WAC 220-56-128 and 220-56-195. Additionally, there are gear and area restrictions at Shilshole Bay, the Duwamish Waterway, Budd Inlet, Titlow Beach and the Elliott Bay, Les Davis, and Des Moines public fishing piers. See specific sections in chapter 220-56 WAC for salmon angling restrictions at these locations.

AMENDATORY SECTION (Amending Order 99-102, filed 7/20/99, effective 8/20/99)

WAC 220-56-195 Closed areas—Saltwater salmon angling. The following areas shall be closed to salmon angling during the times indicated:

(1) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island thence following the shoreline to Yellow Bluff on the southwest corner of Guemes Island thence to Yellow Bluff Reef range marker thence to the ferry terminal dock east of Shannon Point and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling July 1 through August 15.

(2) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling ((April 16)) May 1 through July 31 and September 16 through October 15.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling ((April 16)) August 1 through September 15.

(3) Dungeness Bay: Those waters westerly of a line from Dungeness Spit Light to the number 2 red buoy, and then to the Port Williams boat ramp are closed to salmon angling April 16 through September 30 and November 1 through April 15.

(4) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August ((+)) 16 through October 15.

(5) Columbia River Mouth Control Zone 1: Washington waters within Control Zone 1, which Control Zone is described as an area at the Columbia River mouth bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N/124°06'50" W) and the green lighted Buoy #7 (46°15'09" N/124°06'16" W); on the east by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N/124°03'07" W to its intersection with the north jetty; on the north by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N/124°05'20" W) and then along the north jetty to the point of intersection with the

Buoy #10 line; and on the south by a line running north-east/southwest between the red lighted Buoy #4 and the tip of the south jetty (46°14'03" N/124°04'05" W) and then along the south jetty to the point of intersection with the Buoy #10 line are closed to salmon angling at all times except open to fishing from the north jetty when adjacent waters north of the Control Zone are open to salmon angling or the Buoy 10 fishery is open.

(6) Commencement Bay: Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed June 1 through July 31 and April 1 through April 10.

(7) Whidbey Island and mainland shores in Areas 5 and 6. Those waters of Catch Record Card Areas 5 and 6 within 3/4 mile of the shores of the mainland and Whidbey Island are closed to salmon angling August 1 through August 31 when angling from boats.

(8) Rosario Strait and eastern Strait of Juan de Fuca:

(a) Waters of Area 7 in Rosario Strait and the eastern portion of the Strait of Juan de Fuca southerly of a line running from Sandy Point to Point Migley on Lummi Island, and following the westerly shore of Lummi Island to a straight line running from ((Lawrence Point on Oreas Island)) shore through Lummi Rocks Buoy((, then from Lawrence Point along the southeasterly shore of Oreas Island to Deer Point)) to Peapod Rocks buoy, then to Lydia Shoal buoy, then to the easternmost point of Obstruction Island, then true south to Blakely Island, and south along the Blakely Island shore to the southernmost point on Blakely Island, then across Thatcher Pass to Fauntleroy Point, then along the eastern shore of Decatur Island to the southernmost point on Decatur Island, then across Lopez Pass to Lopez Island and following the shore of Lopez Island southerly and westerly to Iceberg Point, then from Iceberg Point to Cattle Point, then south southwest to the Salmon Bank Buoy, and then true west from Salmon Bank Buoy to the Area 7 boundary - Closed to fishing for salmon July 1 - July 31.

(b) Waters of Area 7 in Rosario Strait and the eastern portion of the Strait of Juan de Fuca southerly of a line running true south from the westernmost point on Fidalgo Head to Burrows Island, then westerly and southerly along the shore of Burrows Island to the Burrows Island Lighthouse, then to the Bird Rocks Buoy, then true west from Bird Rocks Buoy to Decatur Island, and then along the eastern shore of Decatur Island to the southernmost point on Decatur Island, then across Lopez Pass to Lopez Island and following the shore of Lopez Island southerly and westerly to Iceberg Point, then from Iceberg Point to Cattle Point, then south southwest to the Salmon Bank Buoy, and then true west from the Salmon Bank Buoy to the Area 7 boundary - Closed to fishing for salmon August 1 - September 30.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
220-56-190	232-28-620
220-56-191	232-28-621

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-56-103	Definitions—Landlocked chinook and coho.
WAC 220-56-205	Hook rules—Nonbuoyant lures and night closures.

AMENDATORY SECTION (Amending Order 95-10, filed 1/30/95, effective 5/1/95)

WAC 220-56-116 Salmon—((Barbless)) Marine waters hook((s)) rules. (1) It is unlawful to use barbed hooks while angling for salmon in all marine waters of Puget Sound, the Pacific Ocean, Grays Harbor, Willapa Bay, and waters at the mouth of the Columbia River westerly of a line drawn true north-south through Buoy 10.

(2) It is unlawful to fish for salmon in Catch Record Card Areas 1 through 4 except with single point barbless hooks other than in the Westport and Ocean Shores boat basins, which have special terminal gear restrictions as provided for in WAC 220-56-123.

AMENDATORY SECTION (Amending Order 99-102, filed 7/20/99, effective 8/20/99)

WAC 220-56-123 Unlawful provisions—Westport and Ocean Shores Boat Basins. During the period August 16 through January 31, in the waters of the Westport and Ocean Shores Boat Basins:

(1) It is unlawful to fish for or possess salmon taken for personal use using any gear other than the gear provided for in this section:

(a) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook may not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have no more than two single hooks each of which may not exceed 3/4 inch from point to shank.

(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(c) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

(d) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) It is unlawful to use baitfish jigger gear.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-56-199 Closed areas—Chinook salmon angling. (~~East San Juan Islands—During the period August 16 through September 30;~~) Chinook ((release required south and east of the following line: A line running west from Sandy Point to Johnson Point at the easternmost tip of Sueia Island, then south to Point Thompson on northern Orcas Island, then southeast along Orcas Island around Lawrence Point following the shoreline southwest to Deer Point, then due south to Blakely Island, and south following the shoreline of Blakely Island to the southernmost point on Blakely Island, then across Thatcher Pass to Fauntleroy Point, and along the eastern shore of Decatur Island to the southernmost point on Decatur Island, across Lopez Pass and following the shore of Lopez Island to Point Colville, along the southern shoreline of Lopez Island to Iceberg Point, and from Iceberg Point northwest to Long Island, and then due south from Long Island to the intersection with the Area 6/7 boundary line. See Bellingham Bay Fishery for exception)) only closures - None.

AMENDATORY SECTION (Amending Order 00-29, filed 3/29/00, effective 5/1/00)

WAC 220-56-350 Clams other than razor clams, cockles, borers, mussels—Areas and seasons. (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Ben Ure Spit: Open January 1 through May 31.

(b) Brown Point (DNR 57-B): Open January 1 through June 30.

(c) Cama Beach State Park: Closed the entire year.

(d) Camano Island State Park: Open May 16 through June 15.

(e) Cline Spit: Closed the entire year.

(f) Cutts Island State Park: Open January 1 through June 15.

(g) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of clams the entire year except as follows:

(i) State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.

(ii) State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(iii) State-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broad Spit identified by markers and signs.

(h) Dosewallips State Park: Open March 1 through May 31 only in area defined by boundary markers and signs posted on the beach.

(i) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of clams.

(j) Dungeness Spit - Open May 15 through September 30.

(k) Eagle Creek: Open January 1 through April 30.

(l) Fort Flagler State Park: Open April 1 through June 30.

(m) Frye Cove - Open January 1 through May 31.

(n) Garrison Bay: Tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.

(o) Gertrude Island - All tidelands at Gertrude Island closed the entire year.

(p) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.

(q) Hope Island State Park (South Puget Sound): Closed the entire year.

(r) Illahee State Park: Open May 1 through May 31.

(s) Kayak Point County Park: Closed the entire year except mussels open the entire year.

(t) Kitsap Memorial State Park: Open June 1 through June 15.

(u) Kopachuck State Park: May 1 through May 15.

(v) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.

(w) McNeil Island - All tidelands on McNeil Island are closed the entire year.

(x) Mukilteo State Park - Closed the entire year.

(y) Mystery Bay State Park: Open October 1 through April 30.

(z) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except state-owned Tidelands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.

(aa) North Sequim Bay State Park - Open May 16 through June 15.

(bb) Oak Bay County Park: Open June 1 through July 15.

(cc) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except as follows:

(i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet open the entire year.

(ii) North Bay: State-owned oyster reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of Case Inlet open the entire year.

(iii) Oakland Bay: Tidelands at the north end of Oakland Bay and on the channel of the northwest shore of the Bay-shore Peninsula between department markers open March 1 through September 30.

(iv) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

(dd) Penrose Point State Park: Closed the entire year.

(ee) Picnic Point County Park: Closed the entire year.

(ff) Pillar Point County Park: Open November 1 through April 30.

(gg) Pitship Point: Closed the entire year.

(hh) Pitt Island - All tidelands on Pitt Island are closed the entire year.

(ii) Point Whitney (excluding Point Whitney Lagoon): May 16 through May 31.

(jj) Point Whitney Lagoon: Open June 1 through June 15.

(kk) Port Townsend Ship Canal: Open April 1 through June 15.

(ll) Potlatch DNR tidelands: Open March 1 through June 30.

(mm) Potlatch East: Open March 1 through June 30.

(nn) Potlatch State Park: Open March 1 through June 30.

(oo) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

(pp) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams the entire year, except those tidelands on the west side of the bay defined by boundary markers and a sign on the beach are open April 1 through September 30, daily from official sunrise to official sunset only.

(qq) Rendsland Creek: Open January 1 through April 30.

(rr) Saltwater State Park: Closed the entire year.

(ss) Samish Island Recreation Area - Open January 1 through June 15.

(tt) Scenic Beach State Park - Open April 16 through June 15.

(uu) Seahurst County Park: Closed the entire year.

(vv) Sequim Bay State Park - Open May 1 through June 30.

(ww) Shine Tidelands: Open January 1 through April 30.

(xx) South Indian Island County Park: Open January 1 through April 30.

(yy) Spencer Spit State Park: Open April 1 through July 31.

(zz) Strait of Juan de Fuca: All beaches west of the tip of Dungeness Spit: Open November 1 through March 31.

(aaa) Triton Cove Oyster Farm: Open July 1 through August 15.

(bbb) Triton Cove State Park: Open April 1 through June 30.

(ccc) Twanoh State Park: Closed the entire year.

(ddd) West Dewatto: DNR Beach 44A is open January 1 through March 31.

(eee) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.

(fff) Wolfe Property State Park: Open January 1 through June 15.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 00-29, filed 3/29/00, effective 5/1/00)

WAC 220-56-380 Oysters—Areas and seasons. (1) It is lawful to take and possess oysters taken for personal use from public tidelands the entire year, except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Brown Point: ~~((Open))~~ Closed the entire year.

(b) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of oysters the entire year, except as follows:

(i) State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires.

(ii) State-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(iii) State-owned tidelands from markers and signs posted immediately north of the community of Lindsays Beach north to a line immediately north of Broad Spit identified by markers and signs.

(c) Dosewallips State Park: Open March 1 through July 31 only in areas defined by boundary markers and signs posted on the beach.

(d) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of oysters the entire year.

(e) Eagle Creek: Open January 1 through May 31.

(f) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed the entire year.

(g) Illahee State Park: Open May 1 through May 31.

(h) Kitsap Memorial State Park: Open June 1 through July 15.

(i) Kopachuck State Park: Open May 1 through May 31.

(j) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

(k) Mystery Bay: Open October 1 through April 30.

(l) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of oysters the entire year except for state-owned tidelands on the east side of North Bay north of the power transmission lines and south of the power transmission lines for 1,600 feet.

(m) Oyster Reserves: Puget Sound and Willapa Bay oyster reserves are closed the entire year except the following are open the entire year:

(i) North Bay - State-owned reserves on the east side of North Bay north of the power transmission lines.

(ii) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

(n) Penrose Point State Park: Open May 1 through June 30.

(o) Point Whitney (excluding Point Whitney Lagoon): Open April 1 through July 15.

(p) Potlatch East: Open March 1 through June 30.

(q) Potlatch State Park: Open March 1 through June 30.

(r) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed except those tidelands on the west side of the bay defined by boundary markers and a sign at the beach are open April 1 through September 30, daily from official sunrise to official sunset, only.

(s) Scenic Beach State Park: Open April 16 through July 15.

(t) Triton Cove Oyster Farm: Open May 1 through August 30.

(u) Triton Cove State Park: Open April 1 through June 30.

(v) West Dewatto: DNR Beach 44A is open January 1 through August 31.

(w) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and the Nahcotta Tidelands Interpretive Site are open only between boundary markers and posted signs.

(x) Wolfe Property State Park: Open January 1 through June 15.

(2) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 220-57-001	Freshwater seasons and daily limits.
WAC 220-57-120	Bear River.
WAC 220-57-125	Big Beef Creek.
WAC 220-57-130	Bogachiel River.
WAC 220-57-135	Calawah River.
WAC 220-57-137	Carbon River.
WAC 220-57-13701	Cascade River.
WAC 220-57-138	Chambers Creek.
WAC 220-57-140	Chehalis River.
WAC 220-57-145	Cispus River.

EXPEDITED ADOPTION

WAC 220-57-150	Clallam River.	WAC 220-57-315	Klickitat River.
WAC 220-57-155	Clearwater River (Jefferson County).	WAC 220-57-319	Lewis River.
WAC 220-57-160	Columbia River.	WAC 220-57-321	Little White Salmon River (Drano Lake).
WAC 220-57-165	Copalis River.	WAC 220-57-325	Lyre River.
WAC 220-57-170	Coweeman River.	WAC 220-57-326	McAllister Creek.
WAC 220-57-175	Cowlitz River.	WAC 220-57-327	McLane Creek.
WAC 220-57-180	Curley Creek (Kitsap County).	WAC 220-57-330	Morse Creek (Clallam County).
WAC 220-57-181	Dakota Creek.	WAC 220-57-335	Naselle River.
WAC 220-57-185	Deep Creek (Clallam County).	WAC 220-57-340	Nemah River.
WAC 220-57-187	Deep River (Wahkiakum County).	WAC 220-57-341	Newaukum River—Including south fork.
WAC 220-57-190	Deschutes River.	WAC 220-57-342	Niawiakum River.
WAC 220-57-195	Dewatto Creek.	WAC 220-57-345	Nisqually River.
WAC 220-57-200	Dickey River.	WAC 220-57-350	Nooksack River.
WAC 220-57-205	Dosewallips River.	WAC 220-57-355	North River.
WAC 220-57-210	Duckabush River.	WAC 220-57-365	Palix River.
WAC 220-57-215	Dungeness River.	WAC 220-57-370	Puyallup River.
WAC 220-57-225	East Twin River.	WAC 220-57-375	Pysht River.
WAC 220-57-230	Elk River.	WAC 220-57-380	Quilcene (Big Quilcene) River.
WAC 220-57-235	Elochoman River.	WAC 220-57-385	Quillayute River.
WAC 220-57-240	Elwha River.	WAC 220-57-390	Quinault River.
WAC 220-57-245	Grande Ronde River.	WAC 220-57-395	Salmon Creek (Clark County).
WAC 220-57-250	Grays River.	WAC 220-57-400	Salmon River (Jefferson County).
WAC 220-57-255	Green River (Cowlitz County).	WAC 220-57-405	Samish River.
WAC 220-57-260	Green (Duwamish) River (King County).	WAC 220-57-410	Sammamish River (Slough).
WAC 220-57-265	Hamma Hamma River.	WAC 220-57-415	Satsop River—Mainstem and east fork.
WAC 220-57-270	Hoh River.	WAC 220-57-420	Sekiu River.
WAC 220-57-275	Hoko River.	WAC 220-57-425	Skagit River.
WAC 220-57-280	Hoquiam River—All forks.	WAC 220-57-427	Skamokawa Creek.
WAC 220-57-285	Humptulips River.	WAC 220-57-430	Skokomish River.
WAC 220-57-290	Icicle River.	WAC 220-57-432	Skookumchuck River.
WAC 220-57-295	Joe Creek (Grays Harbor County).	WAC 220-57-435	Skykomish River.
WAC 220-57-300	Johns River.	WAC 220-57-440	Smith Creek (Pacific County).
WAC 220-57-305	Kalaloch Creek.	WAC 220-57-445	Snake River.
WAC 220-57-310	Kalama River.	WAC 220-57-450	Snohomish River.
WAC 220-57-313	Kennedy Creek.		

WAC 220-57-455	Snoqualmie River.	WAC 220-57A-045	Davisson Lake (Riffe) (Lewis County).
WAC 220-57-460	Sol Duc River.	WAC 220-57A-050	Deep Lake (Grant County).
WAC 220-57-462	Soos Creek.	WAC 220-57A-055	Deep Lake (King County).
WAC 220-57-465	Stillaguamish River.	WAC 220-57A-065	Duck Lake (Grays Harbor County).
WAC 220-57-470	Tahuya River.	WAC 220-57A-070	East Medical Lake (Spokane County).
WAC 220-57-473	Tilton River.	WAC 220-57A-075	Flowing Lake (Snohomish County).
WAC 220-57-475	Tolt River.	WAC 220-57A-080	Goodwin Lake (Snohomish County).
WAC 220-57-480	Toutle River—North Fork.	WAC 220-57A-082	(Upper) Goose Lake (Grant County).
WAC 220-57-485	Tucannon River.	WAC 220-57A-085	Green Lake (King County).
WAC 220-57-490	Union River.	WAC 220-57A-090	Hewitt Lake (Thurston County).
WAC 220-57-493	Wallace River.	WAC 220-57A-095	Hicks Lake (Thurston County).
WAC 220-57-495	Washougal River.	WAC 220-57A-100	Lower Goose Lake (Grant County).
WAC 220-57-497	Wenatchee River.	WAC 220-57A-105	Martha Lake (Snohomish County).
WAC 220-57-500	West Twin River.	WAC 220-57A-110	Mayfield Lake (Lewis County).
WAC 220-57-502	Whatcom Creek.	WAC 220-57A-112	McMurray Lake (Skagit County).
WAC 220-57-505	White Salmon River.	WAC 220-57A-115	Meridian Lake (King County).
WAC 220-57-510	Willapa River.	WAC 220-57A-120	Merwin Lake (Reservoir).
WAC 220-57-515	Wind River.	WAC 220-57A-125	Ozette Lake.
WAC 220-57-520	Wishkah River.	WAC 220-57A-130	Park Lake (Grant County).
WAC 220-57-525	Wynoochee River.	WAC 220-57A-135	Roesiger Lake.
		WAC 220-57A-140	Roosevelt Lake (Ferry County).
		WAC 220-57A-145	Sammamish Lake.
		WAC 220-57A-150	Serene Lake (Snohomish County).
		WAC 220-57A-152	Shannon Reservoir (Skagit County).
		WAC 220-57A-155	Shocraft Lake (Snohomish County).
		WAC 220-57A-160	Sprague Lake (Lincoln County).
		WAC 220-57A-165	St. Clair (Thurston County).

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 220-57A-001	General provisions—Lakes.
WAC 220-57A-005	American Lake (Pierce County).
WAC 220-57A-010	Armstrong Lake (Snohomish County).
WAC 220-57A-012	Baker Lake (Whatcom County).
WAC 220-57A-015	Banks Lake (Grant County).
WAC 220-57A-017	Big Lake (Skagit County).
WAC 220-57A-020	Bosworth Lake.
WAC 220-57A-025	Campbell Lake (Skagit County).
WAC 220-57A-030	Capitol Lake.
WAC 220-57A-035	Chelan Lake (Chelan County).
WAC 220-57A-037	Clear Lake (Pierce County).
WAC 220-57A-040	Cushman Lake (Mason County).

EXPEDITED ADOPTION

WAC 220-57A-170	Storm Lake (Snohomish County).
WAC 220-57A-175	Lake Washington.
WAC 220-57A-180	Washington Ship Canal, Lake (including Lake Union).
WAC 220-57A-183	Lake Wenatchee.
WAC 220-57A-185	Wilderness Lake (King County).
WAC 220-57A-190	Wynoochee Reservoir (Grays Harbor County).

AMENDATORY SECTION (Amending Order 99-13, filed 3/30/99, effective 5/1/99)

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)) (2) "Falconry" means possession, control, or use of a raptor for the purpose of hunting and free flight training.

((7)) (3) "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)) (4) "Handgun" means any pistol, revolver or short firearm 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 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.

(27) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish means a fish missing an adipose fin or a ventral fin with a healed scar at the location of the missing fin.)

AMENDATORY SECTION (Amending Order 00-29, filed 3/29/00, effective 5/1/00)

WAC 232-12-619 Permanent Washington state-wide game fish ((regulations)) rules. The following state-wide

~~((regulations))~~ rules apply to all waters unless modified under regional regulation exceptions.

(1) Fishing seasons open at 12:01 a.m. on the first day and close at 11:59 p.m. on the last day and fishing is allowed 24 hours per day.

(2) It is unlawful to:

(a) Use a gaff hook to land game fish.

(b) Take bullfrogs except by angling, hand dip netting, spearing (gigging) or with bow and arrow.

(c) Feed or use any substance to attract game fish unless specifically authorized by special regulations.

(d) Fish for game fish with a bow and arrow or spear.

(e) Possess fish which are under the minimum size or over the maximum size as shown in general or ~~((special regional regulations))~~ exceptions to state-wide rules.

(3) Seasonal steelhead limit: Each angler who possesses a valid steelhead catch record card may not retain more than thirty steelhead April 1st through the following March 31st.

(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))~~ (6) Wild steelhead release: In waters requiring wild steelhead release, it is unlawful to possess any steelhead trout that does not have a missing adipose or ventral fin and a healed scar at the location of the missing fin.

~~((9))~~ (7) Free fishing weekend: The Saturday and Sunday following the first Monday in June is declared as free fishing weekend in Washington. On this weekend a fishing license is not required for any person, regardless of residency or age, to fish for or possess game fish and a fish and wildlife lands vehicle use permit is not required to utilize department parking facilities, except that it is unlawful to fish for or possess steelhead trout without the required catch record card. During free fishing weekend only the licensing requirement is affected, and all other rules remain in effect.

~~((10))~~ (8) Trout taken with bait: When fishing with bait, all trout equal to or greater than the minimum size are counted as part of the daily limit, whether kept or released, except steelhead trout may be caught and released while using bait until the daily limit is retained.

~~((11))~~ (9) Fish taken with artificial flies and lures: Where use of bait is prohibited, or where artificial flies or lures are used voluntarily, fish may be released until the daily

limit is retained. If any fish has swallowed the hook or is hooked in the gill, eye or tongue, it should be kept if legal to do so.

~~((12))~~ (10) Burbot taken with set line: Where use of a set line is allowed for burbot, a single set line identified with the fisher's name and address and a maximum of five hooks may be used.

~~((13))~~ (11) Rainbow trout taken from landlocked lakes: Rainbow trout taken from landlocked lakes shall not be considered steelhead and no catch record card is required.

~~((14))~~ (12) OPEN SEASONS:

LAKES, PONDS, AND RESERVOIRS:	YEAR AROUND, unless specified otherwise under exceptions to state-wide rules.
RIVERS, STREAMS AND BEAVER PONDS:	JUNE 1 THROUGH OCTOBER 31, unless specified otherwise under exceptions to state-wide rules.

Note: The date set for "traditional" April openers for Lakes, Ponds, and Reservoirs for this year and future years is the last Saturday in April.

~~((15))~~ (13) 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

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GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
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
- Grayling
- Kokanee/Silver trout
- Lake trout
- Landlocked Atlantic salmon
- Rainbow trout/Steelhead
- 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 Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.	Eighteen inches
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WHITEFISH	Fifteen	None
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ALL OTHER GAME FISH	No Limit	None
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BULLFROGS	No Limit	None
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~~((16))~~ (14) Seasonal wild steelhead limits. From April 1st through the following March 31st:

(a) It is unlawful for any person to retain more than two wild steelhead from the Hoh River, including the mainstem, south fork and tributaries thereto.

(b) It is unlawful for any person to retain more than ten wild steelhead in the aggregate 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.

(c) It is unlawful for any person to retain more than ten wild steelhead from the Clearwater River.

~~((17))~~ (15) Possession limit. Except as otherwise provided, the possession limit is two daily limits in fresh, frozen or processed form.

~~((18) River mouths. River mouths that differ from the general definition are defined in WAC 220-56-105.~~

~~(19) Nonbuoyant lure and night closure restriction: In the waters defined in WAC 220-56-205 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.~~

~~(20) Landlocked chinook and coho. In the waters defined in WAC 220-56-103 chinook and coho salmon are defined as landlocked. A freshwater license is required to fish for these species and a catch record card is not required. Season, daily limit and size restriction rules for landlocked chinook and coho are the same as trout rules except Lake Chelan. The angler's combined catch of trout and landlocked salmon applies towards the trout limit.)~~ (16) Marine waters rules: These rules apply to all marine waters contained within the boundaries of Washington state, within Puget Sound, Hood Canal, the Strait of Juan de Fuca, the San Juan Islands, the Strait of Georgia, and the Pacific Ocean, including estuaries (river mouths) from salt water upstream to a line between the outermost headlands measured at the highest high tide (usually the debris line furthest inshore on surrounding beaches), unless otherwise described under area regulations (see individual areas, below):

(a) Fishing hours: Twenty-four hours per day year around except those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters.

(b) License requirements: A valid current Washington state department of fish and wildlife saltwater license, and, if appropriate, a sport catch record card, is required to fish for game fish including steelhead in marine waters. All steelhead taken from marine areas shall be entered on the catch record card using the words Marine Area and followed by the appropriate marine area code number.

(c) Gear restrictions: Angling gear only, and in those waters of Area 10 downstream of the First Avenue South Bridge to an east-west line through southwest Hanford Street on Harbor Island and parallel to southwest Spokane Street where it crosses Harbor Island, nonbuoyant lure restriction July 1 through November 30. In all areas, underwater spearfishing, spearing, gaffing, clubbing, netting, or trapping game fish is unlawful.

(d) All species: Release all fish except up to two hatchery steelhead may be retained per day.

AMENDATORY SECTION (Amending Order 00-29, filed 3/29/00, effective 5/1/00)

WAC 232-28-619 Washington food fish and game fish—Freshwater exceptions to state-wide rules. (1) All

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freshwater streams and lakes not listed as open for salmon fishing are closed.

(2) County freshwater exceptions to state-wide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to state-wide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

(b) Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River): Lawful to fish to base of all dams.

(c) Benton County: Rivers, streams and beaver ponds open year around.

(d) Ferry and Lincoln counties: Except those tributaries listed under specific water exceptions to state-wide rules, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby and Nancy creeks: Trout: Daily limit 5, no minimum size.

(e) Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: Last Saturday in April through October 31 season. Trout: No minimum length.

((2)) (3) Specific freshwater exceptions to state-wide rules:

Aberdeen Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Abernathy Creek (Cowlitz County):

From mouth to a point five hundred feet downstream from salmon hatchery: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. Release all steelhead June 1 through October 31.

From Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

Aeneas Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Ahtanum Creek, including North and Middle Forks (Yakima County): Selective gear rules. North Fork from Grey Rock Trailhead Bridge crossing to Shellneck Creek: Closed waters.

Alder Creek (Cowlitz County): Closed waters.

Alder Lake (Reservoir) (Pierce/Thurston counties): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Aldrich Lake (Mason County): Last Saturday in April through October 31 season.

Aldwell Lake (Clallam County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with a motor permitted. Trout: Daily limit two, minimum length twelve inches.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length. Bass: Release fish 12 to

17 inches in length. Only one fish over 17 inches in length may be retained.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Amber Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules, except electric motors allowed. Trout: Daily limit two, minimum length fourteen inches; release rainbow trout missing adipose fin. Additional season October 1 through November 30. Selective gear rules. All species: Release all fish.

American Lake (Pierce County): Chumming permitted. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

American River (Yakima County): Selective gear rules.

Ancient Lake (Grant County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Anderson Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. From September 1 through October 31, selective gear rules and all species: Release all fish.

Armstrong Lake (Snohomish County): Last Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

B.C. Mill Pond (Stevens County): Last Saturday in April through October 31 season.

Bachelor Creek (Yakima County): Year around season. Trout: Daily limit five, no minimum length.

Badger Lake (Spokane County): Last Saturday in April through September 30 season.

Baker Lake (Whatcom County): Last Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): From the mouth to Baker River fish barrier dam: Closed waters June 1 through August 31.

Ballinger Lake (Snohomish County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches or greater in length may be retained.

Bay Lake (Pierce County): Last Saturday in April through October 31 season.

Bayley Lake (Stevens County): Last Saturday in April through July 4 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Yakima County), tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles, holders of disability licenses, and licensed adults accompanied by a juvenile only.

Bear River (Pacific County): June 1 through March 31 season. ((All species: Release all fish.)) Nonbuoyant lure restriction and night closure August 16 through November 30. Single point barbless hooks required ((July 1)) August 16 through ((January 31)) November 30 downstream from the Lime Quarry Road. Upstream from the Lime Quarry Road: Selective gear rules June 1 through March 31. All game fish: Release all fish. Salmon: Open only October 16 through November 30. Daily limit 6 fish of which no more than 2 may be adult fish. Release wild adult coho and wild adult chinook.

Bearpaw Lake (Whatcom County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

~~((Beaver Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.))~~

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Clallam County): Selective gear rules except electric motors allowed. Trout: Daily limit one.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beaver Lake (King County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Beda Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Benson Lake (Mason County): Last Saturday in April through October 31 season.

Berry Creek (tributary to Nisqually River) (Lewis County): Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Big Beaver Creek (Whatcom County):

From closed water markers on Ross Lake upstream one-quarter mile: Closed waters.

From one-quarter mile markers upstream, including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Big Beef Creek (Kitsap County): June 1 through October 31 season. Trout: Release all cutthroat trout.

Big Four Lake (Columbia County): March 1 through October 31 season. Fly fishing only. Fishing from any floating device prohibited. Trout: Daily limit two.

Big Lake (Skagit County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Salmon: Landlocked salmon rules apply.

Big Meadow Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Big River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules except electric motors permitted. Trout: Daily limit one.

Bird Creek (Klickitat County): Trout: Daily limit five.

Black Lake (Lower Wheeler Reservoir) (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Black Lake (Okanogan County): Selective gear rules.

Black Lake (Pacific County): Last Saturday in April through October 31 season.

Black Lake (Stevens County): Last Saturday in April through October 31 season.

Black Lake (Thurston County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Black River (Thurston County), from mouth to Black Lake and including all tributaries west of Interstate Highway 5, including Waddell Creek, Mima Creek, Dempsey Creek, Beaver Creek, Salmon Creek and Blooms Ditch: Selective gear rules. Trout: Minimum length fourteen inches.

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

~~((Blooms Ditch (Thurston County): Selective gear rules. Trout: Minimum length twelve inches. Release wild cut-throat.))~~

Blue Creek (Lewis County), from mouth to Spencer Road: Closed waters except December 1 through December 31 season from mouth to posted sign at rearing pond outlet. Non-buoyant lure restriction and night closure. All species: Release all fish except that up to two hatchery steelhead with intact ventral fins may be retained per day.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): March 1 through September 30 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Bogachiel River (Clallam County), from mouth to National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to National Park boundary. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. July 1 through August 31 release wild adult coho and wild adult chinook.

Bonaparte Lake (Okanogan County): Trout: No more than one over twenty inches in length may be retained.

Bosworth Lake (Snohomish County): Last Saturday in April through October 31 season.

Boundary Creek (Clallam County): Closed waters.

Bowman Creek (Klickitat County): Trout: Daily limit five.

Box Canyon Creek (Kittitas County), from mouth to bridge on USFS Road No. 4930: Closed waters.

Boxley Creek (North Bend) (King County), from its mouth to the falls located at approximately river mile 0.9: Closed waters.

Boyle Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Boyle Lake are closed waters.

Bradley Pond (Pierce County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Salmon: Landlocked salmon rules apply.

Bridges Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Bridges Lake are closed waters.

Brookies Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Browns Lake and inlet streams (Pend Oreille County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited.

Buck Lake (Kitsap County): Last Saturday in April through October 31 season.

Buckskin Creek and tributaries (Yakima County), from mouth to the west boundary of Suntides Golf Course: Closed waters.

Bumping Lake (Reservoir) (Yakima County): Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Bumping River (Yakima County):

From mouth to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Selective gear rules June 1 through October 31. Whitefish: Additional December 1 through March 31 season. Terminal gear limited to one single hook. Release all fish other than whitefish.

Burbank Slough (Walla Walla County): Fishing from any floating device prohibited.

Burke Lake (Grant County): March 1 through July 31 season.

Burley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Butter Creek (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Buttermilk Creek, mouth to confluence of East and West Forks (Okanogan County): Closed waters.

Cady Lake (Mason County): Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. All species: Release all fish.

Cain Lake (Whatcom County): Last Saturday in April through October 31 season.

Calawah River (Clallam County), from mouth to forks: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to forks. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of

which no more than 2 may be adult salmon. July 1 through August 31 release wild adult coho and wild adult chinook.

Calawah River, South Fork (Clallam County) from mouth to National Park boundary: June 1 through last day in February season. December 1 through last day in February, selective gear rules. Trout: Minimum length fourteen inches.

Caldwell Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two, minimum length twelve inches.

Caliche Lakes, Lower, Upper and West (Grant County): March 1 through July 31 season.

Calispell Creek (Calispell River) (Pend Oreille County):
From mouth to Calispell Lake: Year around season.
From Calispell Lake upstream to source: Selective gear rules.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

Campbell Creek (Mason County): Closed waters.

Campbell Lake (Okanogan County): April 1 through August 31: Selective gear rules and all species: Release all fish.

Campbell Lake (Skagit County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Canyon Creek (~~(((Klickitat)))~~ Clark County): Trout: Daily limit five.

Canyon Creek (Mason County): Closed waters.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County), mouth to forks: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Capitol Lake (Thurston County), from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south basin of Capitol Lake. June 1 through ~~(((July)))~~ March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: June 1 through July 31 daily limit five, minimum length eight inches. ((Additional)) August 1 through March 31 ~~(((season: Trout:)))~~ daily limit two, minimum length fourteen inches. Salmon: Open only July through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Carbon River (Pierce County), from its mouth to Voight Creek: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through January 31. Voight Creek to Highway 162 Bridge: June 1 through August 15 and December 1 through March 31 season: Trout: Minimum length 14 inches. Wild steelhead may be retained December

1 through January 31. Salmon: Open only September 1 through November 30 mouth to Voight Creek. Daily limit 6 fish of which no more than 4 may be adult salmon and of these 4 fish no more than 2 may be chinook. Release chum.

Carlisle Lake (Lewis County): Last Saturday in April through last day in February season. Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Minimum length fourteen inches. Salmon: Landlocked salmon rules apply.

Carl's Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Carney Lake (Pierce County): Last Saturday in April through June 30 and September 1 through November 30 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carson Lake (Mason County): Last Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): Last Saturday in April through October 31 season.

Cascade River (Skagit County):

~~(((From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.)))~~

From the mouth to the Rockport-Cascade Road Bridge: October 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Salmon: Open only October 1 through November 30. Daily limit 2 salmon. Release wild coho.

From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Cases Pond (Pacific County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Cashmere Pond (Chelan County): Juveniles only.

Cassidy Lake (Snohomish County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to ~~((junction of Chelatchie Creek))~~ Grist Mill Bridge: From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters. June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Cedar Creek (Jefferson County): June 1 through last day in February season. Trout: Minimum length fourteen inches. December 1 through last day in February wild steelhead may be retained.

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Closed waters.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Cedar River (King County), from mouth to Cedar Falls: Closed waters.

Chambers Creek Estuary (downstream from markers 400 feet below the Boise-Cascade Dam to the Burlington Northern Railroad Bridge) (Pierce County): July 1 through November 15 season. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules, except electric motors allowed. Trout: Release all trout.

Chambers Lake (Thurston County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Chaplain Lake (Snohomish County): Closed waters.

Chapman Lake (Spokane County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Chehalis River (Grays Harbor County), from ~~((Union Pacific Railroad))~~ Highway 101 Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek): June 1 through April 15 season. Single point barbless hooks required ~~((October))~~ September 1 through ~~((October 31))~~ November 15 upstream from mouth to Porter Bridge and ~~((September))~~ October 16 through ~~((October 31))~~ November 15 from the Porter Bridge to the high bridge. Trout: Minimum length fourteen inches. Salmon: Open only May 1 through July 31 from mouth to high bridge. September 1 through November 15 from mouth to Porter Bridge, and October 16 through November 15 from Porter Bridge to high bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. September 1 through November 15 the daily limit may contain no more than one wild adult coho and one adult chinook.

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort: June 1 through April 15 season. Trout: Minimum length fourteen inches.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chelan Hatchery Creek (Chelan County): Closed waters.

Chelan Lake (Chelan County): Year around season except closed April 1 through June 30 north of a line between Purple Point at Stehekin and Painted Rocks and April 1 through June 30 within 400 feet of the mouths of all tributaries north of Fields Point. Trout except kokanee: Daily limit two ~~((except south of Fields Point May 15 through September 30 daily limit 5, not more than two of which may be over))~~ 15 inches ~~((in length. Trout))~~ minimum except ~~((kokanee minimum length 15 inches except south))~~ May 15 through September 30 east of Fields Point daily limit 5, minimum length 8 inches ~~((May 15 through September 30))~~ no more than 2 over 15 inches in length. Kokanee not counted in daily trout limit. Kokanee daily limit five, no minimum length. Salmon: Landlocked salmon rules apply, except minimum length 15 inches. Burbot: Set line gear allowed.

Chelan Lake Tributaries (Chelan County), from mouths upstream one mile except Stehekin River: July 1 through October 31 season. Selective gear rules.

Chelan River (Chelan County): Closed waters.

Chewuch River (Chewack River) (Okanogan County), from mouth to Eight Mile Creek: June 1 through September 30 season. Selective gear rules. All species: Release all fish.

Upstream from Eight Mile Creek to Pasayten Wilderness boundary: Closed waters June 1 through October 31.

From mouth to Pasayten Wilderness boundary: Additional December 1 through March 31 season. Terminal gear restricted to one single hook, maximum hook size number 14. All species: Release all fish except whitefish.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: June 1 through August 31 season. Trout: Minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout: Minimum length fourteen inches.

Chiwaukum Creek (Chelan County): Mouth to Fool Hen Creek: Closed waters.

Chiwawa River (Chelan County): Mouth to Buck Creek: Closed waters.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Cispus River (Lewis County), from mouth to North Fork: Trout: Additional season November 1 through May 31, steelhead only. Release all game fish other than steelhead. Salmon: Open year around. Daily limit 6 fish, of which no more than 2 fish may be adult salmon January 1 through Sep-

tember 30 and no more than 4 fish may be adult salmon October 1 through December 31. Salmon minimum size 8 inches. Release wild coho.

Cispus River, North Fork (Lewis County): Trout: No more than one over twelve inches in length.

Clallam River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Clara Lake (Mason County): Last Saturday in April through October 31 season.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and all species: Release all fish.

Clear Lake (Pierce County): Last Saturday in April through October 31 season. Chumming permitted. Salmon: Land-locked salmon rules apply.

Clear Lake (Spokane County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Clear Lake (Thurston County): Last Saturday in April through October 31 season.

Clearwater River (Jefferson County):

From mouth to Snahapish River: June 1 through April 15 season. Single point barbless hooks required September 1 through November 30. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and wild adult chinook.

From Snahapish River upstream: Trout, minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size. Burbot: Set line gear allowed.

Cle Elum River (Kittitas County), from mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Selective gear rules. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish. Terminal gear restricted to one single hook.

Cliff Lake (Grant County): March 1 through July 31 season.

Cloquallum Creek (Grays Harbor County):

From mouth to second bridge on Cloquallum Road: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length fourteen inches.

Clough Creek (North Bend) (King County): Closed waters.

Clover Creek (Pierce County), within the boundaries of McChord Air Force Base: Selective gear rules. Trout: Daily limit (~~one~~) two, minimum length twelve inches.

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through last day in February season. Trout: Minimum length fourteen inches. Release wild cut-throat.

Coal Creek (tributary of Lake Washington) (King County): Closed waters.

Coal Creek (near Snoqualmie) (King County), from mouth to Highway I-90: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Coffee Pot Lake (Lincoln County): March 1 through August 31 season. Selective gear rules except motors allowed. Trout: Daily limit two. Bass: Daily limit two, maximum length fourteen inches. Crappie: Daily limit ten.

Coldwater Lake (Cowlitz County): Selective gear rules except use of electric motors allowed. Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year around season. Trout: Daily limit five fish, not more than two of which may be brown trout October 1 through November 30. Walleye: No minimum size. Daily limit eight fish not more than one of which may be longer than 20 inches. Release walleye 16 to 20 inches in length.

From bridge at Valley upstream and tributaries: Selective gear rules.

Columbia Basin Hatchery Creek (Grant County): Hatchery outflow to confluence with mainstem Hatchery Creek: Juveniles and holders of disability licenses only. Mainstem Hatchery Creek: Juveniles and licensed adults accompanied by a juvenile only.

Columbia Park Lagoon (Benton County): Juveniles and licensed adults accompanied by a juvenile only.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Daily limit five fish, not more than three of which may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout. Walleye: Daily limit five fish of which not more than one may be over 24 inches, minimum length 18 inches. Whitefish: Daily limit 15 fish. All other gamefish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

From a true north-south line through Buoy 10 to ~~((the Megler-Astoria Bridge))~~ a line between Rocky Point in Washington to Tongue Point in Oregon: Trout: Release wild cutthroat. Release all trout April 1 through July 31. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Fishing from the north jetty is allowed during salmon season openings. Salmon: Open only August 1 through March 31. August 1 through September 30 daily limit 2 salmon, except the daily limit may contain no more than 1 chinook. Release chum, sockeye, wild coho, and chinook less than 24 inches in length and coho salmon less than 16 inches in length. October 1 through March 31 daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho. Fishing from the north jetty for salmon open during both Area 1 and Buoy 10 fishery openings.

From the ~~((Megler-Astoria Bridge))~~ Rocky Point - Tongue Point line to the I-5 Bridge: Closed waters: September 1 through September 30 at mouth of Abernathy Creek from the Washington shore to a line between Abernathy Point light and a boundary marker east of the mouth of Abernathy Creek. Trout: Release wild cutthroat. Release all trout April 1 through May 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Salmon: Open only August 1 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho. August 1 through December 31 release chinook within waters east of a line from the northern tip of Bachelor Island to the lighthouse at Warrior Rock to Sand Island to a navigation marker 1/2 mile off the northwest tip of Sand Island and then to marker No. 77 on the Washington shore.

From the I-5 Bridge to the Highway 395 Bridge at Pasco, including Drano Lake: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing wall of the boat lock near the Washington shore. Drano Lake: August 1 through December 31: Non-buoyant lure restriction ~~((as provided in WAC 220-56-205(4)))~~. September 1 through October 15: Nonbuoyant lure restriction and night closure from Bonneville Dam to The Dalles Dam. Trout: Release wild cutthroat from I-5 Bridge to Bonneville Dam and release all cutthroat in the waters of Drano Lake. Release all trout April 1 through June 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and

one greater than twenty-four inches in length. Salmon: Open only August 1 through December 31 except closed November 1 through December 31 from Beacon Rock to Bonneville Dam. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho except wild coho may be retained in the daily limit from The Dalles Dam to McNary Dam.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E except Ringold Hatchery waters: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout ~~((except May 1 through August 15 in those waters from the Ringold Hatchery from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek when fishing from the bank on the hatchery side of the river))~~. Salmon: Open only August 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho. Ringold Hatchery waters (from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek): Open only May 15 through July 31 to fishing from the bank on the hatchery side of the river. Trout: Release all fish except hatchery steelhead. Salmon: Daily limit 2 fish.

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout. Salmon: Open only August 16 through October 22. Daily limit 6 fish of which no more than 2 fish may be adult salmon. Release wild coho.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth. ~~((All species: June 1 through March 31 season-))~~ Trout: Release all trout. Salmon: Open only August 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except November 1 through December 31 release adult salmon. Release wild coho.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to ~~((boat))~~ fishing from a floating device from the

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boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout. Salmon: Open only September 16 through December 31 from Priest Rapids Dam to Rocky Reach Dam. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Conconully Lake (Okanogan County): Last Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): Last Saturday in April through October 31 season.

Conger Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Connelly Creek and tributaries (Lewis County), from four hundred feet below the city of Morton Dam to its source: Closed waters.

Conner Lake (Okanogan County): Last Saturday in April through October 31 season.

Coot Lake (Grant County): March 1 through July 31 season.

Copalis River (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through January 31 from mouth to Carlisle Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon.

Cottage Lake (King County): Last Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year around season.

Cougar Creek (tributary to Yale Reservoir) (Cowlitz County): June 1 through August 31 season.

Cougar Lake (near Winthrop) (Okanogan County): September 1 through March 31 season.

Coulter Creek (Kitsap/Mason counties): Trout: Minimum length fourteen inches.

County Line Ponds (Skagit County): Closed waters.

Cow Lake (Adams County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Coweeman River (Cowlitz County), from mouth to Mulholland Creek: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Cowiche Creek (Yakima County): Selective gear rules.

Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County): June 1 through last day in February season. The upstream boundary of the reservoir in the Cowlitz arm is the posted PUD sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms. Trout: Daily limit five, minimum length eight inches. Salmon: Landlocked salmon rules apply.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Year around season. Lawful to fish up to four hundred feet or the posted deadline at barrier dam. From the barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. Nonbuoyant lure restriction and night closure April 1 through October 31 from mouth of Mill Creek to the barrier dam. All ((species)) game fish: Release all fish except steelhead April 1 through May 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Below Barrier Dam release all steelhead missing right ventral fin. Salmon: Open only August 1 through April 30 mouth to Barrier Dam. Daily limit 6 fish of which no more than 2 may be adult salmon, except May 1 through May 31 daily limit one fish and October 1 through December 31 daily limit may contain 4 adult salmon. Release chum and wild coho August 1 through April 30. Release chinook August 1 through December 31.

From Mayfield Dam to mouth of Muddy Fork: Year around season. Salmon: Open year around from upstream boundary of Lake Scanewa. Daily limit 6 fish of which no more than 2 may be adult salmon, except up to 4 adults may be retained October 1 through December 31. Salmon minimum size 8 inches. Release wild coho.

Cowlitz River, Clear and Muddy Forks (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length may be retained.

Coyote Creek and Ponds (Adams County): March 1 through September 30 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Crab Creek (Adams/Grant counties):

From Highway 26 to Morgan Lake Road in Section 36: March 1 through September 30 season.

From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

Crab Creek (Lincoln County) and tributaries: Year around season.

Crabapple Lake (Snohomish County): Last Saturday in April through October 31 season.

Cranberry Creek (Mason County), mouth to Lake Limerick: Closed waters.

Crawfish Lake (Okanogan County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Crescent Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Crescent Lake (Pierce County): Last Saturday in April through October 31 season.

Crocker Lake (Jefferson County): Closed waters.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

Curley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cushman Reservoir (Mason County): Salmon: Landlocked salmon rules apply.

Dakota Creek (Whatcom County): Salmon: Open only October 1 through December 31 from mouth to Giles Road Bridge. Daily limit 2 salmon.

Damon Lake (Grays Harbor County): June 1 through October 31 season.

Davis Lake (Ferry County): Last Saturday in April through October 31 season.

Davis Lake (Lewis County): Last Saturday in April to last day in February season.

Davis Lake (Okanogan County): April 1 through August 31: Selective gear rules and all species: Release all fish.

Davis Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dayton Pond (Columbia County): Juveniles only.

Deadman Lake (Adams County): March 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Deep Creek (Clallam County): Closed waters.

Deep Creek (tributary to Bumping Lake) (Yakima County): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Deep Lake (Grant County): Last Saturday in April through September 30 season.

Deep Lake (Stevens County): Last Saturday in April through October 31 season.

Deep Lake (Thurston County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Deep River (Wahkiakum County): Year around season. Trout: Minimum length 14 inches. Salmon: Open only year around from mouth to town bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho.

Deer Creek (Mason County): Closed waters.

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish) (Skagit County): Closed waters.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Mason County): Last Saturday in April through October 31 season.

Deer Lake (Stevens County): Last Saturday in April through October 31 season. Trout: No more than two over twenty inches in length may be retained.

Dempsey Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

De Roux Creek (Yakima County): Selective gear rules.

Deschutes River (Thurston County), from old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park, except waters from Old Highway 99 Bridge to four hundred feet below lowest Tumwater Falls fish ladder are closed waters: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From Henderson Boulevard Bridge upstream: June 1 through March 31 season. Selective gear rules. All ((species)) game fish: Release all fish except trout greater than twenty inches in length. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Desire Lake (King County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Devereaux Lake (Mason County): Last Saturday in April through October 31 season.

Devil's Lake (Jefferson County): Last Saturday in April through October 31 season.

Dewatto River (Mason County): All species: Release all fish. From Dewatto-Holly Road Bridge upstream: Selective gear rules.

From mouth to bridge on Bear Creek-Dewatto Road, additional November 1 through last day in February season.

Diamond Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dickey River (includes all forks) (Clallam County): June 1 through April 30 season. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to East Fork Dickey, including Olympic National Park. Daily limit 6 fish of which no more than 2 may be adult salmon. July 1 through August 31 release wild adult coho and wild adult chinook.

Dollar Lake (Grant County): March 1 through July 31 season.

Dosewallips River (Jefferson County), from mouth to Olympic National Park boundary about three-quarters mile downstream of falls: June 1 through last day in February season except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. All ((species)) game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only November 1 through December 15 from mouth to Highway 101 Bridge. Daily limit 2 chum salmon.

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Dry Falls Lake (Grant County): Last Saturday in April through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Crappie: Daily limit ten.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through last day in February season except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. All ((species)) game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only November 1 through December 15 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Daily limit 2 chum salmon.

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness River, October 16 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through November 30 from mouth to the hatchery intake pipe at river mile 11.3. Daily limit 2 coho salmon.

From junction of Gray Wolf River upstream to Gold Creek - Closed waters.

From junction of Gold Creek upstream to headwaters: Trout: Minimum length fourteen inches.

Dusty Lake (Grant County): March 1 through July 31 season.

Early Winters Creek (Okanogan County): Closed waters.

East Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length eighteen inches.

Echo Lake (Snohomish County): Last Saturday in April through June 30 and September 1 through October 31 season.

Eightmile Lake (Chelan County): Trout: Daily limit five, not more than two mackinaw may be retained.

Elbow Lake (Stevens County): Last Saturday in April through October 31 season.

Elbow Lake (Thurston County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Elk River (Grays Harbor County), from the Highway 105 Bridge upstream: June 1 through last day in February season. Single point barbless hooks required ((October)) September 1 through November 30 downstream of the confluence of the east and middle branches. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 15 from Highway 105 Bridge to the confluence of the East and Middle Branches. Daily limit 6 fish of which no more than 2 may be adult salmon, except the daily limit may contain no more than one wild adult coho and one wild adult chinook.

Ell Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Ellen Lake (Ferry County): Last Saturday in April through October 31 season.

Elochoman River (Wahkiakum County): Closed waters: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; waters between the department of fish and wildlife temporary rack downstream to Foster (Risk) Road Bridge while rack is installed in the river; mainstem waters from the confluence of the west fork to source.

From mouth to West Fork: June 1 through March 15 season. Nonbuoyant lure restriction and night closure September 1 through October 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except October 1 through December 31 the daily limit may contain 4 adult salmon. Release chum and wild coho. October 1 through December 31 release chinook upstream of Foster Road Bridge.

Eloika Lake (Spokane County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Elwha River (Clallam County): Closed waters: From south spillway on Aldwell Lake Dam downstream two hundred feet and from approximately fifty yards upstream to fifty yards downstream of Elwha Tribal Hatchery outfall as posted.

From mouth to two hundred feet below the south spillway on the Aldwell Lake Dam: June 1 through last day in February season. Fishing from any floating device prohibited. August 1 through September 30, fly fishing only from mouth to the marker at the outfall of the WDFW rearing channel. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 15. Daily limit 6

coho salmon of which no more than 4 may be adult coho salmon.

From Lake Aldwell upstream to four hundred feet below spillway at Lake Mills Dam, including all tributaries except Indian Creek: Selective gear rules. Trout: Minimum length twelve inches.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Enchantment Park Ponds (Chelan County): Juveniles only.

Entiat River (Chelan County), from mouth to Entiat Falls: December 1 through March 31 season. Terminal gear restricted to one single hook, maximum hook size number 14. All species: Release all fish except whitefish.

Erie Lake (Skagit County): Last Saturday in April through October 31 season.

Failor Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Fan Lake (Pend Oreille County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fazon Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15. Channel catfish: Daily and possession limit two. Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Finnel Lake (Adams County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Okanogan County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County):

From mouth to Highway 530 Bridge: Year around season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: June 1 through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Flowing Lake (Snohomish County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Pond (Lewis County): Last Saturday in April through last day in February season. Juveniles and licensed adults accompanied by a juvenile only.

Fortson Mill Pond # 2 (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Gadwall Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Garfield Juvenile Pond (Whitman County): Juveniles only.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): Last Saturday in April through October 31 season.

Germany Creek (Cowlitz County), from mouth to end of Germany Creek Road (approximately five miles): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. Release all steelhead June 1 through October 31.

Gibbs Lake (Jefferson County): Selective gear rules except electric motors allowed. Trout: Release all trout.

Gillette Lake (Stevens County): Last Saturday in April through October 31 season.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Goat Creek (Okanogan County): Closed waters.

Gobar Creek (tributary to Kalama River) (Cowlitz County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to confluence north fork Gold Creek: Closed waters.

Goldsborough Creek (Mason County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout, minimum length fourteen inches. December 1 through last day in February one wild steelhead per day may be retained.

Goodwin Lake (Snohomish County): Chumming permitted. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of free licenses only.

Goose Lake, Lower (Adams County): Crappie: Not more than five over eight inches in length: Bluegill: Not more than five over six inches in length. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Gorst Creek (Kitsap County): Closed waters: From lower bridge on the old Belfair Highway upstream to source (including tributaries). From mouth upstream to lower bridge: Trout: Minimum length fourteen inches.

Gosnell Creek and tributaries (tributary to Lake Isabella) (Mason County): Trout: Minimum length fourteen inches.

Goss Lake (Island County): Last Saturday in April through October 31 season.

Grande Ronde River (Asotin County):

From mouth to County Road Bridge about two and one-half miles upstream: Year around season. Selective gear rules September 1 through May 31. Trout: Minimum length twelve inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through August 31 season. Selective gear rules. Trout: Minimum length twelve inches. Additional season September 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except whitefish and steelhead with a missing adipose fin and a healed scar at the fin site.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Gray Wolf River (Clallam County): From junction with Dungeness River to bridge at river mile 1.0 - Closed waters.

From bridge at river mile 1.0 upstream - selective gear rules. Trout: Minimum length fourteen inches.

Grays River (Wahkiakum County), from mouth to Highway 4 Bridge: September 1 through October 15 and November 15 through March 15 season; and from Highway 4 Bridge to mouth of South Fork: ((January 1)) September 1 through

October 15 and December 15 through March 15 season. Nonbuoyant lure restriction and night closure September 1 through October 15. All ((species)) game fish: Release all fish except hatchery steelhead ((without an adipose fin and healed scar at the fin site)). Trout: Minimum length twenty inches. Salmon: Open only September 1 through October 15 from mouth to South Fork. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook, chum, and wild coho.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Trout: Minimum length fourteen inches. Release cut-throat.

Grays River, West Fork (Wahkiakum County), downstream from Hatchery Road Bridge: June 1 - August 31 season except closed from the Hatchery Road Bridge to posted sign at hatchery outlet. Trout: Additional ((January 1)) December 15 through March 15 season downstream from Hatchery Road Bridge. Release all fish other than ((trout and all trout less than twenty inches in length)) hatchery steelhead.

Green Lake and Green Lake, Lower (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

Green (Duwamish) River (King County):

From the First Avenue Bridge to South 277th Street Bridge in Auburn: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited November 1 through last day in February. Trout: Minimum length fourteen inches. Wild steelhead may be retained July 1 through the last day in February. Salmon: Open only October 1 through December 31. Daily limit 6 fish of which not more than 2 may be adult salmon. Release chinook salmon.

From the 277th Street Bridge to Auburn-Black Diamond Road Bridge: June 1 through July 31 and October 16 through March 15 season. Nonbuoyant lure restriction and night closure October 16 through November 30. Fishing from a floating device prohibited November 1 through March 15. Trout, minimum length fourteen inches. Wild steelhead may be retained July 1 through July 31 and October 16 through last day in February. Salmon: Open only October 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook.

From the Auburn-Black Diamond Road Bridge to the Tacoma Headworks Dam: June 1 through March 15 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Closed waters: Within 150 feet of the Palmer Pond outlet rack and within 150 feet of the mouth of Keta Creek. Trout: Minimum length 14 inches. Wild steelhead may be retained July 1 through last day in February. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: June 1 through November 30 season except closed from 400 feet above to 400 feet below the water intake at the upper end of the hatchery

grounds (~~downstream to a point 1500 feet below the salmon hatchery rack~~) during the period September 1 through November 30 and from 400 feet above to 400 feet below the salmon hatchery rack when the rack is installed in the river. Nonbuoyant lure restriction and night closure September 1 through October 31 from mouth to 400 feet below salmon hatchery rack. All (~~species~~) game fish: Release all fish except steelhead. Trout: Minimum length twenty inches. Salmon: Open only April 1 through May 31 from mouth to 400 feet below the water intake at the upper end of the hatchery grounds and June 1 through November 30 from mouth to 2800 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon, except October 1 through November 30 the daily limit may contain 4 adult salmon. Release chum and wild coho. August 1 through November 30 release chinook.

From 2800 Bridge to source: Closed waters.

Greenwater River (King County), from mouth to Greenwater Lakes: Selective gear rules. Trout: Minimum length twelve inches.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed. Trout: Daily limit one.

Grizzly Lake (Skamania County): Closed waters.

"H" Lake (Grant County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Halfmoon Lake (Adams County): March 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Hallin Lake (Adams County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Hamilton Creek (Skamania County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat. All tributaries downstream from the Highway 14 Bridge: Closed waters.

Hamma Hamma River (Mason County):

From mouth to four hundred feet below falls: June 1 through August 31 and November 1 through last day in February season. Selective gear rules. All species: Release all fish.

Hammersley Inlet Freshwater Tributaries (Mason County), except Mill Creek: Closed waters.

Hampton Lakes, Lower and Upper (Grant County): March 1 through July 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Hancock Lake (King County): June 1 through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

Harrison Pond (Skagit County): Closed waters.

Hart Lake (Pierce County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules.

Harvey Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hatchery Lake (Mason County): Last Saturday in April through October 31 season.

Haven Lake (Mason County): Last Saturday in April through October 31 season.

Hawk Creek and tributaries (Lincoln County): Year around season.

Hays Creek and Ponds (Adams County): March 1 through September 30 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles, seniors and holders of disability licenses only.

Heart Lake (near Anacortes) (Skagit County): Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): Closed waters.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County), from mouth to mouth of South Fork: June 1 through April 15 season. December 1 through April 15, from DNR oxbow campground boat launch to mouth of south fork, selective gear rules. Trout: Minimum length fourteen inches. December 1 through April 15, from mouth to DNR oxbow campground boat launch: Trout: Minimum length fourteen inches and one wild steelhead per day may be retained. Salmon: Open only June 1 through November 30 mouth to Morgan's Crossing Boat Launch and June 1 through August 31 from boat launch to South Fork. Daily limit 6 fish of which no more than 2 may be adult salmon except release adult salmon June 1 through August 31 upstream from DNR Oxbow campground boat launch and

September 1 through October 15 from Oxbow boat launch to Morgan's Crossing boat launch.

Hoh River South Fork (Jefferson County), outside Olympic National Park boundary: June 1 through April 15 season. December 1 through April 15, selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): Trout, minimum length fourteen inches. (~~Release wild cutthroat upstream from upper Hoko Bridge (cement bridge on Lake Ozette Highway).~~)

From mouth to upper Hoko Bridge: Fly fishing only September 1 through October 31. Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through March 15.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): Additional November 1 through March 31 season. Fly fishing only. (~~Fishing from a floating device equipped with a motor prohibited. Trout~~) All species: Release (~~wild cutthroat~~) all fish.

Homestead Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Hoquiam River, including all forks (Grays Harbor County): June 1 through March 31 season. Single point barbless hooks required (~~October~~) September 1 through November 15. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 15 from mouth to bridge on Dekay Road on mainstem and East Fork mouth to the abandoned flat car bridge downstream of the mouth of Berryman Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except the daily limit may contain no more than one wild adult coho and one adult chinook.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit five.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Howard Lake (Snohomish County): Last Saturday in April through October 31 season.

Howell Lake (Mason County): Last Saturday in April through October 31 season.

Hozomeen Lake (Whatcom County): July 1 through October 31 season.

Huff Lake (Pend Oreille County): Closed waters.

Humptulips River (Grays Harbor County), from mouth to forks: June 1 through March 31 season. Nonbuoyant lure restriction, night closure and single point barbless hooks required (~~October~~) September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook and wild adult coho.

Humptulips River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humptulips Guard Station and Grisdale: Nonbuoyant lure restriction and night closure September 1 through November 30. Trout: Minimum length fourteen inches.

Humptulips River, West Fork (Grays Harbor County): Nonbuoyant lure restriction and night closure September 1 through November 30. Trout: Minimum length fourteen inches. Mouth to Donkey Creek Road Bridge: Additional November 1 through March 31 season. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): March 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

I-82 Ponds, 1 and 2 (Yakima County): Walleye: Unlawful to retain walleye.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion engines prohibited. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Closed waters. From Leavenworth National Fish Hatchery rack upstream to Leland Creek: Selective gear rules.

Indian Creek (tributary to Elwha River) (Clallam County), from mouth upstream to first Highway 101 crossing: Selective gear rules. Trout: Minimum length twelve inches.

Indian Creek (Yakima County): Closed waters.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Ingall's Creek (Chelan County): Mouth to Wilderness boundary: Closed waters.

Island Lake (Mason County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Island Lake (Pacific County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Issaquah Creek (King County): Closed waters.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Park Pond (Walla Walla County): Juveniles only.

Jennings Park Pond (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

Jimmy-Come-Lately Creek (Clallam County): June 1 through August 31 season. Trout: Minimum length fourteen inches.

Joe Creek (Grays Harbor County): Upstream from State Highway 109 Bridge to Ocean Beach Road Bridge: June 1 through November 30 season. Single point barbless hooks required September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 15 from Highway 109 Bridge to Ocean Beach Road Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

~~((John's))~~ Johns Creek (Mason County): Closed waters.

Johns River, including North and South Forks (Grays Harbor County): June 1 through last day in February season. Single point barbless hooks required ~~((October))~~ September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 15 from mouth to Ballon Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except the daily limit may contain no more than one wild adult coho and one adult chinook.

Johnson Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Johnson Creek (Whatcom County), from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only.

Jump-Off Joe Lake (Stevens County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. Burbot: Set line gear allowed.

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. From Kachess Lake (Reservoir) upstream to Mineral Creek: Closed waters.

Kahlotus Lake (Franklin County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Kalaloch Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Kalama River (Cowlitz County): Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year around season except during the period the temporary fish rack is installed. Waters from two hundred feet above to one thousand five hundred feet below the rack are closed waters. Nonbuoyant lure restriction and night closure September 1 through October 31 from mouth to one thousand five hundred feet below the rack. Fishing from a floating device equipped with a motor prohibited upstream of Modrow Bridge. ~~((Trout: Minimum length 20 inches:))~~ September 1 through October 31: Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. Trout: Minimum length 20 inches. Salmon: Open year around. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. October 1 through December 31 release chinook upstream from natural gas pipeline crossing.

From one thousand feet below to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year around season. Fishing from a floating device equipped with a motor prohibited. Selective gear rules. Trout: Minimum length 14 inches.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fishing from a floating device equipped with a motor prohibited. Fly fishing only. Trout: Minimum length 14 inches.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules.

Kapowsin Lake (Pierce County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Kathleen Lake (King County): Bass: Only bass less than twelve inches or over fifteen inches in length may be retained.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained. Burbot: Set line gear allowed.

Kelsey Creek (tributary of Lake Washington) (King County): Closed waters.

Kennedy Creek (Thurston County), from mouth to four hundred feet below falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure October 1 through December 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to northbound Highway 101 Bridge. Barbless hooks required. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Kennedy Creek Pond (Thurston County): Last Saturday in April through October 31 season.

Kettle River (Stevens County):

June 1 through October 31 season. Trout: Selective gear rules, minimum length 12 inches.

Additional season: November 1 through May 31. All species except whitefish: Selective gear rules and release all fish. Whitefish: Single hook only.

Ki Lake (Snohomish County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Kidney Lake (Skamania County): Last Saturday in April through last day in February season.

Kimball Creek (near Snoqualmie) (King County): Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Kings Lake and tributaries (Pend Oreille County): Closed waters.

Kings Lake Bog (King County): Closed waters.

Kitsap Lake (Kitsap County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Klaus Lake (King County): Last Saturday in April through October 31 season, except the inlet and outlet to first Weyerhaeuser spur are closed waters.

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: June 1 through ~~(November 30)~~ January 31 season. Game fish: Closed December 1 through January 31. Trout: Minimum length twelve inches. Salmon: Open only June 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

From Fisher Hill Bridge to four hundred feet above # 5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Salmon: Open only June 1 through November 30 from 400 feet above No. 5 Fishway to boundary markers below Klickitat Salmon Hatchery. Daily limit 6 fish of which no more than 2 may be adult salmon, except June 1 through July 31 release adult salmon. Release wild coho. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds (Clark County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Koeneman Lake (Fern Lake) (Kitsap County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Kress Lake (Cowlitz County): Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Trout: No more than 2 trout 20 inches in length or greater may be retained.

Lacamas Creek (Clark County): Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Release cutthroat.

Lake Creek (Okanogan County): Mouth to Black Lake: Closed waters. Black Lake to Three Prong Creek: Selective gear rules.

Langlois Lake (King County): Last Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year around season.

Lawrence Lake (Thurston County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Leader Lake (Okanogan County): Last Saturday in April through September 30 season.

Ledbetter Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Ledking Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Leech Lake (White Pass area) (Yakima County): Fly fishing only. Fishing prohibited from floating devices equipped with motors. Trout: No more than two over twelve inches in length.

Leland Lake (Jefferson County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Lemna Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Lenice Lake (Grant County): March 1 through October 31 season. Selective gear rules. Trout: Daily limit one.

Lena Lake, Lower (Jefferson County): Closed waters: Inlet stream from mouth upstream to footbridge (about one hundred feet).

Lenore Lake (Grant County): Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17. March 1 through May 31 season: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. All species: Release all fish. Additional season June 1 through November 30: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. Trout: Daily limit one.

Leo Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Lewis River (Clark County), from mouth to forks: Year around season. Trout: Minimum length twelve inches. Release wild cutthroat. Salmon: Open year around. Daily limit of 6 fish of which no more than 2 may be adult salmon, except October 1 through December 31 the daily limit may contain up to four adult salmon. August 1 through April 30 release chum and wild coho. August 1 through January 31 release chinook.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to ~~((Johnson))~~ Colvin Creek: Year around season except those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. Fishing from a floating device prohibited from May 1 through October 15 from Johnson Creek to Colvin Creek. Nonbuoyant lure restriction and night closure April 1 through October 31 from Johnson Creek to Colvin Creek. Trout: Minimum length twenty inches. Release wild cutthroat. Salmon: Open year around. Daily limit of 6 fish of which no more than 2 may be adult salmon, except May 1 through July 31 daily limit one salmon and October 1 through December 31 the daily limit may contain up to four adult salmon. August 1 through April 30 release chum and wild coho. August 1 through January 31 release chinook.

~~((From Johnson Creek to Colvin Creek: June 16 through August 15 and November 16 through April 30 seasons except those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. Trout: Minimum length twenty inches. Release wild cutthroat.))~~

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: June 16 through September 30 and December 16 through ~~((September))~~ April 30 season. Nonbuoyant lure restriction and night closure April 1 through September 30. Trout: Minimum length twenty inches. Release wild cutthroat. Salmon: Open only August 1 through September 30 and January 1 through April 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. August 1 through September 30 and January 1 through 31 release chinook.

From overhead powerlines at Merwin Dam to Merwin Dam: Closed waters.

From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

Within Lewis River Power Canal and old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse: Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

Lewis River, East Fork (Clark/Skamania counties): Closed waters: From the posted markers at the lower end of Big Eddy to one hundred feet above Lucia Falls; from four hundred feet below to four hundred feet above Molton Falls; from four hundred feet below Horseshoe Falls upstream.

From mouth to four hundred feet below Horseshoe Falls: June 1 through March 15 season. Trout: Minimum length fourteen inches. Release cutthroat.

~~((From one hundred feet above Sunset Falls to source: Closed waters.))~~

Mouth to top boat ramp at Lewisville Park: Trout: Additional April 16 through May 31 season. Release all fish ~~((other than))~~ except hatchery steelhead ~~((with a missing adipose fin and a healed sear at the fin site)).~~

Liberty Lake (Spokane County): Last Saturday in April through September 30 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Lilliwaup River (Mason County): Mouth to 200 feet below falls: June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Limerick Lake (Mason County): Last Saturday in April through October 31 season.

Lincoln Pond (Clallam County): Juveniles only. Salmon: Landlocked salmon rules apply.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Little Chambers Lake (Thurston County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Little ~~((Hole))~~ Hoko River (Clallam County): Selective gear rules. All species: Release all fish.

Little Klickitat River (Klickitat County), within Goldendale city limits: Last Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Naches River (Yakima County): Selective gear rules.

Little Nisqually River (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Little Quilcene River (Jefferson County), from mouth to the Little Quilcene River Bridge on Penny Creek Road, June 1 through last day in February season ~~((= Selective gear rules. All species: Release all fish))~~. Trout: Minimum length fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year around season.

From SR 291 Bridge upstream to the West Branch: Last Saturday in April through October 31 season. Whitefish:

Additional December 1 through March 31 season. Release all fish except whitefish.

Upstream from bridge at Frideger Road: Trout: Release kokanee taken upstream from bridge, including waters of Chain Lake.

Little Twin Lake (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

Little Twin Lake (Stevens County): Last Saturday in April through October 31.

Little Wenatchee River (Chelan County): From Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Closed waters.

Little White Salmon River (Skamania County): Closed waters: From the orange fishing boundary markers at Drano Lake upstream to the intake near the Little White Salmon National Fish Hatchery north boundary. Trout: Daily limit five.

Lone Lake (Island County): Selective gear rules, except electric motors allowed. Trout: Daily limit one, minimum length 18 inches.

Long Lake (Ferry County): Last Saturday in April through October 31 season. Fly fishing only. Unlawful to fish from floating devices equipped with motors.

Long Lake (Kitsap County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Long Lake (Okanogan County): Last Saturday in April through September 30 season.

Long Lake (Spokane River Reservoir) (Spokane County): Bass: Release all bass May 1 through June 30. Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Long Lake (Thurston County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Long's Pond (Thurston County): Juveniles only.

Loomis Lake (Pacific County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Loomis Pond (Grays Harbor County): Closed waters.

Loon Lake (Stevens County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five, except no more than two over twenty inches in length may be retained. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Lost Lake (Mason County): Last Saturday in April through October 31 season.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County):

From mouth to mouth of Monument Creek: Closed waters.

From mouth of Monument Creek to outlet of Cougar Lake: Selective gear rules. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit. Dolly Varden/Bull Trout daily limit two, minimum length fourteen inches.

Love Lake (Clark County): Closed waters.

Lucas Slough (Skagit County): Closed waters.

Ludlow Lake (Jefferson County): Last Saturday in April to October 31 season.

Lyons Park Pond (at College Place) (Walla Walla County): Juveniles only.

Lyre River (Clallam County):

From mouth to falls near river mile 3: June 1 through last day in February season. Trout: Minimum length fourteen inches. From falls to source: Selective gear rules. All species: Release all fish.

Mad River (Chelan County), from mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Marie Lake (Hampton Sloughs) (Grant County): March 1 through July 31 season.

Margaret Lake (King County): Last Saturday in April through October 31 season.

Marshal Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): Last Saturday in April through October 31 season.

Mason Lake (Mason County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

May Creek (tributary of Lake Washington) (King County): Closed waters.

Mayfield Lake (Reservoir) (Lewis County): Salmon: Landlocked salmon rules apply.

McAllister Creek (Thurston County): Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30 from mouth to Olympia - Steilacoom Road Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): Trout: Minimum length fourteen inches.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

McIntosh Lake (Thurston County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

McLane Creek (Thurston County), from the south bridge on Highway 101 upstream: Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30 from a line 50 feet north of and parallel to Mud Bay Road Bridge to a line 100 feet upstream of and parallel to the south bridge on Highway 101. Daily limit 6 fish of which no more than 2 may be adult salmon.

McLane Creek Ponds (Thurston County): Last Saturday in April through October 31 season.

McMurray Lake (Skagit County): Last Saturday in April through October 31. Salmon: Landlocked salmon rules apply.

Medical Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Medical Lake, West (Spokane County): Last Saturday in April through September 30 season.

Melaney Creek (Mason County): Closed waters.

Melbourne Lake (Mason County): Last Saturday in April through October 31 season.

Mercer Creek (Kittitas County), that portion within Ellensburg city limits: Juveniles only. Trout: Daily limit five, no minimum length.

Mercer Slough (tributary of Lake Washington) (King County): Closed waters.

Merrill Lake (Cowlitz County): Fly fishing only. Unlawful to fish from a floating device equipped with an internal combustion engine. Trout: Daily limit two, maximum length twelve inches.

Merritt Lake (Chelan County): Trout: Daily limit sixteen.

Merry Lake (Grant County): March 1 through October 31 season. Selective gear rules. Trout: Daily limit one.

Merwin Lake (Reservoir) (Clark/Cowlitz County): Salmon: Landlocked salmon rules apply.

Methow River (Okanogan County):

Mouth to Gold Creek: Closed waters June 1 through October 31. Gold Creek to Weeman Bridge: June 1 through

September 30 season: Selective gear rules. All species: Release all fish. Upstream from Weeman Bridge to the falls above Brush Creek: Closed waters June 1 through October 31: From mouth upstream to the falls above Brush Creek: Additional season: December 1 through March 31. Terminal gear restricted to one single hook, maximum hook size number 14. All species: Release all fish except whitefish.

Methow River tributaries not otherwise provided for: Selective gear rules. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): Closed waters.

Mill Creek (Lewis County): Additional season December 1 through December 31, mouth to hatchery road crossing culvert. Nonbuoyant lure restriction and night closure. All species: Release all fish except that up to two hatchery steelhead with intact ventral fins may be retained per day.

Mill Creek (Mason County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Mill Creek (Walla Walla County):

From mouth to 9th St. Bridge: June 1 through April 15 season. All species: Barbless hooks required and release all fish except steelhead with a missing adipose fin and a healed scar at the fin site September 1 through April 15.

From 9th St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge to Bennington Lake flood diversion dam: Trout: Daily limit five.

From Bennington Lake flood diversion dam upstream, including all tributaries: All tributaries: Closed waters. Selective gear rules. Trout: Maximum length twenty inches.

Mill Creek Pond (Grays Harbor County): Juveniles only.

Mill Pond (Auburn) (King County): Last Saturday in April through October 31 season. Juveniles only.

Mill Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Mima Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Creek (tributary to upper Kachess River) (Kittitas County), from mouth to Wilderness Boundary: Closed waters.

Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Lake (Lewis County): Last Saturday in April through September 30 season.

Minter Creek (Pierce/Kitsap counties): Closed waters: Area from department intake dam downstream to mouth. Trout: Minimum length fourteen inches.

Mirror Lake (Grant County): Last Saturday in April through September 30 season.

Mission Lake (Kitsap County): Last Saturday in April through October 31 season.

Moclips River (Grays Harbor County), from mouth to outside the Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Monte Christo Lake (Shnohomish County): June 1 through October 31 season. Selective gear rules.

Moses Pond (Pacific County): June 1 through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): March 1 through September 30 season.

Morse Creek (Clallam County), from mouth to Port Angeles Dam: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Moses Lake (Grant County): Crappie: Daily limit five, only crappie more than ten inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained.

Mosquito Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Muck Creek and tributaries (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mudget Lake (Stevens County): Last Saturday in April through October 31 season.

Munn Lake (Thurston County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Muskegon Lake (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two.

Myron Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mystic Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Whitefish: Additional December 1

through March 31 season. Release all fish except whitefish. Terminal gear restricted to one single hook.

From Little Naches River upstream: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches.

Nahwatzel Lake (Mason County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Napeequa River (Chelan County): Mouth to Twin Lakes Creek: Closed waters.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream including all forks: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls, and September 1 through January 31, waters within four hundred feet both upstream and downstream of the entrance to the Naselle Salmon Hatchery.

Mainstem: Single point barbless hooks required July 1 through January 31 upstream from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. Nonbuoyant lure restriction and night closure August 16 through November 30 downstream from North Fork. Downstream from the Crown Main Line Bridge fishers may not allow their line, lures or bait to remain stationary in the water during the period August 16 through November 30. All ((species)) game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only July 1 through January 31 from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 from the Highway 4 Bridge to the Crown Main Line Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho.

From Highway 101 Bridge to mouth of North Fork: Additional November 1 through March 31 season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

South Fork, from mouth to Bean Creek: Selective gear rules. Nonbuoyant lure restriction and night closure August 16 through November 30. All species: Release all fish. Additional November 1 through last day in February season.

North Fork: Selective gear rules. All species: Release all fish.

Nason Creek (Chelan County): From the mouth upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Nason Creek Fish Pond (Chelan County): Juveniles and holders of disability licenses only.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to town of Sprague.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through March 31 season. Single point barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through January 31, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road July 1 through January 31, and on South Nemah upstream to confluence with Middle Nemah July 1 through January 31. Selective gear rules on Middle Nemah above DNR Bridge and on South Nemah above confluence with Middle Nemah. Nonbuoyant lure restriction and night closure August 16 through November 30 on North and Middle Nemah and on South Nemah from mouth to confluence with Middle Nemah. All (~~species~~) game fish: Release all fish except up to two hatchery steelhead per day may be retained in the North Nemah. Salmon: Open only July 1 through January 31 on Middle Nemah from mouth to DNR Bridge and South Nemah from mouth to confluence with Middle Nemah and October 1 through January 31 on North Nemah from mouth to the lower bridge on dead end Lower Nemah Road. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho.

Newhalem Ponds (Whatcom County): Closed waters.

Newaukum River, main river and South Fork (Lewis County): June 1 through March 31 season. Single point barbless hooks required October 16 through November 15 (~~through January 31~~). Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek. Salmon: Open only October 16 through November 15 from mouth to Gheer Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except the daily limit may contain no more than one wild adult coho and one adult chinook.

Newaukum River, Middle Fork, mouth to Taucher Road Bridge (Lewis County): June 1 to March 31 season. Trout: Minimum length fourteen inches.

Newaukum River, North Fork (Lewis County):

From mouth to four hundred feet below Chehalis city water intake: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From Chehalis city water intake upstream: Closed waters.

Newman Lake (Spokane County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge: Single point barbless hooks required (~~(July 1)~~) August 16 through (~~(January 31)~~) November 30. All (~~species~~) game fish: Release all fish. Salmon: Open only October 16 through November 30 from Highway 101 Bridge to South Bend/Palix Road Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and adult chinook.

Nile Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Nisqually River (Pierce County), from mouth to four hundred feet below LaGrande Powerhouse: June 1 through (~~November 30~~) January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Game fish: Closed December 1 through January 31. Salmon: Open only July 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Trout: Minimum length fourteen inches.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June 1 through March 15 season except closed June 1 through September 30 in mainstem from Mount Baker High School bus barn at Deming to confluence of the North and South Forks. Fishing from floating devices equipped with motors prohibited on the North and Middle Forks November 1 through March 15. Nonbuoyant lure restriction and night closure August 1 through November 30 on mainstem and North Fork to Maple Creek. Trout: Minimum length fourteen inches. Salmon: Open only September 16 through December 31 in mainstem from Lummi Indian Reservation boundary to Mount Baker High School bus barn. October 1 through December 31 in mainstem from the bus barn to the confluence of the North and South Forks, and October 1 through October 31 on the North Fork from confluence to Maple Creek. Daily limit 2 salmon, except release chinook on the North Fork.

Nooksack River, South Fork (Skagit/Whatcom counties): From mouth to Skookum Creek: June 1 through March 15 season. Selective gear rules. Nonbuoyant lure restriction and night closure August 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30. Daily limit 2 salmon, except release chinook.

From Skookum Creek upstream: Closed waters.

No Name Lake (Pend Oreille County): Last Saturday in April through October 31 season.

North Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit two.

North Lake (King County): Last Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties), from Highway 105 Bridge upstream to Falls River: (~~(All species: Release all fish except up to two hatchery steelhead per day may be retained.)~~) June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through

~~November 30. Single point barbless hooks required ((July 1) August 16 through ((October 31) November 30 upstream to Salmon Creek. ((From Highway 105 Bridge to Falls River. Additional November 1 through last day in February season. Single point barbless hooks required November 1 through January 31 upstream to Salmon Creek.)) All ((species)) game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only October 16 through November 30 from Highway 105 Bridge to Salmon Creek. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and adult chinook.~~

Upstream from Falls River: Selective gear rules. All species: Release all fish.

Northern State Hospital Pond (Skagit County): Last Saturday in April through October 31 season. Juveniles only.

Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.

Nunnally Lake (Grant County): March 1 through October 31 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Trout: Daily limit one.

Oakland Bay freshwater tributaries (Mason County), except Goldsborough Creek (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerick): Closed waters.

Offut Lake (Thurston County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Trout: Minimum length twelve inches.

Ohop Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Okanogan River (Okanogan County):

From the mouth to the highway bridge at Malott: Year around season. Trout: Release all trout. Upstream from the highway bridge at Malott: June 1 through August 31 season. Trout: Release all trout.

Closed waters: From Zosel Dam downstream to one-quarter mile below the railroad trestle.

Old Fishing Hole Pond (Kent) (King County): Last Saturday in April through October 31 season. Juveniles only.

Olequa Creek (Lewis County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Release cutthroat.

Osborne Lake (Mason County): Last Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Owens Pond (Pacific County): June 1 through October 31 season.

Ozette River (Clallam County), outside Olympic National Park: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County): June 1 through March 31 season. ~~((All species: Release all fish:))~~ Single point barbless hooks ~~((required July 1)),~~ nonbuoyant lure restriction and night closure August 16 through ((January 31) November 30 upstream to the confluence of the South and Middle Forks. Above the confluence of the South and Middle Forks: Selective gear rules. All game fish: Release all fish. Salmon: Open only October 16 through November 30 from the Highway 101 Bridge to the confluence of the South and Middle Forks. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and wild chinook.

Palouse River and tributaries, except Rock Creek (Whitman County): Year around season.

Palmer Lake (Okanogan County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Burbot: Set line gear allowed.

Pampa Pond (Whitman County): Last Saturday in April through September 30 season. Fishing from any floating device prohibited.

Panhandle Lake (Mason County): Last Saturday in April through October 31 season.

Panther Creek (Chelan County): Closed waters.

Panther Creek (tributary to Wind River) (Skamania County): Closed waters.

Panther Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Para-Juvenile Lake (Adams/Grant counties): March 1 through July 31 season. Juveniles only.

Park Lake (Grant County): Last Saturday in April through September 30 season.

Parker Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Pass Lake (Skagit County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

Pataha Creek (Garfield County):

Within the city limits of Pomeroy: Juveniles only.

From city limits of Pomeroy upstream: Selective gear rules.

Patterson Lake (Okanogan County): Last Saturday in April through October 31 season.

Pattison Lake (Thurston County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Peabody Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only.

Pearrygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year around season. All sloughs within the boundaries of the Kalispell Reservation except Calispell Slough: Closed waters.

Perch Lake (Grant County): Last Saturday in April through September 30 season.

Percival Creek (Thurston County): Trout: Minimum length fourteen inches.

Peshastin Creek (Chelan County): Mouth to Ruby Creek: Closed waters.

Petit Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Phalon Lake (Stevens County): Closed waters.

Phantom Lake (King County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Pheasant Lake (Jefferson County): Last Saturday in April to October 31 season.

Philippa Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Phillips Lake (Mason County): Last Saturday in April through October 31 season.

Phillips Lake (Stevens County): Last Saturday in April through October 31 season.

Pilchuck Creek (Snohomish County), mouth to Highway 9 Bridge: June 1 through November 30 season. Selective ((fishing regulations)) gear rules. Trout: Minimum length fourteen inches. Additional December 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained.

Pilchuck River (Snohomish County)

From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Wild steelhead may be retained.

From 500 feet below diversion dam to diversion dam: Closed waters.

Pillar Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Pine Lake (King County): Last Saturday in April through October 31 season.

Pine Lake (Mason County): Last Saturday in April through October 31 season.

Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Pipers (Carkeek) Creek (King County), from its mouth to its source, including tributaries: Closed waters.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): Last Saturday in April through last day in February season.

Poacher Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie and bluegill: Combined daily limit twenty-five fish.

Potter's Pond (Stevens County): Last Saturday in April through October 31 season.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Prices Lake (Mason County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Promised Land Pond (Grays Harbor County): June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. Selective gear rules. All species: Release all fish.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: June 1 through January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30 from the mouth to the Carbon River. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through January 31 upstream to the Soldier's Home Bridge. Salmon: Open only August 1 through December 15 from mouth to Carbon River. Daily limit 6 fish of which no more than 2 may be adult salmon.

From mouth to the Soldier's Home Bridge in Orting: Additional February 1 through March 31 season. Trout: Minimum length fourteen inches.

Pysht River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Pysht River South Fork (Clallam County): Trout: Minimum length fourteen inches.

~~((Puyallup River (Pierce County):~~

~~From mouth to the Electron power plant outlet: June 1 through January 31 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through January 31.~~

~~From mouth to the Soldier's Home Bridge in Orting: Additional February 1 through March 31 season. Trout: Minimum length fourteen inches.))~~

Quail Lake (Adams County): Fly fishing only. Fishing from any floating device equipped with a motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited.

Quilcene River (Jefferson County):

From mouth to upper boundary of Falls View Campground June 1 through last day in February season except closed August 16 through October 31 from mouth to Rogers Street: August 16 through December 31 - closed to fishing from one hour after official sunset to one hour before official sunrise in those waters upstream from Rogers Street to the Highway 101 Bridge. Selective gear rules. All ~~((species))~~ game fish: Release all fish. Salmon: Open only August 16 through October 31 from Rogers Street to the Highway 101 Bridge. Daily limit 2 coho salmon.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

Quillayute River (Clallam County): June 1 through April 30 season. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only March 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. July 1 through August 31 release wild adult coho and wild adult chinook.

Quinault River, Upper (Jefferson County), from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through March 31 season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through March 31. Salmon: Open only July 1 through October 31. Daily limit 6 fish except release adult salmon.

Quincy Lake (Grant County): March 1 through July 31 season.

Radar Ponds (Pacific County): Salmon: Landlocked salmon rules apply.

Raging River (King County), from its mouth to the Highway 18 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

Railroad Pond (Franklin County): Selective gear rules. Trout: Daily limit two.

Rainbow Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Rapjohn Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Rat Lake (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

Rattlesnake Creek (Yakima County): Selective gear rules. All species: Release all fish.

Rattlesnake Lake (King County): Last Saturday in April through October 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed.

Ravensdale Lake (King County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Reflection Pond (Okanogan County): Last Saturday in April through October 31 season.

Renner Lake (Ferry County): Last Saturday in April through October 31 season.

Ridley Lake (Whatcom County): July 1 through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Riffe Lake (Reservoir) (Lewis County): Lawful to fish up to the base of Swofford Pond Dam. Salmon: Landlocked salmon rules apply.

Rigley Lake (Stevens County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Riley Lake (Snohomish County): Last Saturday in April through October 31 season.

Rimrock Lake (Reservoir) (Yakima County): Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Ringold Springs Creek (Hatchery Creek) (Franklin County): Closed waters.

Robbins Lake (Mason County): Last Saturday in April through October 31 season.

Rock Creek (Adams/Whitman counties): Mouth to Endicott Road year-round season.

Endicott Road to bridge on George Knott Road at Revere: Selective gear rules. All species: Release all fish.

Upstream from bridge on George Knott Road: Year-round season.

Rock Creek (Cedar River tributary below Landsburg Dam) (King County): Closed waters.

Rock Creek (Skamania County): June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Rocky Ford Creek and Ponds (Grant County): Fly fishing only. Fishing from bank only (no wading). All species: Release all fish.

Rocky Lake (Stevens County): Last Saturday in April through October 31 season. June 1 through October 31 selective gear rules and all species: Release all fish.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): All species: Closed February 1 through May 31 in San Poil arm upstream from mouth of Manilla Creek, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout except kokanee: Daily limit five. No more than two over twenty inches in length. Kokanee daily limit two. Walleye: No minimum size. Daily limit 8 fish not more than one of which may be longer than 20 inches. Release walleye 16 to 20 inches in length. Salmon: Landlocked salmon rules apply.

Rose Lake (Mason County): Last Saturday in April through October 31 season.

Roses Lake (Chelan County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules, except fishing from a floating device equipped with a motor allowed. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County), except Big Beaver Creek and Ruby Creek: Closed waters: From closed water markers near mouth upstream for one mile. Above closed water marker in tributaries not listed as closed: July 1 through October 31 season.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): Last Saturday in April through last day in February season.

Royal Lake (Adams County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek (tributary to Ross Lake) (Whatcom County): Closed waters.

Rufus Woods Lake (Douglas County): Trout: Daily limit two.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Saint Clair Lake (Thurston County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through ~~((October 31))~~ March 15 season. Trout: Minimum length twelve inches. Release ~~((all steelhead and))~~ wild cutthroat. ~~((Additional season: November 1 through March 15. Selective gear rules. All species: Release all fish.))~~ Release all steelhead June 1 through October 31.

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, mainstem (Okanogan County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules.

Salmon Creek (tributary of Naselle River) (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish.

~~((Salmon Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.))~~

Salmon River (Jefferson County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Wild steelhead may be retained November 1 through last day in February. Salmon: Open only September 1 through November 30 from mouth to Q 1000 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon.

Salt Creek (Clallam County): Trout: Minimum length fourteen inches.

From mouth to bridge on Highway 112: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the old Highway 99 Bridge and from the department rack to the Hickson Bridge: June 1 through March 15 season. ~~((Trout: Minimum length fourteen inches.))~~ From Highway 99 Bridge to department salmon rack: Closed waters. Nonbuoyant lure restriction and night closure August 1 through December 31.

~~((From Highway 99 Bridge to department salmon rack: Closed waters.))~~ Trout: Minimum length fourteen inches. Salmon: Open only July 1 through December 31 from mouth to Thomas Road Bridge and October 16 through December 31 from Thomas Road Bridge to I-5 Bridge. Daily limit two salmon.

Sammamish Lake (King County): Trout: No more than two over fourteen inches in length. Release all kokanee. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: Closed waters: All tributaries. June 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyshore Lake (Jefferson County): Last Saturday in April to October 31 season.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of disability licenses only.

Satsop Lakes (Grays Harbor County): Last Saturday in April through October 31 season.

Satsop River, including all forks (Grays Harbor County): ~~((Selective gear rules on East Fork upstream from mouth of Bingham Creek.))~~ Nonbuoyant lure restriction and night closure September 1 through November 30. All open periods: Trout: Minimum length fourteen inches.

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Single point barbless hooks required September ((+6)) 1 through ~~((October 31))~~ November 30. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except that the daily limit may contain no more than one adult chinook and October 1 through November 15 the daily limit may contain no more than one wild adult coho. November 16 through January 31 release wild adult coho.

Middle Fork (Turnow Branch), from mouth to Cougar-Smith Road: Additional November 1 through last day in February season. West Fork, from mouth to Cougar-Smith Road: Additional November 1 through last day in February season.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the mouth of the White Chuck River to headwaters, including North Fork and South Fork upstream to Elliot Creek: Selective gear rules. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

South Fork upstream from Elliot Creek: June 1 through August 31 season. Selective gear rules. ~~((Trout: Minimum length fourteen inches.))~~

From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. All species: Release all fish.

Sawyer, Lake (King County): Chumming permitted.

Scabrock Lake (Grant County): March 1 through July 31 season.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Scootney Reservoir (Franklin County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Sekiu River (Clallam County): All open periods: Trout: Minimum length fourteen inches.

From mouth to forks: Additional November 1 through last day in February season.

Serene Lake (Snohomish County): Last Saturday in April through June 30 and September 1 through October 31 season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): Closed waters.

Sherman Creek (Ferry County):

From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except December 1 through August 31 season from the mouth upstream to the hatchery boat dock.

Sherry Lake (Stevens County): Last Saturday in April through October 31 season.

Sherwood Creek (Mason County): Trout: Minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shiner Lake (Adams County): March 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Shoe Lake (Mason County): Last Saturday in April through October 31 season.

Shoecraft Lake (Snohomish County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Shoveler Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Shye Lake (Grays Harbor County): June 1 through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: Minimum length fourteen inches.

Silent Lake (Jefferson County): Last Saturday in April through October 31 season.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Cowlitz County): Use of water dogs or salamanders for fishing prohibited. Bass: Minimum length fourteen inches.

Silver Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Silver Lake (Spokane County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Silver Lake, North (Spokane County): Fly fishing only. All species: Release all fish.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: December 1 through March 31 season. Terminal gear restricted to one single hook, maximum hook size number 14. All species: Release all fish except whitefish.

From Enloe Dam to Canadian border: Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year around season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. ~~((Release steelhead March 1 through May 31.))~~ Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to pipeline crossing at Sedro Woolley: June 1 through March 31 season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

From pipeline crossing at Sedro Woolley to Bacon Creek: June 1 through March 15 season except closed June 1 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Nonbuoyant lure restriction and night closure July 1 through November 30 upstream from Gilligan Creek. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly

Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Salmon: Open only November 1 through December 31 from pipeline crossing to mouth of Cascade River. Daily limit 2 chum salmon.

From Bacon Creek to Gorge Powerhouse: June 1 through last day in February season. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

From the Dalles Bridge at Concrete to the mouth of Bacon Creek: Additional March 16 through April 30 season. Selective gear rules, except lawful to fish from a floating device equipped with a motor but not while under power. All species: Release all fish.

Skamokawa Creek (Wahkiakum County), mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. All species: Release all fish other than steelhead. Trout: Minimum length twenty inches.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length.

Skokomish River (Mason County), mouth to forks: June 1 through last day in February season. All ~~((species))~~ game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through December 15 mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon, except the daily limit may contain not more than 1 adult chinook. August 1 through October 15 release chum salmon.

Skokomish River, South Fork (Mason County):

From mouth to mouth of Church Creek: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

From mouth of Church Creek to headwaters: Selective gear rules. Trout: Minimum length twelve inches.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Above Lake Cushman, mouth to Olympic National Park boundary: June 1 through August 31 season. Selective gear rules. Trout: Release all fish.

Skookum Creek (Mason County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Skookum Lakes, North and South (Pend Oreille County): Last Saturday in April through October 31 season.

Skookumchuck Reservoir (Thurston County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Skookumchuck River (Thurston County):

From mouth to four hundred feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam: June 1 through April 30 season. Single point barbless hooks required October 16 through November 15. (~~June 1 through April 30 season.~~) Trout: Minimum length fourteen inches. Salmon: Open only October 16 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon, except the daily limit may contain no more than one wild adult coho and one adult chinook.

From Skookumchuck Reservoir upstream and all tributaries: Selective gear rules. Trout: Minimum length twelve inches.

Skykomish River (Snohomish County):

From mouth to mouth of Sultan River: June 1 through last day in February season. Nonbuoyant lure restriction and night closure November 1 through last day in February. Fishing from any floating device prohibited November 1 through last day in February from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit; minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Additional March 1 through April 30 season: Selective gear rules. Nonbuoyant lure restriction and night closure March 1 through April 30. Fishing from any floating device prohibited from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. All species: Release all fish. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

From the mouth of the Sultan River to the forks: June 1 through March 31 season, except closed June 1 to 8:00 a.m. August 1 in those waters one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From one thousand feet below Bear Creek Falls to Deer Falls: Closed waters.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From a point six hundred feet downstream of the Sunset Falls Fishway to the Sunset Falls Fishway: Closed waters.

From Sunset Falls to source: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish.

Smith Creek (near North River) (Pacific County): June 1 through last day in February season. Single point barbless hooks (~~required July 1~~) nonbuoyant lure restriction and night closure August 16 through ((January 31)) November 30 upstream to the Highway 101 Bridge. (~~Trout: Minimum length fourteen inches.~~) All (~~species~~) game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only October 16 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho and adult chinook.

Snake River: Year around season. Closed to the taking of all trout April 1 through June 15. Trout: Daily limit six, minimum length ten inches, no more than two over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

Snoqualmie River (King County):

From mouth to the falls: June 1 through March 31 season, except waters within the Puget Power tunnel at the falls and within fifty feet of any point on Puget Power's lower Plant # 2 building (north bank) are closed waters. June 1 through November 30 selective gear rules, except fishing from a floating device equipped with a motor allowed. Fishing from any floating device prohibited November 1 through March 31 from the mouth of Tokul Creek downstream to the

boat ramp at Plumb access, about one-quarter mile. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From Snoqualmie Falls, including the North and South Forks: Selective gear rules. Trout: Minimum length ten inches. Additional November 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snoqualmie Middle Fork from mouth to source including all tributaries except Pratt and Taylor rivers: June 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries (~~except Crocker Lake~~): Closed waters.

Sol Duc River (Clallam County): June 1 through April 30 season. November 1 through April 30, selective gear rules from the concrete pump station at the Soleduck Hatchery to the Highway 101 Bridge downstream from Snider Creek. Trout: Minimum length fourteen inches. December 1 through April 30, from mouth to the concrete pump station at the Soleduck Hatchery, one wild steelhead per day may be retained. Salmon: Open only March 1 through November 30 from mouth to concrete pump station. Daily limit 6 fish of which no more than 2 may be adult salmon. July 1 through August 31 release wild adult coho and wild adult chinook.

Sooes River (Suez River) (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. (~~Wild steelhead may be retained December 1 through last day in February.~~)

Soos Creek (King County), from mouth to (~~salmon hatchery rack~~) bridge near hatchery residence: June 1 through October 31 season. (~~Trout: Minimum length fourteen inches.~~) September 1 through October 31 - (~~closed to fishing from one hour after official sunset to one hour before official sunrise in those waters downstream from the bridge near the hatchery residence~~) night closure. Trout: Minimum length fourteen inches. Salmon: Open only September 30 through October 15 to fishing by juveniles only. Terminal gear restricted to one single hook. Daily limit two salmon.

Bridge near hatchery residence to Salmon hatchery rack: June 1 through August 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County), mouth to Page Creek: Closed waters.

Spada Lake (Reservoir) (Snohomish County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with an electric motor permitted. Trout: Maximum length twelve inches.

Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

Spanaway Lake (Pierce County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year around season.

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

Spectacle Lake (Kittitas County): Trout: Daily limit sixteen.

Spectacle Lake (Okanogan County): March 1 through July 31 season.

Spencer Lake (Mason County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Spirit Lake (Skamania County): Closed waters.

Spokane River (Spokane County):

From SR 25 Bridge upstream to the Seven Mile Bridge, except Long Lake, formed by Long Lake Dam (see also Long Lake): Year around season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit eight, no more than one over twenty inches in length. Release walleye sixteen inches to twenty inches in length, and April 1 through May 31 release all walleye. Salmon: Landlocked salmon rules apply.

From Seven Mile Bridge upstream to the Monroe Street Dam: Year around season. Selective gear rules. Trout: Daily limit one. Release wild trout. Salmon: Landlocked salmon rules apply.

From Monroe Street Dam upstream to Upriver Dam: Year around season. Salmon: Landlocked salmon rules apply.

From Upriver Dam upstream to the Idaho/Washington state line: Selective gear rules, except fishing from a floating device equipped with a motor permitted. Trout: Daily limit one, minimum length 12 inches. Salmon: Landlocked salmon rules apply.

Sportsman's Lake (San Juan County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Sprague Lake (Adams/Lincoln counties):

Waters northeast of the lakeside edge of the reeds: Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Waters south of the lakeside edge of the reeds and waters of Cow Creek south to Danekas Road: July 1 through September 15 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Spring Lake (King County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit two.

Stan Coffin Lake (Grant County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Starvation Lake (Stevens County): Last Saturday in April through May 31 season. Additional June 1 through October 31 season. Selective gear rules. All species: Release all fish.

Steel Lake (King County): Last Saturday in April through October 31 season.

Stehekin River (Chelan County), from the mouth to Agnes Creek: July 1 through October 31 season. Selective gear rules. Trout: Minimum length fifteen inches. Additional March 1 through June 30 season. Selective gear rules. All species: Release all fish.

Stetattle Creek (Whatcom County), from its mouth to mouth of Bucket Creek (one and one-half miles upstream): Closed waters.

Stevens Creek (Grays Harbor County), mouth to Highway 101 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Stevens, Lake (Snohomish County): Chumming permitted. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Trout: An additional ten kokanee may be retained above the five fish daily limit.

Steves Lake (Mason County): Last Saturday in April through October 31 season.

Stickney Lake (Snohomish County): Last Saturday in April through June 30 and September 1 through October 31 season.

Stillaguamish River (Snohomish County):

From mouth to Warm Beach-Stanwood Highway, including all sloughs: Year around season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon.

From Warm Beach-Stanwood Highway to the forks, except from the barrier dam (downstream of I-5) downstream two hundred feet which is closed waters: June 1 through last day in February season. Night closure. Selective gear rules June 1 through November 30. ~~((Closed to fishing from one hour after official sunset to one hour before official sunrise.))~~ Trout: ~~((Minimum length twenty inches.))~~ June 1 through November 30 ~~((:))~~ release all fish except ~~((trout with a missing adipose fin and a healed sear at the fin site))~~ hatchery steelhead. Minimum length fourteen inches December 1 through last day in February and wild steelhead may be retained. Salmon: Open only November 1 through December 31. Daily limit 2 chum salmon. Minimum size 14 inches.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: ~~((March 1 through November 30 all species: Fly fishing only and release all fish other than trout greater than twenty inches in length that are missing the adipose fin and have a healed sear at the fin site))~~ Year around season. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge. March 1 through November 30: All species: Release all fish except hatchery steelhead. April 16 through November 30 fly fishing only. December 1 through last day in February: Trout: Minimum length fourteen inches and wild steelhead may be retained. ~~((Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge.))~~

Stillaguamish River, South Fork (Snohomish County):

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From four hundred feet below the outlet of the end of the fishway to Mt. Loop Highway bridge above Granite Falls: Closed waters.

From Mt. Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Suiattle River (Skagit County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County), from Mill Pond upstream: Selective gear rules.

Sultan River (Snohomish County), from its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Sultan River, North and South Forks (Snohomish County): Closed waters.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Summit Lake (Thurston County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Sunday Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Sutherland Lake (Clallam County): Chumming permitted.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): Closed waters.

Swan Lake (Ferry County): Last Saturday in April through October 31 season.

Swan's Mill Pond (Stossel Creek) (King County): June 1 through October 31 season.

Swauk Creek (Kittitas County): Selective gear rules.

Swift Reservoir (Skamania County): Last Saturday in April through October 31 season.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Tahuya River (Mason County): All species: Release all fish. From marker one mile above North Shore Bridge upstream: Selective gear rules.

From mouth to Bear Creek-Dewatto Road crossing, additional November 1 through last day in February season.

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Tapps Lake (Reservoir) (Pierce County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year around season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Tarboo Lake (Jefferson County): Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Tate Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Teal Lake (Jefferson County): Last Saturday in April to October 31 season.

Teaway River, including North Fork (Kittitas County): Selective gear rules.

Tee Lake (Mason County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Tenas Lake (Mason County): Last Saturday in April through October 31 season.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 15 except fishing from floating dock permitted. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): Closed waters.

Tibbetts Creek (tributary to Lake Sammamish) (King County): Closed waters.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Trout: Daily limit five, no minimum length. Whitefish: Additional December 1 through March 31 season. Release all fish except whitefish.

Tieton River, North Fork (Yakima County), upstream from Rimrock Lake: Closed waters: Spillway channel. June 1 through August 15 season.

Tieton River, South Fork (Yakima County): From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Tilton River (Lewis County), from mouth to West Fork: June 1 through March 31 season. Trout: Daily limit five, no more than one over twelve inches in length. Salmon: Open only June 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult fish, except October 1 through December 31 the daily limit may contain up to 4 adult salmon. Release wild coho.

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokul Creek (King County):

From mouth to the posted cable boundary marker located approximately seven hundred feet upstream of the mouth: December 1 through March 31 season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Mini-

mum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From the posted cable boundary marker located approximately seven hundred feet upstream of the mouth to the railroad trestle: Closed waters.

Tolt River (King County):

From mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through last day in February season. June 1 through November 30, selective gear rules. Trout: Minimum length fourteen inches. Wild steelhead may be retained December 1 through last day in February.

From the USGS trolley cable to the falls in Sec. 21, Twp 26N., R 8 E. on the North Fork, and to the dam on the South Fork: Closed waters.

From falls upstream on North Fork: Selective gear rules. Trout: Minimum length ten inches.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

Totem Lakes 1 and 2 (Whatcom County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Touchet River (Columbia/Walla Walla counties):

From mouth to confluence of north and south forks: June 1 through October 31 season. Trout: Daily limit five. Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except steelhead and brown trout. From confluence of north and south forks upstream, including Wolf Fork: June 1 through October 31 season. Selective gear rules. Release all steelhead. Tributaries other than Wolf Fork: Closed waters.

Toutle River (Cowlitz County):

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. Nonbuoyant lure restriction and night closure September 1 through October 31 on North Fork from confluence with South Fork to mouth of Green River. All ((species)) game fish: Release all fish except hatchery steelhead ((with a missing adipose fin and a healed scar at the fin site. Trout: Minimum length twenty inches)). Salmon: Open only August 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon, except October 1 through November 30 the daily limit may contain up to 4 adult salmon. Release chum and chinook. Release wild coho downstream of the forks.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

Toutle River, South Fork (Cowlitz County), mouth to source: Closed waters: All tributaries. June 1 through November 30 season. All species: Release all fish except hatchery steelhead ((with a missing adipose fin and a healed scar at the fin site)). Trout: Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Selective gear rules. All species: Release all fish except steelhead with a missing adipose fin and a healed scar at the fin site.

Tradition Lake (King County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Trapper Lake (Chelan County): Trout: Daily limit two.

Trout Creek (tributary to Wind River) (Skamania County): Closed waters.

Trout Lake (Ferry County): Last Saturday in April through October 31 season.

Trout Lake (tributary to Big White Salmon River) (Klickitat County): June 1 through October 31 season.

Tucannon River (Columbia/Walla Walla counties): Closed waters: All tributaries.

From the Highway 261 Bridge upstream to Turner Road Bridge: Trout: Daily limit five, no more than two of which may be steelhead. Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except steelhead and whitefish.

From the Turner Road Bridge upstream to the Cummings Creek Bridge: Selective gear rules June 1 through October 31. Additional season November 1 through April 15. Barbless hooks required. All species: Release all fish except steelhead and whitefish.

From the Cummings Creek Bridge upstream to a sign referencing Deer Lake about 3/4 mile upstream of the Tucannon hatchery: Closed waters.

From a sign referencing Deer Lake to the Panjab Creek Bridge: Selective gear rules.

From the Panjab Creek Bridge upstream: Closed waters.

Tucannon River tributaries (Columbia/Walla Walla counties): Closed waters.

Tunnel Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Twin Lake (Jefferson County): Last Saturday in April through October 31 season.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Twisp River (Okanogan County), from mouth to War Creek: June 1 through September 30 season. Selective gear rules. All species: Release all fish. War Creek to South Fork Twisp River: Closed waters.

Tye River (King County): Foss River to Alpine Falls June 1 through October 31 season: Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all fish other than whitefish. From Alpine falls upstream: Trout: Minimum size ten inches.

U Lake (Mason County): Last Saturday in April through October 31 season.

Umtanum Creek (Kittitas County): Selective gear rules.

Uncle John Creek (Mason County): Closed waters.

Union Creek (Yakima County): From mouth upstream to falls (approximately 1/4 mile): Closed waters.

Union River (Mason County):

All species: Release all fish. From lower bridge on the Old Belfair Highway upstream: Selective gear rules.

From mouth to lower bridge on the Old Belfair Highway, additional November 1 through last day in February season.

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only.

Vance Creek (Mason County): Trout: Minimum length fourteen inches.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: Last Saturday in April through November 30 season. Juveniles, holders of a senior license and holders of a department disability license only. Salmon: Landlocked salmon rules apply. Pond Two: Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Closed waters: April 1 through May 30 the Vancouver Lake flushing channel is closed and it is closed to fishing from the lake shoreline within 400 feet east and west of the channel exit. Chumming permitted. Trout: Daily limit two, minimum length twelve inches.

Vanes Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Vic Meyers (Rainbow) Lake (Grant County): Last Saturday in April through September 30 season.

Vogler Lake (Skagit County): Last Saturday in April through October 31 season. Fly fishing only. All species: Release all fish.

Voight's Creek (Pierce County): From mouth to Highway 162 Bridge: Closed waters.

Waddell Creek (Thurston County): Selective gear rules. Trout: Minimum length twelve inches.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Waitts Lake (Stevens County): Last Saturday in April through last day in February season.

Walker Lake (King County): Last Saturday in April through October 31 season.

Wallace River (Snohomish County):

From its mouth to the first Burlington-Northern Railroad bridge downstream of the Highway 2 Bridge: June 1 through ~~(September 1)~~ last day in February season. Closed waters: From the first Burlington-Northern Railroad bridge (below

Highway 2) to a point two hundred feet upstream of the water intake of the salmon hatchery. Game fish: Closed September 2 through October 31. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through November 30. Daily limit 2 coho.

From the mouth to mouth of Olney Creek: ~~((Additional))~~ November 1 through last day in February season. Fishing from any floating device prohibited. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Wild steelhead may be retained December 1 through last day in February.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year around season. Trout: Barbless hooks required when fishing for steelhead. Release trout April 1 through May 31.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Additional season November 1 through April 15. All species: Barbless hooks required and release all fish except steelhead.

Walupt Lake (Lewis County): Closed waters: All inlet streams. Last Saturday in April through October 31 season. Selective gear rules except fishing from devices equipped with motors permitted. Trout: Minimum length ten inches.

Wannacut Lake (Okanogan County): Last Saturday in April through October 31 season.

Wapato Lake (Chelan County): Last Saturday in April through October 31 season. From August 1 through October 31: Selective gear rules except fishing from a device equipped with an internal combustion engine permitted. Trout: Release all trout.

Wapato Lake (Pierce County): Juveniles only.

Ward Lake (Ferry County): Last Saturday in April through October 31 season.

Ward Lake (Thurston County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Warden Lake and Warden Lake, South (Grant County): Last Saturday in April through September 30 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washburn Lake (Okanogan County): Last Saturday in April through October 31 season. Trout: Daily limit two.

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County): Fishing from floating device prohibited one hundred yards either side of the floating bridges. Chumming per-

mitted. Trout: December 1 through last day in February: Release all steelhead and rainbow trout over twenty inches in length. March 1 through June 30: Minimum length twelve inches, and release all steelhead and rainbow trout over twenty inches in length. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon.

Washington, Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge): West of Fremont Bridge: Fishing from floating device prohibited. East of Fremont Bridge: Chumming permitted.

From west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary: Open year around. Trout: December 1 through last day in February daily limit five, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit five, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. July 1 through November 30, daily limit five, no minimum length. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon.

Washougal River (Clark County):

From mouth to bridge at Salmon Falls: June 1 through July 31 and October 15 through March 15 seasons. Nonbuoyant lure restriction and night closure October 15 through October 31. Trout: Minimum length twelve inches. Release wild cutthroat. ~~((Release steelhead August 16 through October 15.))~~ Salmon: Open only October 15 through March 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, chinook and wild coho.

From mouth to Mt. Norway Bridge: Additional April 16 through May 31 season. All species: Release all fish except hatchery steelhead ~~((with a missing adipose fin and a healed scar at the fin site)).~~

From bridge at Salmon Falls to its source, including tributaries: Closed waters.

Washougal River, West (North) Fork (Clark/Skamania counties):

From mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: June 1 through March 15 season. Trout: Minimum length twelve inches. Release wild cutthroat.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Wauhup Lake (Pierce County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained. Salmon: Landlocked salmon rules apply.

Wenas Lake (Yakima County): Trout: Daily limit five, of which not more than two may be brown trout.

Wenatchee Lake (Chelan County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit five. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River (Chelan County):

December 1 through March 31 season, from mouth to Highway 2 Bridge at Leavenworth only. All other areas and times: Closed waters. Terminal gear restricted to one single hook, maximum hook size number 14. All species: Release all fish except whitefish.

West Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through December 31. Closed waters: Woburn Street Bridge upstream to the stone bridge. ~~((June 1 through last day in February season.))~~ Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to markers below Dupont Street. Daily limit 6 fish of which not more than 2 may be adult salmon.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Nonbuoyant lure restriction and night closure August 1 through December 31. Trout: No minimum length.

Whatcom, Lake (Whatcom County): Last Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters: Trout: Release cutthroat trout.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

White River (Chelan County), from mouth upstream to White River Falls: Closed waters.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: ~~((June 1 through September 30. Closed waters.))~~ October 1 through last day in February season: Nonbuoyant lure restriction and night closure October 1 through November 30. Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley, except waters of Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin are closed waters: October 1 through October 31 season ~~((only)).~~ Nonbuoyant lure restriction and night closure. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: Nonbuoyant lure restriction and night closure August 1 through November 30. Whitefish: Additional November 1 through January 31 season. Release all fish except whitefish.

Whitechuck River (Snohomish County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

White Salmon River (Klickitat/Skamania counties):

From mouth to powerhouse: Year around season. August 1 through December 31: Nonbuoyant lure restriction ((as provided for in WAC 220-56-205(1))). Trout: Minimum length fourteen inches. Salmon: Open year around. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho. October 1 through December 31 release chinook upstream from posted markers upstream of Highway 14 Bridge.

From powerhouse to within four hundred feet of North-western Dam: November 16 to June 15 season. Trout: Minimum length fourteen inches. Salmon: Open only November 16 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho. November 16 through December 31 release chinook.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Trout: Minimum length twelve inches.

Whitestone Lake (Okanogan County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Whitman Lake (Pierce County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Wide Hollow Creek (Yakima County): Trout: Daily limit five, no minimum length.

Widgeon Lake (Grant County): March 1 through March 31 and September 1 through September 30 seasons.

Wildberry Lake (Mason County): Last Saturday in April through October 31 season.

Wildcat Lake (Kitsap County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Wilderness Lake (King County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Willame Lake (Lewis County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fifteen inches.

Willapa River (Pacific County)((~~including all forks~~)): ((~~Closed waters: Four hundred feet below falls on South Fork to falls~~)) Mouth to Fork Creek: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 16 through November 30. Single point barbless hooks required July 1 through January 31. November 1 through March 31 fishing from any floating device prohibited from the bridge on Willapa Road to Fork Creek.

All ((species)) game fish: Release all fish except that up to two hatchery steelhead ((per day)) may be retained((~~from mouth to Forks Creek and in South Fork. From department~~

~~boat launch in South Bend upstream to Forks Creek: Single point barbless hooks required July 1 through October 31 upstream to Forks Creek~~). Salmon: Open only July 1 through January 31 from mouth to Highway 6 Bridge and October 16 through January 31 from Highway 6 Bridge to Fork Creek. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild adult coho.

Upstream from Fork((s)) Creek: Selective gear rules. August 16 through October 31, nonbuoyant lure restriction and night closure. All species: Release all fish.

((~~From department boat launch in South Bend to Forks Creek: Additional November 1 through March 31 season. Fishing from any floating device prohibited from the bridge on Willapa Road (Camp One Bridge) to Forks Creek. Single point barbless hooks required November 1 through January 31.~~))

South Fork: Additional November 1 through last day of February season. Selective gear rules.

Williams Creek (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Willow Lake (Whatcom County): July 1 through October 31 season. Selective gear rules. Trout: Daily and possession limit one, minimum length eighteen inches.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Juveniles only. Trout: Daily limit five, no minimum length.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: June 1 through March 15 season. Mouth to ((~~Burlington Northern Railroad~~)) High Bridge: May 1 through June 30: Nonbuoyant lure restriction and night closure; mouth to Burlington Northern Railroad Bridge August 1 through October 31: Nonbuoyant lure restriction ((as provided for in WAC 220-56-205(1))). Trout: Minimum length fourteen inches. Salmon: Open only August 1 through October 31 from mouth to railroad bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source, including all tributaries: Closed waters.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Wiser Lake (Whatcom County): Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Wishkah River (Grays Harbor County), including all forks: Closed waters: Mainstem from four hundred feet below outlet of dam at Wishkah Rearing Ponds (formerly Mayr Bros.) to dam. Mouth to West Fork: June 1 through March 31 season. Single point barbless hooks required September 1 through November 15. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon, except the daily limit may contain no more than one wild adult coho and one adult chinook.

From the ~~((mouth))~~ West Fork to four hundred feet below outlet: ~~((Additional November))~~ June 1 through March 31 season. Trout: Minimum length fourteen inches.

Wolf Creek, mouth to mouth of south fork (Okanogan County): Closed waters.

Wood Lake (Mason County): Last Saturday in April through October 31 season.

Woodland Creek (Thurston County): Trout: Minimum length fourteen inches.

Wooten Lake: Last Saturday in April through October 31 season.

Wye Lake (Kitsap County): Last Saturday in April through October 31 season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Wynoochee River (Grays Harbor County): Mouth to 7400 line bridge above mouth of Schafer Creek: June 1 through March 31 season. Single point barbless hooks required September ~~((16))~~ 1 through ~~((October 31 upstream to 7400 line bridge above mouth of Schafer Creek))~~ November 15. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except September 1 through November 15 the daily limit may contain no more than 1 wild adult coho and 1 adult chinook, and November 16 through January 31, the daily limit may contain no more than one adult chinook and release wild adult coho.

~~((From mouth to 7400 line bridge above mouth of Schafer Creek: Additional November 1 through March 31 season. Trout: Minimum length fourteen inches.))~~

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches. Salmon: Landlocked salmon rules apply.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries.

From mouth to Prosser Dam: Chumming permitted.

From mouth to four hundred feet below Roza Dam: Year around season. Trout: Minimum length twelve inches and maximum length twenty inches. Release all trout April 1 through May 31.

From Roza Dam to four hundred feet below Easton Dam: Year around season. Fishing from floating devices equipped with motors allowed only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to

the boat launch ramp on the Roza Access Area (approximately one-half mile). Trout: Selective gear rules, and release all trout. Whitefish: Bait and one single-pointed, barbless hook only may be used for whitefish December 1 through last day in February.

From Lake Easton to Keechelus Dam: Selective gear rules.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Yellowjacket Ponds (Lewis County): Last Saturday in April through last day in February season. Trout: No more than one over twelve inches in length.

Yokum Lake (Pend Oreille County): Last Saturday in April through October 31 season.

~~((3) Specific marine water exceptions to state-wide rules:~~

~~(a) Marine water area codes and boundaries:~~

~~(i) Area 1 (Ilwaco): Waters west of the Buoy 10 Line and north to Leadbetter Point.~~

~~(ii) Area 2 (Westport Ocean Shores): From Leadbetter Point north to the Queets River. Area 2 excludes waters of Willapa Bay and Grays Harbor.~~

~~(iii) Area 2-1: Willapa Bay east of a line from Leadbetter Point to Willapa Channel Marker 8 (Buoy 8) then to the westerly most landfall on Cape Shoalwater.~~

~~(iv) Area 2-2: Grays Harbor east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty.~~

~~(v) Area 3 (La Push): From the Queets River north to Cape Alava.~~

~~(vi) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.~~

~~(vii) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.~~

~~(viii) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point Point Wilson line north to the line from Trial Island (near Victoria, B.C.) — Vessel Traffic Separation Buoy "R" — Smith Island — the most northeasterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) — Northwest Island — the Initiative 77 marker on Fidalgo Island.~~

~~(ix) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.~~

~~(x) Area 8 (Deception Pass, Hope and Camano Islands): Line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to the Possession Point — Shipwreck Line.~~

~~(xi) Area 8-1 (Deception Pass and Hope Island): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, south of the Burlington~~

EXPEDITED ADOPTION

Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light # 2 on Camano Island (F1 red 4 sec.):

(xii) Area 8 2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light # 2 on Camano Island (F1 red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(xiii) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point Point Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point Edwards Point Line.

(xiv) Area 10 (Seattle-Bremerton): From the Apple Cove Point Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(xv) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(xvi) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(xvii) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

(b) Marine waters regulations: These regulations apply to all marine waters contained within the boundaries of Washington state, within Puget Sound, Hood Canal, the Strait of Juan de Fuca, the San Juan Islands, the Strait of Georgia, and the Pacific Ocean, including estuaries (river mouths) from salt water upstream to a line between the outermost headlands measured at the highest high tide (usually the debris line furthest inshore on surrounding beaches), unless otherwise described under area regulations (see individual areas, below):

(i) Fishing hours: Twenty-four hours per day year around, except those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters.

(ii) License requirements: A valid current Washington state department of fish and wildlife saltwater license, and, if appropriate, a steelhead license, is required to fish for game fish including steelhead in marine waters. All steelhead taken from marine areas shall be entered on the steelhead catch record card using the words Marine Area and followed by the appropriate marine area code number.

(iii) Gear restrictions: Angling gear only, and in those waters of Area 10 downstream of the First Avenue South Bridge to an east-west line through southwest Hanford Street on Harbor Island and parallel to southwest Spokane Street where it crosses Harbor Island, nonbuoyant lure restriction July 1 through November 30. In all areas, underwater spearfishing, spearing, gaffing, clubbing, netting, or trapping game fish is unlawful.

(iv) All species: Release all fish except up to two hatchery steelhead may be retained per day.)



WSR 00-11-005
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 00-04—Filed May 4, 2000, 1:27 p.m.]

Date of Adoption: May 3, 2000.

Purpose: Repeal chapter 173-202 WAC. Statutory authority for the rule was removed by ESHB 2091, passed by the legislature in the 1999 session.

Citation of Existing Rules Affected by this Order: Repealing chapter 173-202 WAC, WAC 173-202-101 and 173-202-020.

Adopted under preproposal statement of inquiry filed as WSR 00-06-038 on February 28, 2000.

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 2.

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.

May 3, 2000

Tom Fitzsimmons
Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 173-202-010 Authority.
- WAC 173-202-020 Certain WAC sections adopted by reference.

WSR 00-11-011
PERMANENT RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY
[Filed May 8, 2000, 9:30 a.m.]

Date of Adoption: May 4, 2000.

Purpose: To amend the existing regulation to make it easier to read, establish exemption thresholds and categories, and restructure Exhibit "R."

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article IV - Registration. Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 00-07-023 on May 4 [March 3], 2000.

Changes Other than Editing from Proposed to Adopted Version: Item 52 of Exhibit "R" was revised from "Standby emergency generator sets (used for backup only) with internal combustion engines rated at or above five hundred brake horsepower." to "Internal combustion engines used for standby back-up operation only, and rated at or above five hundred brake horsepower." The above change is language suggested by a commenter during the public comment period. SCAPCA's intent was to register standby/back-up engines rated at or above five hundred brake horsepower. This change does not constitute a significant change to the previous revision.

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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 4, 2000

Charles E. Studer
Environmental Engineer

ARTICLE IV

REGISTRATION

ADOPTED: June 9, 1969

~~((REVISED: August 13, 1992))~~

REVISED: May 4, 2000

~~((EFFECTIVE: September 17, 1992))~~

EFFECTIVE: June 4, 2000

AMENDATORY SECTION (Amending WSR 92-17-054, filed 8/17/92)

SECTION 4.01 REGISTRATION REQUIRED

The Authority regulates the classes of air contaminant sources, listed in Exhibit R, under the authority of RCW 70.94.151. ((Under the authority of 70.94.151 RCW, the classes of air contaminant sources listed in Exhibit "R" below are regulated by the Authority.)) An air contaminant source, listed in Exhibit R, whether publicly or privately owned, shall register with the Authority unless exempted under Section 4.03 of this Article. ((a written exemption is issued by the Authority. An air contaminant source established after the

PERMANENT

adoption of this Section shall register prior to commencing operations. Registration information shall be updated annually thereafter.)

AMENDATORY SECTION (Amending WSR 92-17-054, filed 8/17/92)

SECTION 4.02 GENERAL REQUIREMENTS FOR REGISTRATION

A. Registration Responsibility. Registration of an air contaminant source (~~(installation or facility)~~), except those exempted under Section 4.03 of this Article, shall be made by the owner or (~~lessee~~) operator of the source, or an appointed agent, on forms furnished by the Authority. The owner of the source and (~~lessee~~) operator are responsible for registration and for submitting accurate (~~(the accuracy of the)~~) information (~~(submitted)~~).

B. (~~A separate~~) Registration Information. Registration shall be required for each emission unit, including quantifiable fugitive air emissions, located at the source (~~(source of contaminant)~~). The owner or operator shall make reports to the Authority, containing information as may be required by the Authority, concerning location, size, and height of contaminant outlets, processes employed, nature of the air contaminant emission, and such other information as is relevant to air pollution and available or reasonably capable of being assembled. Registration information shall be updated annually by the owner or operator on forms provided by the Authority. (~~(provided that, an owner or lessee has the option to register a process or facility with a detailed inventory of contaminant sources and emissions related to said process or facility; provided further that, an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises)~~).

C. Signature. Each registration shall be signed by the owner or (~~lessee~~) operator, or the agent for such owner or (~~lessee~~) operator.

D. New Sources. The owner or operator of an air contaminant source shall file a Notice of Construction and Application for Approval, in accordance with Article V of this Regulation, prior to establishing any new or modified air contaminant source. An approved Notice of Construction suffices to meet the initial requirement to register the air contaminant source. Registration information shall be updated annually thereafter.

E. Transfer of Ownership. The new owner or operator shall report any change of ownership or change of operator to the Authority, on forms provided by the Authority, within ninety (90) days of any such change. Any liability for fee payment, including payment of delinquent fees and other penalties shall survive any transfer of ownership of a source.

F. Source Closure. A report of closure shall be filed by the owner or operator with the Authority within ninety (90) days after the owner or operator determines that operations, producing air contaminant emissions, have permanently ceased.

In the event the owner or operator of a source discontinues operations, but continues payment of the annual registra-

tion fee to the Authority, the registration and the status of the source with the Authority are maintained as if the source were still in operation. In such a case, a report of closure is not required.

Prior to re-opening a closed source, or establishing a new source at a site for which the Authority has received a closure report, the proponent shall contact the Authority for a determination as to whether Notice of Construction and Application for Approval must be filed with and approved by the Control Officer, per the requirements of SCAPCA Regulation I, Article V.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 92-17-054, filed 8/17/92)

SECTION 4.03 REGISTRATION EXEMPTIONS (REQUESTS)

A. Operating Permit Sources. Sources subject to Chapter 173-401 WAC (air operating permit sources) are exempt from the registration requirements of this Article.

B. Grain Handling Facilities. If registration has been made and a registration fee has been paid for a source that is properly classified as a grain warehouse or grain elevator under Standard Industrial Classification (SIC) code 5153 and that is licensed by the Department of Agriculture under Chapter 22.09 RCW or by the federal government for purposes similar to those of licensure under Chapter 22.09 RCW, registration or a registration fee shall not be required again unless the licensed capacity of the source increases. The source is subject to all other applicable requirements of this Regulation.

If the licensed capacity increases, registration shall be made, and a registration fee paid, prior to the date that the source receives grain from the first harvest season that occurs after the increase in its licensed capacity. In addition, if required under Article V of this Regulation, a Notice of Construction application shall be filed with and approved by the Authority prior to increasing the licensed capacity of the source.

C. Agricultural Operations. Agricultural operations as defined in RCW 70.94.640 (5)(a) are exempt from the registration requirements of this Article.

D. Dwellings of Four Families or Less. Fuel burning equipment that serves dwellings of four or less families is exempt from the registration requirements of this Article.

E. Source Specific Facilities. Any person may submit a written request to the Control Officer for an exemption from the registration requirements of this Article, providing justification for such request.

1. At a minimum, the request shall provide an inventory of emissions, emission points, and location, sufficient for the Authority to determine how the source impacts air quality and the public.

2. Within 30 calendar days of receipt of an exemption request, the Authority may require additional information it deems necessary to determine if an exemption is appropriate.

3. Within 15 calendar days of receiving of the additional information, the Control Officer shall make a determination as to whether an exemption will be granted. Consideration shall be given to:

a. Potential impacts from the source on ambient air quality standards;

b. Potential nuisance from odors and particulate matter emissions;

c. Public exposure to toxic air pollutants; as defined in WAC 173-400-030;

d. The source's ability to meet applicable emission standards;

e. Potential damage to business or property; and

f. Importance of periodic verification that emission units, including any associated air pollution control equipment, are being properly maintained and operated.

4. Any source exempted from registration under this subsection shall maintain sufficient documentation, as may be required in the Control Officer's determination, to verify that the source is entitled to continued exemption under this section.

~~((Any person may submit a written request to the Control Officer for an exemption from the registration requirements of this Article, providing justification for such request. The request shall address, as a minimum, how the emissions from that class of air pollution source would impact applicable ambient air quality standards, public nuisance, and public exposure to toxic air pollutants.~~

~~Within thirty (30) days the Authority shall request any additional information it deems necessary. Within fifteen (15) days of receipt of the additional information, the Control Officer shall make a ruling on the exemption request.))~~

5. The Authority, or an authorized representative, may periodically verify, through inspection, survey, records request, or other appropriate means, that the source is meeting applicable regulations and the conditions of the exemption approval letter, if the exemption is granted.

E. Source Category De Minimis Level Exemptions. The Control Officer may establish de minimis levels, based on the criteria presented in Section 4.03.D, or other relevant criteria, below which registration of a source category, as defined in Exhibit R, is not required. Any source exempted from registration under this subsection shall maintain sufficient documentation, as required by the Authority, to verify that the source is entitled to continued exemption under this section.

EXHIBIT R

NOTE: Emission rates in this Section are based on actual emissions, unless otherwise noted.

1. Acid production plants, including all acids listed in Chapter 173-460 WAC.

2. ((+)) Abrasive blasting operations, except portable blasting operations operating at a site for less than 60 days in any running 12-month period and operations that are inside a

building and any associated air pollution control equipment that exhausts inside of the building.

3. ((2-)) Agricultural chemicals((;)); manufacturing, mixing, packaging, ((facilities for packing, and mixing;)) and/or other related air contaminant emitting operations (fertilizer concentrates, pesticides, etc.).

4. ((3-)) Agricultural drying and dehydrating operations.

5. Alumina processing operations.

6. Ammonium sulfate manufacturing plants.

7. ((4-)) Any category of stationary sources ~~subject to~~ ~~((which))~~ a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), BB (Kraft Pulp Mills) or AAA (New Residential Wood Heaters)((-applies)).

8. ((5-)) Any source category subject to a National Emission Standard for Hazardous Air Pollutants (NESHAP) under 40 CFR Parts 61 and 63, other than Subpart M (asbestos on roadways, asbestos demolition or renovation activities, or asbestos spraying). ((Any source category subject to limitations on emissions of hazardous air pollutants by the federal clean air act:))

~~((6. Any source in operation on or before the effective date of this regulation with small quantity emission rates exceeding the limits defined in WAC 173-460-080 (2)(e):))~~

9. A source listed in 9.e. below that:

a. emits any single criteria pollutant, or its precursors, as defined in 40 CFR § 51.852, exceeding emission rates of 0.5 tons per year, or

b. emits toxic air pollutants, as defined in WAC 173-460-020 (20), with emission rates exceeding the small quantity emission rates established in WAC 173-460-080 (2)(e), or

c. emits combined air contaminants in excess of 1.0 ton per year, or

d. emits combined toxic air pollutant and volatile organic compound emissions greater than 0.5 tons per year.

e. The above criteria applies to the following source categories:

1) Bakeries

2) Bed lining or undercoating production or application operations,

3) Degreasers/solvent cleaners, not subject to 40 CFR Part 63, Subpart T (Halogenated Solvent Cleaners); including, but not limited to, vapor, cold, open top and conveyerized cleaner,

4) Evaporators,

5) Graphic art systems,

6) Organic vapor collection systems within commercial or industrial facilities,

7) Soil and groundwater remediation operations,

8) Sterilizing equipment,

9) Utilities, combination electric and gas, and other utility services (SIC 493),

10) Wood furniture stripping and treatment operations (commercial only), and

11) Any source category not otherwise listed in this exhibit.

10. ((7-)) Any source ((or emissions unit)) with ((a)) significant emissions as defined ((by)) in SCAPCA Regulation

1. Article X, Section 10.01((173-400-030 (24), (37), and (61) WAC)).

11. ((8-)) Any source required to obtain an approved Notice of Construction under Article V.

12. Any air contaminant source (including fugitive emission sources) for which the Control Officer determines that registration is necessary in order to reduce the potential impact from the source's air emissions on: the health, safety, and/or welfare of the public, or unreasonable interference with any other property owner's use and enjoyment of his property, or damage to other property owner's property or business.

13. Any source where the owner or operator has elected to avoid one or more requirements of the operating permit program established in Chapter 173-401 WAC, by limiting its potential-to-emit (synthetic minor) through an order issued by the Authority.

14. Any source that is required to report periodically to demonstrate nonapplicability to requirements under Sections 111 or 112 of the Federal Clean Air Act.

15. ((9-)) Asphalt and asphalt products production ((facilities)) operations (asphalt roofing and application equipment excluded).

~~((10. Boilers using coal, hog fuel, oil or other solid or liquid fuel.))~~

16. ((11-)) Brick and clay products manufacturing ((plants)) operations (tiles, ceramics, etc). Noncommercial operations are exempt.

17. ((12-)) Bulk gasoline and aviation gas terminals, bulk gasoline and aviation gas plants, and gasoline and aviation gas loading terminals ((and gasoline dispensing facilities subject to 173-491-040 WAC)).

~~((13. Casting facilities and foundries, ferrous and nonferrous)).~~

18. ((14-)) Cattle feedlots with facilities for one thousand or more cattle.

19. ((15-)) Chemical manufacturing ((plants)) operations.

20. Coffee roasting operations.

21. ((16-)) Composting operations, including commercial, industrial and municipal, except noncommercial agricultural and noncommercial residential composting activities.

22. ((17-)) Concrete production operations and ready mix plants ((manufacturers and ready mix plants)).

~~((18. Degreasers; vapor, cold, open top and conveyorized))~~

23. ((19-)) Dry cleaning ((plants)) operations, using solvents that emit toxic air pollutants or volatile organic compounds.

24. Materials handling and transfer facilities that generate fine particulate and that exhaust more than 1,000 acfm to the ambient air, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere.

25. Flexible polyurethane foam, polyester resin, and styrene production operations.

26. Flexible vinyl and urethane coating operations.

27. Fuel burning equipment (external combustion) with per unit heat inputs greater than or equal to:

a. 500,000 Btu/hr using coal or other solid fuels;

b. 500,000 Btu/hr using used/waste oil, per the requirements of RCW 70.94.610;

c. 1,000,000 Btu/hr using kerosene, #1, #2 fuel oil, or other liquid fuel, except used/waste oil; and

d. ((20. Fuel burning equipment other than those serving dwellings of four or less families and has a heat input of more than 400,000 BTU per hour.)) 4,000,000 Btu/hr using gaseous fuels, such as, natural gas, propane, methane, LPG, or butane, including but not limited to, boilers, dryers, heat treat ovens and deep fat fryers.

28. Gasoline dispensing facilities, subject to Chapter 173-491 WAC, and aviation gas dispensing facilities with total tank capacities greater than 10,000 gallons.

29. ((21-)) Grain handling; seed, pea and lentil processing facilities. Registration shall be in accordance with Section 4.03.B.

~~((22. Graphic art systems.))~~

~~((23. Grass seed fields.))~~

~~((24. Hazardous waste treatments, storage, and disposal facilities.))~~

30. Hay cubing operations, established at a dedicated collection and processing site.

31. Incinerators; as defined in Section 1.04 of this Regulation.

32. Insulation manufacturing operations.

~~((25. Hospitals, specialty and general medical surgical.))~~

~~((26. Active landfills including gas collection systems and flares.))~~

~~((27. Incinerators designed for a capacity of one hundred pounds per hour or more.))~~

~~((28. Insulation manufacturers))~~

~~((29. Fine particulate materials handling and transfer facilities))~~

~~((30. Meat packing plants.))~~

33. Metal casting facilities and foundries, ferrous.

34. Metal casting facilities and foundries, nonferrous.

35. ((31-)) Metal plating and anodizing operations.

36. ((32-)) Metallic and nonmetallic mineral processing, including, but not limited to, rock crushing, sand and gravel mixing ((facilities)) operations.

37. ((33-)) Metallurgical processing ((facilities)) operations.

38. ((34-)) Mills; lumber, plywood, shake, ((and)) shingle, woodchip, veneer operations, dry kilns, pulpwood insulating board, grass/stubble pressboard, pelletizing, or any combination thereof.

39. ((35-)) Mills; grain, seed, feed and flour((ing)) production and related operations

40. ((36-)) Mills; wood products manufacturing operations (including, but not limited to, cabinet works, casket works, furniture and wood by-products).

41. ((37-)) Mineralogical processing ((facilities)) operations.

42. ((38-)) Natural gas transmission and distribution (SIC 4923).

43. ((39-)) Ovens/furnaces, kilns and curing, burnout, (including, but not limited to, ovens/furnaces that heat clean automotive parts, paint hooks, electric motors, etc.) ((and heat treat)).

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POLLUTION CONTROL AUTHORITY
 [Filed May 8, 2000, 9:31 a.m.]

- 44. ~~((40-)) Paper manufactur((ers))ing operations, except Kraft and sulfite pulp mills.~~
- 45. Petroleum refineries.
- 46. Pharmaceuticals production operations.
- 47. ~~((41-)) Plastics and fiberglass fabrication, including gelcoat, polyester resin, or vinyl ester coating ((facilities)) operations using more than 55 gallons per year of all materials containing volatile organic compounds or toxic air pollutants.~~
- 48. ~~((42-)) Refuse systems (SIC 4953), including municipal waste combustors; landfills with gas collection systems and/or flares; hazardous waste treatment, storage, and disposal facilities; and wastewater treatment plants other than private and publicly owned treatment works (POTWs).~~
- 49. ~~((43-)) Rendering ((plants)) operations. ((44. Rock crushing plants)). ((45. Salvage operations (scrap metal, junk-)). ((46. Sand and gravel and pre-mix plants-))~~
- 50. ~~((47-)) Sewerage systems, private and publicly owned treatment works (POTWs) with a rated capacity of more than 1 million gallons per day (SIC 4952). ((48. Soil and groundwater remediation projects-))~~
- 51. Semiconductor manufacturing operations
- 52. Internal combustion engines used for standby, backup operations only, and rated at or above five hundred brake horsepower.
- 53. ~~((49-)) Stationary internal combustion engines, other than emergency generator sets, ((and turbines)) rated at ((five)) one hundred horsepower or more, including engines integral to powering a source category registered under this exhibit, including but not limited to, rock crushing, stump and woodwaste grinding, and hay cubing operations.~~
- 54. Stump and woodwaste grinding established at a dedicated collection and processing site.
- 55. ~~((50-)) Storage tanks for organic liquids, within commercial or industrial facilities, with capacities greater than ((4)) 20,000 gallons.~~
- 56. ~~((51-)) Surface coating((s)), adhesive, and ink manufactur((ers))ing operations.~~
- 57. ~~((52-)) Surface coating operations, including; automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper, and other substrates.~~
- 58. ~~((53-)) Synthetic fiber production ((facilities)) operations.~~
- 59. ~~((54-)) Synthetic organic chemical manufacturing ((industries)) operations.~~
- 60. ~~((55-)) Tire recapping ((facilities)) operations. ((56. Utilities, combination electric and gas, and other utility services (SIC 493-)). ((57. Vapor collection systems within commercial or industrial facilities-)) ((58. Waste oil burners-))~~
- 61. Wholesale meat/fish/poultry slaughter and packing plants.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

Date of Adoption: May 4, 2000.
 Purpose: To amend the existing regulation to make it easier to read, establish exemption thresholds and categories, clarify source closure and transfer of ownership issues, provide an administrative revision process, clarify the appeal process, and establish the requirement for operations to employ best available control technology (BACT).

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article V - New, Modified, and Temporary Stationary Air Contaminant Sources.

Statutory Authority for Adoption: Chapter 70.94 RCW.
 Adopted under notice filed as WSR 00-07-024 on May 4 [March 3], 2000.

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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 4, 2000
 Charles E. Studer
 Environmental Engineer

ARTICLE V

NEW, MODIFIED, AND TEMPORARY STATIONARY AIR CONTAMINANT SOURCES
 ((NOTICE OF CONSTRUCTION))

ADOPTED: June 9, 1969

~~((REVISION: September 1, 1994))~~

REVISED: May 4, 2000

~~((EFFECTIVE: October 6, 1994))~~

EFFECTIVE: June 4, 2000

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.01 DEFINITIONS

In addition to the definitions provided in Article I of this R((#))egulation and unless a different meaning is clearly

required by context, words and phrases used in this Article shall have the following meaning:

A. ~~((C-))~~ Stationary Air Contaminant Source means any building, structure, facility, or installation, including any emissions unit as defined in Section 1.04 of this ~~((F))~~ Regulation, that emits or may emit any air contaminant.

B. ~~((A-))~~ Modification means any physical change ~~((in))~~, or change in the method of operation of, a ~~((n))~~ stationary air contaminant source that increases the amount of any air contaminant emitted by such a stationary air contaminant source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in ~~((Section))~~ 42 USC 7411, ~~((Title 42, United States Code))~~, and with the rules implementing that section.

C. ~~((B-))~~ New Stationary Air Contaminant Source means the construction or installation ~~((modification))~~ of a ~~((n))~~ stationary air contaminant source ~~((that increases the amount of any air contaminant emitted by such a source or that results in the emission of any air contaminant not previously emitted;))~~ and any other project that constitutes a new source under the Federal Clean Air Act. Replacement of existing emission unit(s) with new or used emission unit(s) qualifies as a new stationary air contaminant source, except as provided by the Control Officer in a Notice of Construction Approval.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.02 NOTICE OF CONSTRUCTION (NOC) - WHEN REQUIRED

A. No person shall ~~((construct, install,))~~ establish ~~((or modify))~~ a new stationary air contaminant source or modify an existing stationary air contaminant source, including but not limited, to the sources listed in Exhibit R of Article IV of this Regulation, except as provided for in 5.02.G ~~((E-))~~, and 5.02.H ~~((F-))~~ of this section, unless a "Notice of Construction and Application for Approval" has been filed by the owner, operator, or their agent, of the stationary air contaminant source (using Authority prepared and furnished application and information request forms) and approved by the Control Officer~~((, Authority using forms prepared and furnished by the Authority))~~. ~~((New source F))~~ Review of a modification shall be limited to the emission unit or units proposed to be modified and the air contaminants whose emissions would increase as a result of the modification.

B. New and modified stationary air contaminant source emission calculations shall be based on a ~~((n))~~ stationary air contaminant source's potential to emit, as defined in Chapter 173-400-030 WAC.

C. ~~((B-))~~ No person shall replace or substantially alter the emissions control equipment installed on an existing stationary air contaminant source, except as provided for in 5.02.F ~~((D))~~ and 5.02.G ~~((E))~~ of this ~~((s))~~ Section, unless a Notice of Construction and Application for Approval has been filed by the owner or operator of the stationary air contaminant source

(using Authority prepared and furnished application and information request forms) and approved by the Control Officer ~~((Authority using forms prepared and furnished by the Authority))~~.

D. ~~((C-))~~ A separate Notice of Construction and Application for Approval shall be filed for each new or modified stationary air contaminant source or emissions control system, unless identical units are to be constructed, installed, or established and operated in an identical manner at the same facility. ~~((; provided that, t))~~ The owner or operator has the option to file one application for an entire facility, with a detailed inventory of contaminant sources and emissions related to that facility.

E. ~~((D-))~~ A Notice of Construction and Application for Approval shall not be required to commence an alteration, which would normally require a Notice of Construction and Application for Approval, pursuant to 5.02.D ~~((B))~~ of this ~~((s))~~ Section, in the event of a breakdown or if delaying the alteration may endanger life or have other serious consequences. The Authority shall be notified in writing of the alteration ~~((on))~~ no later than the first working day after the alteration is commenced and a Notice of Construction and Application for Approval shall be filed within 14 days after the day that the alteration is commenced. For purposes of compliance with Section 5.02, the Control Officer shall determine whether an alteration, commenced before issuance of an order of approval, meets the requirements of this subsection.

F. ~~((E-))~~ Construction, installation, establishment, modification, or alteration of air contaminant sources, comprised of equipment utilized exclusively in connection with any structure, which is designed for, and used exclusively as, a residence with not more than four dwelling units, shall not require a Notice of Construction and Application for Approval.

G. ~~((F- Construction, installation, establishment, or operation of a))~~ Owners or operators of temporary ~~((portable)) stationary air contaminant sources, operating in accordance with Section 5.08 - Temporary Stationary Air Contaminant Sources, ~~((which has met the requirements of Section 5.08))~~~~ shall not be required to apply for a Notice of Construction and Application for Approval.

H. ~~((G))~~. A person seeking approval to construct, install, or modify a ~~((n))~~ stationary air contaminant source at a Chapter 401 source as defined in WAC 173-401-200(6), ~~((that requires an operating permit))~~ may elect to integrate review of the operating permit application or amendment ~~((required under RCW 70.94.161))~~ and the Notice of Construction and Application for Approval required by this Article. A Notice of Construction and Application for Approval designated for integrated review shall be processed in accordance with the operating permit program procedures and deadlines ~~((as found))~~ in Chapter 173-401 WAC.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)**SECTION 5.03 NOC FEES**

A. The person filing the Notice of Construction and Application for Approval shall pay a filing fee and plan review and approval fee according to Article X, Fees and Charges, of this ~~((f))~~ Regulation.

B. Fees shall be paid without regard to whether a Notice of Construction and Application for Approval is approved or denied.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)**SECTION 5.04 INFORMATION REQUIRED**

A. Each Notice of Construction and Application for Approval shall be accompanied by appropriate documentation that provides a detailed description of the ~~((following))~~ stationary air contaminant source. Such information may include, but is not limited to:

1. The new or modified stationary air contaminant source, equipment and emissions control equipment ~~((apparatus))~~ subject to the Notice of Construction;

2. Any equipment connected to, serving, or served by the new or modified stationary air contaminant source, equipment, and emissions control equipment ~~((apparatus))~~ subject to the Notice of Construction;

3. A plot plan, including the distance to, length, width, and height of; buildings within ~~((a))~~ 200 feet or other distance specified by the Control Officer from the place where the new or modified stationary air contaminant source is or will be installed;

4. The proposed means for the prevention or control of the emissions of air contaminants;

5. Estimated emissions resulting from the proposal and the basis for the estimates, or sufficient information for the ~~((a))~~ Authority to calculate the expected emissions;

6. Any additional information required by the Control Officer to show that the proposed new or modified stationary air contaminant source will meet the applicable air quality requirements of Chapter 70.94 RCW and the rules and regulations adopted thereunder ~~((emissions standards))~~.

7. The owner or operator shall provide proof that the requirements of Article XI of this Regulation (Spokane Environmental Ordinance) have been met.

B. Each Notice of Construction and Application for Approval shall be signed by the owner or operator of the new or modified stationary air contaminant source, or their agent.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)**SECTION 5.05 PUBLIC NOTICE ~~((MAY BE))~~ REQUIRE~~((D))~~MENTS**

A. The Control Officer shall publish or cause to be published a notice to the public of the opportunity to submit written comments on a preliminary determination for an applica-

tion during a thirty (30) day period under any of the following conditions:

1. If required by state or federal laws, or regulations; or

2. If the proposed new or modified stationary air contaminant source would cause an annual increase of ten (10) tons or more of any air contaminant or precursor, for which ambient air quality standards have been established, or toxic air pollutant, as defined in Article X, Section 10.01 of this ~~((f))~~ Regulation; or

3. If the applicant requests approval of a risk analysis pursuant to Chapter 173-460 WAC; or,

4. ~~((3-))~~ If the Control Officer determines that such opportunity for comment is in the public interest.

B. The cost of publishing any public notice required by this Section ~~((5-05))~~ shall be paid by the owner or applicant.

C. Such public notice shall be published in a newspaper of general circulation in the area of the proposal and shall contain the following information:

1. Name and address of the source, and the owner or operator of the source, if different.

2. Brief description of proposed construction.

3. The location at which a copy of the preliminary determination and a summary of information, considered in making such preliminary determination, are available to the public.

4. Announcement of a thirty day period for submitting written comment to the Authority, stating the ending date of the comment period.

5. Announcement that a public hearing may be held if the ~~((Authority))~~ Control Officer determines within a thirty day period that significant public interest exists.

6. Any other information required under state or federal laws or regulations.

D. A copy of the public notice shall be sent to the U.S. Environmental Protection Agency ~~((f))~~ Regional ~~((a))~~ Administrator.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)**SECTION 5.06 APPLICATION COMPLETENESS DETERMINATION**

Within 30 days of receipt of a Notice of Construction and Application for Approval, the Authority shall notify the applicant in writing that the application is complete or notify the applicant in writing of any additional information necessary, based on review of information already supplied, to complete the application. Determination of completeness shall be evaluated on the basis that the application contains all information required to determine that the proposal shall be in accord with Chapter 70.94 RCW, the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder ~~((, and the Federal Clean Air Act (42 USC 7401 et seq.))~~. As a condition of completeness determination, the Control Officer may require payment of applicable fees, or a portion thereof, pursuant to Article X of this ~~((f))~~ Regulation.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)**SECTION 5.07 ISSUANCE OF APPROVAL OR ORDER**

A. For new or modified stationary air contaminant sources, ~~((as defined in Chapter 173-400 WAC:))~~

1. Within 60 days of receipt of a complete application ~~((the completeness determination made pursuant to Section 5.06)),~~ the ~~((Authority))~~ Control Officer shall either issue a final determination on the application or, for those proposals subject to public notice requirements, initiate notice and comment procedures under Section 5.05. If notice is required by state or federal regulations, the public notice shall occur in a manner that ~~((shall))~~ meets both Section 5.05 and those sections of the state or federal regulations that are applicable. As promptly as possible after the close of the comment period, a final determination shall be issued by the Control Officer.

2. The final determination may include:

a. an order of denial, if it is found that the proposal is not in accord with Chapter 70.94 RCW, the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder, ~~((and the Federal Clean Air Act (42 USC 7401 et seq))~~; or

b. an order of approval which may provide conditions as are reasonably necessary to assure maintenance of compliance with Chapter 70.94 RCW, the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder, ~~((and the Federal Clean Air Act (42 USC 7401 et seq))~~.

3. Prior to issuance, the final determination shall be reviewed and signed by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Authority.

4. If the new stationary air contaminant source is a major stationary ~~((air contaminant))~~ source as defined in Chapter 173-400 WAC or the change is a major modification as defined in Chapter 173-400 WAC, ~~((the Authority shall submit any))~~ The control technology determination included in a final determination will be submitted to the RACT/BACT/LAER ((e)) clearinghouse maintained by the United States Environmental Protection Agency.

5. Construction shall not commence, consistent with the WAC 173-400-030 definitions of "begin actual construction" and "commenced construction", until the Notice of Construction application is approved by the ~~((Authority))~~ Control Officer.

B. For replacement or substantial alteration of emission control equipment:

1. Within 30 days of receipt of a complete application ~~((the completeness determination made pursuant to Section 5.06)),~~ the ~~((Authority))~~ Control Officer shall either issue an order of approval, an order of denial, or a proposed Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400 WAC.

2. The order of approval may:

a) Require that the owner or operator employ RACT for the affected emission unit, and

b) P((p))rescribe reasonable operation and maintenance conditions for the control equipment,

c) Prescribe other requirements as authorized by Chapter 70.94 RCW.

3. Prior to issuance, the order of approval shall be reviewed and signed by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Authority.

4. Replacement or substantial alteration shall not commence until the application is approved by the ~~((Authority))~~ Control Officer. However, any Notice of Construction and Application for Approval, filed under Subsection 5.02.D ~~((B)),~~ shall be deemed to be approved without conditions if the Authority takes no action within thirty days of receipt of a complete Notice of Construction and Application for Approval.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)**SECTION 5.08 TEMPORARY ~~((PORTABLE))~~ STATIONARY AIR CONTAMINANT SOURCES**

A. Except as otherwise allowed in 5.08.I of this Article, ((F))for ((portable)) stationary air contaminant sources which locate temporarily at specific sites, the owner or operator shall be allowed to operate at the temporary location without filing a Notice of Construction and Application for Approval, provided the owner or operator files a (())Notice of Intent to Install and Operate a Temporary Source(()) (NOI) at least fifteen (15) calendar days prior to starting the operation, (using Authority prepared and furnished application and information request forms) ((on forms prepared and furnished by the Authority, at least 15 days prior to starting the operation)) and obtains permission to operate from the ((Authority)) Control Officer. Sufficient information shall be supplied by the owner or operator to enable the ((Authority)) Control Officer to determine that the operation will be in accordance with Chapter 70.94 RCW, the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder, ~~((and the federal Clean Air Act (42 USC 7401 et seq))~~. The owner or operator shall also provide proof that the requirements of Article XI of this Regulation (Spokane Environmental Ordinance) ((Chapter 197-11 WAC (State Environmental Policy Act)) have been met.

B. Permission to operate may be granted, subject to conditions as are reasonably necessary to assure compliance with Chapter 70.94 RCW, the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder, ~~((and the Federal Clean Air Act (42 USC 7401 et seq))~~. If any conditions listed in Subsection 5.05.A. are applicable to the proposal, a public comment period shall be held pursuant to Section 5.05.

C. Permission to operate may be granted for a limited time, but in no case longer than 180 consecutive days.

D. The person filing a Notice of Intent to Install and Operate a Temporary Source shall pay ~~((a))~~ filing ~~((fee)),~~ ~~((and))~~ plan review, and approval fees according to Article X,

Fees and Charges, of this ((#))Regulation. Fees shall be paid without regard to whether permission is granted or denied.

E. The Control Officer ((Authority)) may revoke, or suspend permission to operate if the Control Officer determines that the stationary air contaminant source is not constructed or operated as described in the Notice of Intent to Install and Operate a Temporary Source, including plan, specification, or other information submitted therewith.

F. Permission to operate shall be invalid if:

1. Construction, installation, or operation does not begin within 180 days of receipt of permission; or
2. Construction, installation, or operation is discontinued for a period of 180 days or more; or
3. Construction, installation, or operation is not completed within a reasonable time, as determined by the Control Officer; or

4. The operation is removed from the site for 30 consecutive days or longer.

G. ((H-)) Permission to operate, conditions of permission to operate, or denial of installation and operation of a temporary stationary air contaminant source may be appealed to the Pollution Control Hearings Board of Washington, as provided in Chapter 43.21B RCW.

H. Installation or operation of a temporary stationary air contaminant source shall not commence until the Notice of Intent to Establish a Temporary Source application is approved by the Control Officer.

I. The following operations are exempt from Article V.

1. Abrasive blasting units that operate at a site for less than 30 days in any 12-month period. All other abrasive blasting units are subject to the requirements of this Article.

2. Rock drilling operations.

3. Blasting operations.

4. Woodwaste chipping and grinding operations that operate at a site for less than 30 days in any 12-month period, except for operations that establish a permanent collection, storage and/or processing facility at a site or sites for purpose of future processing. All other woodwaste chipping and grinding operations are subject to the requirements of this Article.

5. Soil and groundwater remediation projects that the Control Officer determines have insignificant air pollution impacts.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.09 OPERATING REQUIREMENTS

A. All equipment, machines, devices, and other contrivances, constituting parts of, or called for by plans, specifications or other information submitted pursuant to Section 5.02, 5.04, and 5.08 shall be maintained in good working order and operated at all times that air contaminant emissions may occur, unless otherwise specified by the Control Officer ((Authority)).

B. All conditions of approval, established pursuant to Sections 5.07 and 5.08, shall be complied with.

C. All new and modified stationary air contaminant sources shall employ Best Available Control Technology

(BACT), as defined in Chapter 173-400 WAC, and if applicable, Toxic Best Available Control Technology (TBACT), as defined in Chapter 173-460 WAC, except that, if the new source is a major stationary source or the proposed modification is a major modification, the lowest achievable emission rate (LAER) shall be achieved for the contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.

D. In no event shall the application of BACT or TBACT permit a new or modified source to emit any pollutant in excess of the amount allowable under an applicable Federal or Washington State standard or regulation.

AMENDATORY SECTION (Amending WSR 99-19-014, filed 9/7/99)

SECTION 5.10 CHANGES TO AN ORDER OF APPROVAL

A. The ((Authority)) Control Officer may revoke, revise, or suspend the order of approval if the Control Officer determines that the new or modified stationary air contaminant source is not constructed or operated as described in the Notice of Construction and Application for Approval including the plans, specifications, or other information submitted therewith.

B. The ((Authority)) Control Officer may revoke, revise or suspend the permission to operate a temporary source if the Control Officer determines that the source is not installed or operated as described in the "Notice of Intent to Install and Operate a Temporary Source" including the plans, specifications, or other information submitted therewith.

C. ((B-)) The applicant may request, at any time, a change in conditions of an order of approval or permission to operate a temporary source and the Control Officer may approve such a request provided the Control Officer finds that:

1. The change in conditions will not cause the stationary air contaminant source to exceed an emissions standard; and

2. No ambient air quality standard will be exceeded as a result of the change; and

3. The change will not adversely impact the ability of the ((Authority)) Control Officer to determine compliance with an emissions standard.

D. ((C-)) A fee, as established in Section 10.07 of this R((#))egulation, shall be assessed to, and paid by, the applicant for requests pursuant to Subsection 5.10.C ((B)).

E. Order of approval and permit to operate revisions may be initiated by the Control Officer, without fees charged to the owner or operator, as long as the stationary air contaminant source continues to comply with all applicable requirements of Chapter 70.94 RCW and the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder, and the Control Officer determines that the order of approval or permit to operate:

1. has typographical errors, or

2. has conditions listed therein that are ineffective or unreasonable, or

3. has conditions that no longer apply because the affected stationary air contaminant source or associated process or process materials have been significantly altered, or

4. has conditions that no longer apply due to revisions to Federal, State, or Local laws or regulations, or

5. does not accurately show current ownership, name, address, phone number, or there are other minor administrative inaccuracies.

F. The Control Officer may not modify, delete, or add conditions to an existing order of approval or permit to operate under Section 5.10.E, unless the owner or operator is notified in writing at least 30 days in advance of the effective date of the change. Modified, deleted or added conditions may be appealed in accordance with RCW 43.21B.310.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.11 NOTICE OF COMPLETION

The owner or operator of the new or modified stationary air contaminant source shall notify the Authority seven (7) days prior to the new or modified stationary air contaminant source's expected start-up date, or a shorter time if approved by the Control Officer.

~~((Within 7 days, or a shorter time if approved by the Authority, of the expected start-up date of the source, the owner or operator shall notify the Authority of the date upon which operation is expected to commence.))~~

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.12 WORK DONE WITHOUT AN APPROVAL

Where construction, installation, modification, or operation of an stationary air contaminant source is commenced or performed prior to receiving an order of approval or permission to operate from the Control Officer, ~~((for which Notice of Construction and Application for Approval is required, is commenced or performed prior to making application and receiving an order of approval.))~~ except as provided for in Subsection 5.02.E ~~((D))~~ and 5.02.F, the Control Officer may conduct, or cause to be conducted, a compliance investigation as part of the Notice of Construction or Notice of Intent to Establish a Temporary Source review. In such case, a compliance investigation fee, as established in Section 10.07 of this ~~((F))~~ Regulation, shall be assessed to, and paid by, the ~~((applicant))~~ owner or operator, in addition to the fees required in Sections 5.03 and 5.08 of this ~~((F))~~ Regulation. Payment of the compliance investigation fee~~((s))~~ does not relieve any person from the requirement to comply with applicable ~~((the))~~ regulations, nor from any penalties for failure to comply.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.13 TIME LIMITS

A. An order of approval, issued pursuant to Section 5.07 shall become invalid if:

1. Construction is not commenced within eighteen months after the receipt of the approval

2. Construction is discontinued for a period of eighteen months or more, or

3. Construction is not completed within a reasonable time as determined by the Control Officer.

B. The ~~((Authority))~~ Control Officer may extend the 18-month period, upon a satisfactory showing ~~((to the Control Officer))~~ that an extension is justified. The Control Officer may approve such a request provided that:

1. No new requirements, such as New Source Performance Standards (Title 40, Code of Federal Regulations, Part 60), National Emissions Standards for Hazardous Air Pollutants (Title 40, Code of Federal Regulations, Parts 61 and 63), or state and local regulations, have been adopted pursuant to Chapter 70.94 RCW or the Federal Clean Air Act (42 USC 7401 et seq.) which would change the order of approval, had it been issued at the time of the extension; and

2. If there is a control technology requirement, pursuant to sections WAC 173-400-112, WAC 173-400-113, or WAC 173-400-114 of Chapter 173-400 WAC~~((:));~~ or Article V, Section 5.09.C of this Regulation; that no technologies have been subsequently identified which would change the order of approval, had it been issued at the time of the extension; and

3. The information presented in the Notice of Construction and Application for Approval and associated documents and the assumptions that were made by the ~~((Authority))~~ Control Officer during review of the application continue to accurately represent the design, configuration, equipment, and emissions of the proposed stationary air contaminant source; and

4. The applicant certifies that the stationary air contaminant source will comply with all applicable requirements of Chapter 70.94 RCW, the Federal Clean Air Act (42 USC 7401 et seq.), and the rules adopted thereunder~~((, and the Federal Clean Air Act (42 USC 7401 et seq)))~~.

C. Subsection 5.13.A. does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within 18 months of the projected and approved commencement date.

Reviser's note: The typographical error in the above material occurred in the copy filed by the Spokane County Air Pollution Control Authority and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.14 APPEALS

A. The following may be appealed to the Pollution Control Hearings Board of Washington within 30 calendar days of receipt, as provided in Chapter 43.21B RCW:

Notice of Construction and Application for Approval

- 1. An order of approval,
- 2. Conditions of an order of approval, or
- 3. An order of denial of a Notice of Construction and

Application for Approval

Notice of Intent to Install and Operate a Temporary Source

- 1. a permission to operate,
- 2. conditions of a permission to operate, or
- 3. an order of denial of a Notice of Intent to Install and Operate a Temporary Source.

~~((An order of approval, conditions of an order of approval, or an order of denial of a Notice of Construction and Application for Approval may be appealed to the Pollution Control Hearings Board of Washington as provided in Chapter 43.21B RCW.))~~

B. The Authority shall promptly mail copies of each order, approving or denying a Notice of Construction or Notice of Intent, to the applicant and to any other party (in the case of a petition, the person or organization submitting the petition) who submitted timely comments on the application. The approval or denial order shall include a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board and, where applicable, to the U.S. EPA Environmental Appeals Board.

AMENDATORY SECTION (Amending WSR 94-18-114, filed 9/6/94)

SECTION 5.15 OBLIGATION TO COMPLY

The absence of an ordinance, resolution, rule or regulation, or the failure to issue an order pursuant to this Article shall not relieve any person from the obligation to comply with this Regulation or with any other provision of law.

WSR 00-11-013

PERMANENT RULES

SPOKANE COUNTY AIR

POLLUTION CONTROL AUTHORITY

[Filed May 8, 2000, 9:32 a.m.]

Date of Adoption: May 4, 2000.

Purpose: To amend the existing fee regulation to clarify the definition on like-kind emission units and to establish a compliance investigation fee of \$300 per emission unit or group of like-kind emission units.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article X, Section 10.07 Application and Permit Fees for Notice of Construction and Application for Approval and for Notice of Intent to Install and Operate a Temporary Source.

Statutory Authority for Adoption: Chapter 70.94 RCW. Adopted under notice filed as WSR 00-07-025 on May 4 [March 3], 2000.

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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 4, 2000

Charles E. Studer

Environmental Engineer

AMENDATORY SECTION (Amending WSR 99-19-014, filed 9/7/99)

SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY SOURCE

A. For each project required by Article V to file a Notice of Construction and Application for Approval (NOC) or a Notice of Intent to Install and Operate a Temporary Source, the applicant shall pay a filing fee of \$150 at the time of filing the application.

B. IN ADDITION to the filing fee provided in Section 10.07.A, the applicant shall pay a fee, according to the following:

(1) Equipment fee. Sources for which an application is made for more than one emission point under one Notice of Construction application, as allowed in Section 5.02.C, the equipment fee, for each emission unit and/or air pollution control system being installed or modified, shall be as follows:

(a) Fuel Burning Equipment With or Without Air Pollution Control Equipment:

<u>Design Input Size (MMBtu/hr)</u>	<u>Fee</u>
.4 < 5	\$200
5 < 10	\$250
10 < 20	\$300
20 < 50	\$350
50 < 100	\$400
100 < 250	\$500
250 < 500	\$650
500 < UP	\$850

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(b) Refuse Burning Equipment Including Air Pollution Control Equipment:

Capacity (ton/day)	Fee
0 < 12	\$1,000
12 < 250	\$1,500
250 < UP	\$2,500

(c) Process Equipment and/or Air Pollution Control Equipment or Uncontrolled Process Equipment:

Actual ft ³ /min	Fee
0 < 5,000	\$150
5,000 < 20,000	\$250
20,000 < 50,000	\$350
50,000 < 100,000	\$450
100,000 < 250,000	\$550
250,000 < 500,000	\$650
500,000 < UP	\$800

(d) Gasoline dispensing facilities:

Equipment Being Installed	Fee
Annual facility gasoline throughput of less than 1.5 million gallons	\$150
Annual facility gasoline throughput of 1.5 million gallons or greater	\$250

(e) For sources not included in the above categories, an hourly fee of \$50.00 per hour of time expended in plan review.

(2) In addition, except for projects subject to an equipment fee, pursuant to Section 10.07.B. (1)(e) above, for any new or modified source of air pollution to be constructed and anticipated to produce significant emissions, a significant emissions review fee of \$250.

(3) In addition, except for projects subject to an equipment fee, pursuant to Section 1.07.B. (1)(e) above, for any new or modified source of air pollution which requires review pursuant to Chapter 173-460 WAC, a toxic air pollutant review fee. For sources with more than one emission point under one Notice of Construction application, as allowed in Section 5.02.C, a separate toxic air pollutant review fee applies to each emission unit, or each group of like-kind emission units, being installed or modified. A group of emission units shall be considered as like-kind if ~~((one set of emission calculations adequately represents emissions from all the emission units))~~ the same set of emission calculations can be used to characterize emissions from each of the emissions units. The toxic air pollutant review fee shall be as follows:

(a) For a new or modified source using WAC 173-460-080 (2)(e), Small Quantity Emission Rates, to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070 & WAC 173-460, an additional charge of \$100;

(b) For a new or modified source using dispersion screening models (e.g., EPA SCREEN or TSCREEN) under

WAC 173-460-080 (2)(c) to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, an additional charge of \$150;

(c) For a new or modified source using more refined dispersion models (e.g., EPA ISC3) under WAC 173-460-080 (2)(c) to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, an additional charge of \$400; or

(d) For a new or modified source using a second tier analysis under WAC 173-460-090 or a risk management decision under WAC 173-460-100 to demonstrate that ambient impacts are sufficiently low to protect human health and safety, as required WAC 173-460-070, an additional charge of \$1000.

(4) In addition, except for projects subject to an equipment fee, pursuant to Section 10.07.B. (1)(e) above, for any new or modified source of air pollution, subject to a standard under WAC 173-400-115 (NSPS), an additional charge as follows:

(a) If subject to 40 CFR Part 60, Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, with only natural gas as a fuel, an additional charge of \$50;

(b) If subject to 40 CFR Part 60, Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, using fuels other than solely natural gas, an additional charge of \$100;

(c) If subject to 40 CFR Part 60, Subpart I, Standards of Performance for Hot Mix Asphalt Facilities, an additional charge of \$100;

(d) If a volatile organic liquid storage tank subject to 40 CFR § 60.110b (b) or (c), no additional charge;

(e) If subject to 40 CFR Part 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants, no additional charge; and

(f) If subject to a subpart of 40 CFR Part 60, other than those covered in (a) through (d) above, an additional charge of \$250.

(5) In addition, except for projects subject to an equipment fee, pursuant to Section 10.07.B. (1)(e) above, for any new or modified source of air pollution, subject to a standard under WAC 173-400-075 (NESHAP), an additional charge as follows:

(a) If subject to 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities, and/or WAC 173-400-075(6), Emission Standards for Perchloroethylene Dry Cleaners, no additional charge;

(b) If subject to 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, an additional charge of \$100;

(c) If subject to 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning, an additional charge of \$150; and

(d) If subject to a subpart of 40 CFR Part 63, other than those covered in (a) through (c) above, an additional charge of \$250.

(6) In addition, for integrated review of a Notice of Construction and Application for Approval, as allowed under

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Section 5.02.G of this regulation, an additional charge of \$250.

C. Sources for which application is made for a change in conditions pursuant to Section 5.10.C of this regulation, the fee shall be one half the current fee for a Notice of Construction and Application for Approval or a Notice of Intent to Install and Operate a Temporary Source for that type of source, including the filing fee, according to Section 10.07.A, and the applicable fees, according to Section 10.07.B, or \$350, whichever is less.

D. Where a compliance investigation is conducted pursuant to Section 5.12 of this regulation, the compliance investigation fee shall be ~~((equal to 2 times the applicable fees according to Section 10.07.B.))~~ \$300 per emission unit, or group of like-kind emission units, being installed or modified. A group of emission units shall be considered as like-kind if the same set of emission calculations can be used to characterize emissions from each of the emissions units.

WSR 00-11-019

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Order 197—Filed May 9, 2000, 10:14 a.m.]

Date of Adoption: May 8, 2000.

Purpose: Adds criteria for loading restrictions, overweight loads, vehicle configurations, and loads with multiple pieces. The proposal will also allow the repeal of WAC 468-38-090 Loading restrictions.

Citation of Existing Rules Affected by this Order: Repealing WAC 468-38-090; and amending WAC 468-38-070.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 00-07-072 on March 14, 2000.

Changes Other than Editing from Proposed to Adopted Version: For consistency the term "nondevisable" was substituted for "nonreducible." The last sentence in subsection (7)(c) was rewritten for grammatical clarity, no meaning or intent changed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 8, 2000

Gerald E. Smith, P.E.

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 183, filed 10/13/98, effective 11/13/98)

WAC 468-38-070 Maximums for special permits—
((Nonreducible)) Nondivisible. (1) **Overwidth:** 14 feet on any two-lane highway; 20 feet on any multiple-lane highway where a physical barrier serving as a median divider separates the oncoming and opposing traffic lanes; 32 feet on any multiple-lane undivided highway.

The regulations on movement of buildings are in WAC 468-38-360.

(2) **Overheight:** A load over 14 feet high must be moved by permit, but the permittee is to be governed by the clearance of overhead obstructions such as bridges, underpasses, wires, overhead signs and other objects. The issuance of a permit does not insure the route to be free of low overhead structures. It is the responsibility of the permittee to check the proposed route and detour when necessary. County or city road detours for this purpose require authorization from respective jurisdictions.

(3) **Overlength:** The permit will allow movement on routes on which the permittee can negotiate curves, interchanges, entrance and exit roadways and other obstacles. In all instances the general safety of the public is considered paramount.

(4) ~~((Overweight—22,000 pounds on a single axle; 43,000 pounds on tandem axles. (RCW 46.44.091)))~~ **Loading restrictions:** The load must be reduced to a practicable minimum, even if additional vehicles are required to transport the divided item. Loads created by welding, bolting or tying will be construed as divisible, unless proven with good cause not to be divisible.

(5) **Overweight loads:** Restricted to the limits established in RCW 46.44.091 Special permits—Gross weight limit. In addition, tire loadings are limited to a maximum of six hundred pounds per inch width of tire.

(6) Allowable vehicle configurations:

(a) Tractor (or unladen truck) and semi-trailer or full trailer. Jeeps and/or boosters may be added to the trailer as necessary. Trailers in excess of the legal width of eight feet six inches, or legal length of fifty-three feet, or the permitted length of fifty-six feet, shall not exceed the length or width of the load, unless, the added dimension is necessary to spread the weight of load to comply with requirements established by the department to protect the infrastructure. A "pusher" power unit may be added to the configuration upon approval.

(b) Tractor with semi-trailer and full trailer. Combined trailer length, including space between trailers, may not exceed sixty-one feet. This combination is limited to nondivisible loads not to exceed ten feet wide. Both trailers may carry nondivisible loads with the widest load contained on the first trailer. This configuration may not carry over-height, over-length or over-weight loads.

(c) Truck and trailer. Combined overall length when carrying an over-length load may not exceed eighty-five feet, with the nondivisible over-length load restricted to the trailing unit, overhang loaded entirely to the rear of the trailer. An over-width or over-height nondivisible load may be carried on the truck and/or trailing unit. This configuration may not carry overweight loads.

(7) Loads with multiple pieces: An over-dimensional load may include multiple pieces, provided:

(a) The vehicle(s) and load are transported at legal weights.

(b) The largest nondivisible piece(s) must be loaded to its practicable minimum. No single piece may create a dimension greater than the dimension it would create if carried by itself.

(c) Additional pieces may not exceed the outside envelope (rectangular) dimension created by the largest piece(s) loaded in its smallest configuration. No piece shall be added to a load for the sole purpose of creating a larger envelope. It shall be the responsibility of the carrier to provide proof that all pieces are necessary to the move.

WSR 00-11-020

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Order 198—Filed May 9, 2000, 10:15 a.m.]

Date of Adoption: May 8, 2000.

Purpose: Clarifies language regarding who needs to receive certification as a pilot/escort vehicle operator, and the acceptance of certifications from other jurisdictions.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-110.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 00-07-071 on March 14, 2000.

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 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 8, 2000

Gerald E. Smith, P.E.

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 191, filed 3/30/99, effective 4/30/99)

WAC 468-38-110 Escort vehicle requirements. (1) When the escort vehicle is in front of the permitted vehicle, the operator shall:

(a) Warn oncoming traffic of the presence of the permitted vehicle by use of signs and lights as provided in subsections (4) and (8) of this section.

(b) Notify the driver of the permitted vehicle, and driver(s) of any trailing escorts, by two-way radio, of all hazards; overhead clearances; obstructions; traffic congestion; pedestrians; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic in sufficient time for the driver of the permitted vehicle to take corrective action, as necessary.

(c) To the extent necessary, locate safe places (if available) adjacent to the highway and notify the driver of the permitted vehicle, and driver(s) of trailing escorts, in ample time for the permitted vehicle and the escort vehicle(s) to clear the highway, allowing the traffic following to safely pass, or for any other reasons necessary to provide for the safety of the traveling public.

(d) Be far enough in front of the permitted vehicle to signal oncoming motorists to stop in a timely manner, or as specified by local jurisdiction, before such motorists enter any narrow structures or other restrictions on the highway, to permit the safe passage of the permitted vehicle.

(2) When the escort vehicle is behind the permitted vehicle, the operator shall:

(a) Warn traffic approaching from the rear of the presence of the permitted vehicle ahead, by use of signs and lights as provided in subsections (4) and (8) of this section.

(b) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of flat tires or other problems with the permitted vehicle; objects coming loose from the permitted vehicle; other traffic approaching or passing the permitted vehicle; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic, in sufficient time for the driver of the permitted vehicle to take corrective action.

(c) Notify the front escort driver and the driver of the permitted vehicle by two-way radio of traffic build-up and other delays to the normal flow and efficient movement of traffic caused by the movement of the permitted vehicle.

(d) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of other vehicles attempting to pass the permitted vehicle or load.

(e) Be far enough behind the permitted vehicle to signal motorists following the permitted vehicle to slow or stop in a timely manner, or as specified by local jurisdiction, before narrow structures or other restrictions in the highway, to permit the safe passage of the permitted vehicle.

(3) The escort vehicle operator shall ensure that the escort vehicle is in safe and reliable operating condition.

(4) An escort vehicle shall, in addition to any other equipment required by traffic law, be equipped with a minimum of two flashing or rotating amber lights, positioned

above the roof line, visible from a minimum of five hundred feet to traffic approaching from the front or rear of the escort. The light apparatus must not obstruct, or be obstructed by, the required OVERSIZE LOAD sign.

(5) The escort vehicle shall:

(a) Be either a single unit passenger car or a two-axle truck;

(b) Not exceed a maximum gross vehicle weight rating of fourteen thousand pounds;

(c) Be at least sixty inches wide; and

(d) Not exceed the legal limits of size and weight, as defined in chapter 46.44 RCW.

(6) The escort vehicle shall not carry any passengers, human or animal (excluding individuals in training status or necessary flag persons), or equipment or load in or on the escort vehicle which:

(a) Exceeds the height, length, or width of the escort vehicle, or overhangs the escort vehicle, or otherwise impairs its immediate recognition as a safety escort vehicle by the motoring public; or

(b) Obstructs the view of the flashing or rotating yellow lights, or the signs used by the escort vehicle; or

(c) Causes safety risks; or

(d) Otherwise impairs the performance by the operator or the escort vehicle of the duties required by these rules.

(7) The escort vehicle operator shall properly load and secure any item(s) or equipment or load carried by the escort vehicle to ensure compliance with the requirements of this section.

(8) An escort vehicle shall display "oversize load" signs, in clear readable condition, which shall be mounted above the roofline of the escort vehicle and be visible to approaching traffic from the front and the rear. All such signs shall be a minimum of five feet wide, ten inches high with one-inch wide brush stroke, black letters a minimum of eight inches high on yellow background, or shall be a maximum of seven feet wide, eighteen inches high, with a 1.41 inch brush stroke, black letters a minimum of ten inches high on yellow background.

(9) The escort vehicle(s) shall have its headlights activated at all times when escorting a permitted vehicle.

(10) The escort vehicle shall be equipped with a two-way radio capable of providing reliable two-way voice communication between the driver of the permitted vehicle and the driver(s) of the escort vehicle(s) when the permitted vehicle is in motion on a public highway.

(11) An escort vehicle shall carry the following items of equipment at all times when escorting a permitted vehicle:

(a) Standard eighteen inch STOP & SLOW paddle sign.

(b) Three bi-directional emergency reflective triangles.

(c) A minimum of one 5 pound B, C, fire extinguisher, or equivalent.

(d) A reflectorized high visibility orange or other color vest, shirt or jacket, as permitted by the *Manual on Uniform Traffic Control Devices*, and a yellow or other highly visible colored hard hat to be worn by the operator while directing traffic, in accordance with WAC 296-155-305, Signaling.

(e) A height measuring device which is nonconductive and nondestructive to overhead clearances, when required by the terms of the permit or regulations.

(f) First-aid supplies must be readily available as described in WAC 296-24-06145.

(g) A flashlight in working order with red nose cone.

(12) An escort vehicle is prohibited from escorting more than one permitted vehicle at the same time, unless expressly authorized by the department.

(13) A front escort vehicle shall use a height pole at all times when escorting a permitted vehicle exceeding fifteen feet in height, unless otherwise expressly authorized/directed by the department on the permit. The height pole shall not extend less than three inches nor more than six inches above the maximum height of the permitted vehicle being escorted. When the escort vehicle is not escorting a permitted vehicle, but is moving on the highway, the height pole shall be removed, tied down, or shortened to within legal limits, unless involved in the act of prerunning a route to determine height acceptance.

(14) When an escort vehicle is not escorting a permitted vehicle, or prerunning a route, but is moving on a public highway, the signs, described in subsection (8) of this section, shall either be removed, lowered to a position not readily visible, or covered, and the flashing yellow lights, described in subsection (4) of this section, shall not be operated.

(15) In the performance of the duties required by these rules, the operator of the escort vehicle may be required to advise the permitted vehicle to stop, allowing other traffic to proceed safely. The operator of the escort vehicle shall signal the permitted vehicle to stop, and the permitted vehicle shall stop, as far off the roadway as practicable to allow other traffic to pass in the following situations:

(a) When the permitted vehicle becomes disabled; or

(b) When the movement of the permitted vehicle on a particular section of public highway presents a safety risk or unreasonably interferes with the efficient movement of other traffic, based upon such factors as the widths of the permitted vehicle and the roadway, volume of other traffic, visibility and limited sight distance, and mountainous terrain; or

(c) When driving conditions for the permitted vehicle are hazardous for any other reason, including weather.

(16) ~~(In the performance of the duties required by these rules, the escort vehicle operator may be required to direct other traffic to stop, slow or proceed in order to allow the permitted vehicle to continue moving safely, or to help the other traffic to navigate around a stopped permitted vehicle. When directing traffic in these situations, the operator of the escort vehicle shall, effective January 1, 2000:~~

~~(a) Be certified, having a valid WSDOT certificate/card on person, as an escort vehicle operator;~~

~~(b) Comply with procedures described in Section 6 of the MUTCD, as may be amended by the department of transportation, and such other criteria as may be developed under WAC 296-155-305, Signaling.~~

(17) The operator of the permitted vehicle and the operator(s) of the escort vehicle(s) shall comply with the following procedures:

(a) Before trip:

- (i) Discuss aspects of the move, including the permitted vehicle, the route, and specific responsibilities.
 - (ii) Review permit special conditions.
 - (iii) Review the permitted route.
 - (iv) Determine the proper position of the escort vehicle(s).
 - (v) Establish any necessary procedures.
 - (vi) Check mandatory equipment, each operator being responsible for their own vehicle.
 - (vii) Mount signs, adjust mirrors, turn on lights.
 - (viii) Check each two-way radio to ensure clear communication on a selected channel.
 - (ix) Assure special motor vehicle permit(s) is in the possession of the appropriate operator(s).
 - (x) Determine if additional flagpersons will be necessary and, if so, have them available.
- (b) During the trip:
- (i) Obey all traffic laws.
 - (ii) Do not follow or precede more closely than is reasonably prudent, considering the speed of the permitted vehicle, other traffic, and highway conditions.
 - (iii) Do not exceed 1/2 mile distance between permitted vehicle and the escort vehicle to maintain radio contact, except when necessary to safely travel a long narrow section of highway.

(c) Traffic lights:

- (i) If the front escort vehicle goes through a traffic light but the permitted vehicle does not, the escort vehicle must pull over to the right side of the highway, where practicable, to wait for the permitted vehicle.
- (ii) If the permitted vehicle goes through the traffic light but the escort vehicle does not, then the permitted vehicle must pull over to the right side of the highway, where practicable, to wait for the rear escort vehicle.

(17) Compliance with the rules of this chapter requires safe consistent operating procedures for the interaction between escort vehicle, escorted load and the surrounding traffic. Operators of escort vehicles, therefore, must be certified as having received a predefined base level of training as an escort vehicle operator. An escort vehicle operator with a Washington state driver's license must have a valid Washington state escort vehicle operator certificate/card which must be on the operator's person while performing escort vehicle operator duties. Escort vehicle operators licensed to drive in Washington state and operating with current certification cards from a different jurisdiction, approved by the department, must get a Washington state escort vehicle operators card upon expiration of their current card, but not later than January 1, 2003. Escort vehicle operators with a driver's license from a jurisdiction other than Washington state may acquire a Washington state escort vehicle operator certificate/card, or operate with a certification from another department approved jurisdiction, subject to ongoing department reviews and approval of the issuing jurisdiction's certification program. A current list of approved programs will be maintained by the department's motor carrier services office. Washington state pilot/escort vehicle operator cards must be renewed every three years.

(18) When uniformed off-duty law enforcement officers act as escorts, using official police cars or motorcycles, the requirements of this section may be amended as necessary.

WSR 00-11-021
PERMANENT RULES
PUBLIC WORKS BOARD

[Filed May 9, 2000, 11:00 a.m.]

Date of Adoption: April 4, 2000.

Purpose: To clarify how chapter 42.52 RCW will be applied by the Public Works Board.

Statutory Authority for Adoption: Chapter 42.52 RCW.

Other Authority: RCW 43.155.040(4).

Adopted under notice filed as WSR 00-01-089 on December 15, 1999.

Changes Other than Editing from Proposed to Adopted Version: Reference to project lists of ten or more were deleted from the regulatory and the example language.

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 4, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 4, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 9, 2000

Pete A. Butkus

Executive Director

NEW SECTION

WAC 399-50-010 Definitions. (1) Unless another definition is given, words used in this chapter have the same meaning as in chapter 42.52 RCW, Ethics in public service.

(2) "Annual construction roster" means the prioritized list of projects recommended for funding, which is developed and submitted to the legislature before November 1 of each year under RCW 43.155.070(4).

(3) "Beneficial interest" means the right to enjoy profit, benefit, or advantage from a contract or other property and also has the meaning given to it in Washington case law. Ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool invests.

(4) "Project" means public works project as defined in RCW 43.155.020(5).

NEW SECTION

WAC 399-50-020 Interest in contracts, projects, or loans. (1) When a member of the public works board is beneficially interested, directly or indirectly, in a contract, project, or loan that may be made by, through, or under the supervision of the board, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, project, or loan, the member shall:

- (a) Recuse him or herself from board discussion regarding the specific contract, project, or loan;
- (b) Recuse him or herself from the board vote on the specific contract, project, or loan; and
- (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific contract, project, or loan.

(2) The prohibition against discussion set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3) Under subsection (1) of this section, "any other person" has a beneficial interest in a contract, project, or loan when the other person bids, applies for, or otherwise seeks to be awarded the contract, project, or loan.

Example 1

Board member Sam Jones is an engineering consultant. Jones performs consulting work on a regular basis for the Evergreen County public works department. The board is asked to approve an emergency public works loan for Evergreen County. Jones should recuse himself from voting on or discussing this action because he receives compensation from a "person" (Evergreen County) beneficially interested in the proposed loan.

Example 2

Board member Ima Kozy is the President and CEO of a firm that constructs roads and utilities. The board is asked to approve a list of loans for construction projects in various locations around the state. One of the projects is in the City of Destiny, where Ima's firm frequently responds to solicitation for bids. If Ima wants her firm to be able to bid on the Destiny project, she should recuse herself from voting on this list or discussing this action.

If Ima does vote to approve the list or participates in discussing it, she will be prohibited by RCW 42.52.030 from receiving a direct or indirect beneficial interest in the loan contract to Destiny, or from accepting compensation from another person beneficially interested in the contract. Thus, neither she nor her firm may bid on the project.

NEW SECTION

WAC 399-50-030 Interest in transactions. (1) When a member of the public works board either owns a beneficial interest in or is an officer, agent, employee or member of an

entity or individual engaged in a transaction involving the board, the member shall:

- (a) Recuse him or herself from board discussion regarding the specific transaction;
- (b) Recuse him or herself from the board vote on the specific transaction; and
- (c) Refrain from attempting to influence the remaining board members in their discussion and vote regarding the specific transaction.

(2) The prohibition against discussion and voting set forth in subsection (1)(a) and (c) of this section shall not prohibit the member of the board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3)(a) "Transaction involving the board" means a proceeding, application, submission, request for a ruling or other determination, contract, project or proposed project, loan, claim, case, or other similar matter that the member in question believes, or has reason to believe:

- (i) Is, or will be, the subject of board action; or
- (ii) Is one to which the board is or will be a party; or
- (iii) Is one in which the board has a direct and substantial proprietary interest.

(b) "Transaction involving the board" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the board that is the basis for the claim, case, or lawsuit. Rulemaking is not a "transaction involving the board."

(4) "Board action" means any action on the part of the board, including, but not limited to:

- (a) A decision, determination, finding, ruling, or order; and
- (b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

Example 3

Board member Alice Lester is a director of the Starburst Sewer District. During presentation of the annual construction roster, the board is asked to consider adding projects to the roster based on various criteria developed by staff. The board's choice of criteria will determine which additional projects will be funded. A sewer improvement project for the Starburst Sewer District is among those that may be added to the roster, depending on which criteria are selected. Lester should disclose her affiliation with Starburst and recuse herself from discussing on or voting on the criteria for funding additional projects, because she is an officer of an entity interested in a transaction before the board, specifically determination of funding criteria that will affect Starburst Sewer District.

NEW SECTION

WAC 399-50-040 Disclosure of recusal. A board member shall disclose to the public the reasons for his or her recusal from any board action at the time of the recusal. A board member shall disclose to the public the nature of any interest the member has in a project on the annual construction roster or other aggregated list or roster of ten or more contracts, projects, or loans at the time the roster or list is considered by the board. Board staff shall record each such recusal or disclosure and the basis therefor.

WSR 00-11-023
PERMANENT RULES
OFFICE OF THE
STATE TREASURER
 [Filed May 9, 2000, 12:12 p.m.]

Date of Adoption: May 9, 2000.

Purpose: To adopt administrative procedure for the school bond guarantee program pursuant to chapter 39.98 RCW.

Citation of Existing Rules Affected by this Order: Chapter 210-02 WAC.

Statutory Authority for Adoption: Chapter 39.98 RCW.

Adopted under notice filed as WSR 00-08-069 on April 3, 2000.

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 20, 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.

May 9, 2000
 Gretchen D. Gale
 Legal Counsel

Chapter 210-02 WAC

SCHOOL BOND GUARANTEE PROGRAM

GENERAL

NEW SECTION

WAC 210-02-010 Definitions. For purposes of this rule, the following definitions shall apply:

"Act" means the Washington State School District Credit Enhancement Program Act, pursuant to chapter 39.98 RCW.

"Authorized district official" means the chairperson of the board, the superintendent, or business manager for the school district, or other designee of the board, as designated by resolution provided for in WAC 210-02-020.

"Bond" means any voted general obligation bond issued by a school district holding a certificate issued pursuant to the act, and any general obligation bond issued by a school district holding a certificate issued pursuant to the act to refund outstanding voted general obligation bonds of that school district.

"Certificate of eligibility" means a certificate issued by the state treasurer pursuant to RCW 39.98.040.

"Credit enhancement program" means the school district bond guarantee program established by the act.

"County assessor" means the county assessor(s) in the county or counties in which the requesting school district is located.

"County treasurer" means the county treasurer of the requesting school district.

"Fiscally solvent," when used for the purposes of any certification required by the act and these rules with respect to the financial condition of a school district seeking to participate in the guarantee program, means that, in the opinion of the person making such certification after giving due consideration to:

- The principal and interest requirements of all outstanding voted general obligation bonds of the school district and of all outstanding bonds issued to refund voted general obligation bonds of the school district;

- The school district's past record of collecting voter-approved excess property taxes and reasonable expectations concerning future collections of voter-approved excess property taxes as required to meet those principal and interest requirements; and

- Such additional financial circumstances, if any, of the school district that such person considers to be material, it is reasonably expected that the school district will be able to satisfy all principal and interest requirements of bonds guaranteed and proposed to be guaranteed by the state under the guarantee program.

"Guarantee program" means the Washington state school district credit enhancement program established by the act.

"Nationally recognized bond counsel firm" means a bond counsel firm listed in the most recent publication of *The Bond Buyer's Municipal Market Place*.

"Paying agent" means the paying agent selected, from time to time, for a bond issue pursuant to state law.

"School district" or **"district"** means any school district or its successor under the laws of the state.

"State" means the state of Washington.

Terms not otherwise defined shall have the meanings ascribed to them in the act.

APPLYING TO THE PROGRAM

NEW SECTION

WAC 210-02-020 Request for certificate of eligibility. School districts may request a certificate of eligibility at any time during the year by filing the request. Such requests, however, must be submitted no less than thirty days prior to sale of bonds for which the guarantee, if granted, will apply. Requests, and all other written communications pursuant to the guarantee program, shall be addressed to the Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200. The request shall include:

- The name, county, and district number (if applicable) of the requesting school district;
- The name of the authorized district official for the requesting school district;
- The name of the underwriter, if known, financial advisor (if any) and bond counsel assigned to the financing of the requesting school district to which the guarantee will apply;
- The mailing address, phone number, fax number, and e-mail address (if applicable) of the requesting school district;
- A statement of whether any of the school district's previously issued debt is covered by the guarantee program;
- A copy of the district's ballot proposition resolution, showing details of the special election (date, amount, ballot title) at which the bonds were or are expected to be approved by the voters;
- A copy of the resolution passed by the requesting school district's board of directors (which may be the same resolution as the district's ballot proposition resolution) authorizing the request for a certificate of eligibility;
- A certificate signed by an authorized district official:
 - Stating whether the requesting school district has any bonds, the principal of or interest on which has been paid by the state under the act, and for which there remain outstanding any payment obligations of the district to the state;
 - Stating that the requesting school district is, and will remain, in compliance with these administrative rules; and
 - Attesting to the accuracy and completeness of the materials provided.
- A nonrefundable application processing fee of one hundred dollars; and
- Any additional materials that may be required by the office of the state treasurer in support of the request for participation in the guarantee program.

STATE REVIEW AND APPROVAL UNDER THE PROGRAM

NEW SECTION

WAC 210-02-030 Review of request for certificate of eligibility. Upon receipt of a request for a certificate of eligibility, the state treasurer shall determine whether all items listed in WAC 210-02-020 have been provided. In determining the school district's eligibility under the guarantee pro-

gram, the office of the state treasurer may request additional information from the school district, as well as from any other person or entity that collects information pertaining to an evaluation that the requesting school district is fiscally solvent.

NEW SECTION

WAC 210-02-040 Issuance of certificate of eligibility. Upon determining that a school district is eligible to participate in the guarantee program, the state treasurer shall issue a certificate of eligibility to the school district, no later than one business day prior to the bond sale. The certificate of eligibility shall:

- Evidence the school district's immediate qualification for the guarantee program for each bond issue contemplated for guarantee under the act;
- Be valid for one year from the date of its issuance; and
- Be applied only to the bonds approved under the special election specified by the school district in its request for a certificate of eligibility.

NEW SECTION

WAC 210-02-050 Denial of eligibility/determination of ineligibility. The state treasurer may deny a school district's request for a certificate of eligibility and issue a determination of ineligibility pursuant to RCW 39.98.040, if:

- The school district fails to meet the provisions outlined in the act or any of the requirements outlined in this rule;

The state treasurer may also deny a school district's request for a certificate of eligibility and issue a determination of ineligibility pursuant to RCW 39.98.040, if the state has ever paid, pursuant to the guarantee program, any principal of or interest on any of the school district's bonds and:

- The associated payment obligations of the district to the state are not satisfied; or
- The state treasurer or the state superintendent of public instruction are unable to certify, in writing, that the school district is fiscally solvent.

USING THE CERTIFICATE TO ISSUE BONDS

NEW SECTION

WAC 210-02-060 Using the certificate of eligibility to obtain the state guarantee. The school district shall provide to the state treasurer at the time of closing:

- A copy of the bond resolution as adopted by the board of directors of the school district;
- A copy of the final official statement for the bonds to which the guarantee was applied, promptly upon its publication;
- A letter addressed to the state treasurer signed by the school district's nationally recognized bond counsel firm stating that the state treasurer may rely upon such firm's approving legal opinion with respect to the bonds as if that opinion were addressed to the state treasurer.

On the date of the bond closing, the treasurer will provide a certificate evidencing the state's guarantee for use by the school district.

NEW SECTION

WAC 210-02-070 Guarantee final upon issuance.

Pursuant to RCW 39.98.040, if the state treasurer at any time denies a school district a certificate of eligibility in response to a request, such denial shall not affect the validity of the state's guarantee of any outstanding bonds issued pursuant to WAC 210-02-060.

NEW SECTION

WAC 210-02-080 Reference to guarantee in school district bond documents. School districts with a valid certificate of eligibility, and that have complied with WAC 210-02-060 and all other sections of this rule, shall evidence the state's guarantee of the school district's bonds by including a description of the state's guarantee in a form to be provided by the state treasurer:

- On the cover of the school district's preliminary official statement(s) and official statement(s), or other offering document(s), for the applicable bond(s); and
- On the face of the school district's applicable bond(s).
- The description of the state's guarantee supplied by the state treasurer must be used in its entirety and may not be modified or amended.

NEW SECTION

WAC 210-02-090 Ratings. The office of the state treasurer will undertake to have the Washington school bond guarantee program rated by Standard & Poor's, Moody's Investors Service, and Fitch IBCA. Any school district proposing to issue bonds under the guarantee program may:

- Engage, at its own expense, one or more of the rating agencies to apply the rating of the guarantee program to its bonds; and
- At its discretion, and at its own expense, choose to obtain an underlying rating on the bonds.

REPAYMENT OF SCHOOL DISTRICT DEBT ISSUED UNDER THE PROGRAM

NEW SECTION

WAC 210-02-100 County assessor to levy taxes. In accordance with applicable law, the county assessor for each school district with outstanding, unpaid bonds issued with the state guarantee provided under the act shall levy property taxes approved by the voters for repayment of the bonds.

NEW SECTION

WAC 210-02-110 County treasurer to collect taxes and transfer money to paying agent. In accordance with applicable law, the county treasurer for each school district with outstanding, unpaid bonds issued with the state guaran-

tee provided under the act shall collect property taxes approved by the voters for repayment of the bonds. The county treasurer shall transfer money sufficient for each scheduled debt service payment to its paying agent on or before any principal or interest payment date for the bonds.

STATE PAYMENT ON BONDS

NEW SECTION

WAC 210-02-120 County treasurer notice to state treasurer of insufficient funds. A county treasurer who is unable to transfer to the paying agent funds required to make scheduled debt service payments on guaranteed bonds of a school district on or prior to the payment date, due to the lack of adequate funds, shall immediately provide notice to the state treasurer and to the paying agent pursuant to RCW 39.98.050. Such notice shall be made to the office of the state treasurer as follows:

- By telephone: (360) 902-9050; and
- By facsimile: (360) 902-9045; and
- By first class mail: Attn: Deputy Treasurer, Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

NEW SECTION

WAC 210-02-130 Paying agent notice to state treasurer of insufficient funds. If sufficient funds are not transferred to the paying agent at the time or times required to make scheduled debt service payments on guaranteed bonds of a school district, the paying agent shall immediately notify the state treasurer as follows:

- By telephone: (360) 902-9050; and
- By facsimile: (360) 902-9045; and
- By first class mail: Attn: Deputy Treasurer, Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

NEW SECTION

WAC 210-02-140 Payment by the state treasurer for bonds issued under the act. Pursuant to RCW 39.98.070:

- The legislature shall appropriate, in each and every biennial appropriations act, such amount as may be required to make timely payment on school district bonds guaranteed by the state under chapter 39.98 RCW;
- If sufficient money to make any scheduled debt service payment on guaranteed bonds of a school district has not been transferred to the paying agent in a timely manner, the paying agent shall make such scheduled debt service payment and the state treasurer shall transfer sufficient money to the paying agent for such payment.

SCHOOL DISTRICT REPAYMENT TO STATE

OTHER

NEW SECTION

WAC 210-02-150 Repayment to the state by school districts. Each school district is responsible for paying in full the principal of and interest on its bonds guaranteed by the state under the guarantee program. The state treasurer shall recover from the district any funds paid by the state on behalf of a school district under the guarantee program in a manner consistent with chapter 39.98 RCW.

NEW SECTION

WAC 210-02-160 Interest on school district obligations to state. The state treasurer will charge interest in connection with the recovery of funds under chapter 39.98 RCW. Any interest charged will be in a manner consistent with chapter 39.98 RCW. The interest charged will be what the funds used to make the guarantee payment would otherwise earn in the state treasury.

NEW SECTION

WAC 210-02-170 Penalty for state payment under guarantee program. In addition to charging interest, the state treasurer may impose a penalty on a school district for which the state made a payment under the guarantee program, which penalty shall not be more than five percent of the amount paid by the state pursuant to its guarantee for each instance in which a payment by the state is made. Any penalty imposed will be consistent with chapter 39.98 RCW.

NEW SECTION

WAC 210-02-180 Other costs. The district shall pay the fees, expenses and costs incurred by the state in recovering amounts paid under the guarantee.

NEW SECTION

WAC 210-02-190 Restructure/revision of tax collection. If the state has made all or part of a debt service payment on behalf of a district that has issued bonds under chapter 39.98 RCW, the state treasurer may:

- Direct the district and the county treasurer to restructure and revise, to the extent permitted by law, the collection of excess levy taxes for the payment of bonds on which the state treasurer has made payments under chapter 39.98 RCW to the extent necessary to obtain repayment to the state treasurer; and

- Require, to the extent permitted by law, that the proceeds of such taxes be applied to the district's obligations to the state if all outstanding obligations of the school district payable from such taxes are fully paid or their payment is fully provided for.

NEW SECTION

WAC 210-02-200 Exceptions. The state treasurer may, in his or her discretion, waive any or all provisions of this rule to the extent provided by law.

WSR 00-11-028**PERMANENT RULES****WASHINGTON STATE LIBRARY**

[Filed May 9, 2000, 3:48 p.m.]

Date of Adoption: March 7, 2000.

Purpose: Update rules and correct errors.

Citation of Existing Rules Affected by this Order: Amending chapter 304-20 WAC, Title 300 WAC.

Statutory Authority for Adoption: RCW 27.04.030(1).

Adopted under notice filed as WSR 00-01-182 on December 22, 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 1, Amended 1, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 5, Repealed 14.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 6, Repealed 16.

Effective Date of Rule: Thirty-one days after filing.

May 9, 2000

Nancy Zussy

State Librarian

Title 300 WAC**CERTIFICATION OF LIBRARIANS(~~(-BOARD FOR)~~)**AMENDATORY SECTION (Amending WSR 94-11-023, filed 5/6/94, effective 6/6/94)

WAC 304-12-030 Library council of Washington (~~(council on continuing education)~~) created—Appointments—Terms—Expenses. ~~((A Washington council on continuing education is hereby created which shall consist of fifteen persons appointed for three-year terms. Seven persons shall be appointed by the Washington state library commission. The appointments shall reflect representation from a variety of types of library personnel, related persons, including public library trustees, librarians, and at least one nonli-~~

~~brarian. Nine organizations shall also be represented, each to designate one person assigned responsibility. Those organizations shall be as follows: Washington state library, University of Washington graduate school of library and information science, Washington library association, Washington library media association, community college library and media specialists, Pacific Northwest chapter of the special library association, council of Spokane area libraries, Pacific Northwest health sciences library service, and the Washington chapter of the association of college and research libraries. Initial terms for organizational representatives will be three years and then two years thereafter. Members may be reappointed; however, no member shall serve more than two terms consecutively. Vacancies shall be filled by appointment for the unexpired term.)) The library council of Washington shall consist of thirteen members appointed by the commission. Members shall be appointed to broadly represent the library community as specifically outlined by the commission. A term shall be defined as three years, to begin on January 1 of each year. No person shall be appointed for more than two consecutive terms. An individual completing an unexpired term will be considered to have served a full term. Council members shall serve without compensation, but will be reimbursed for subsistence, lodging, and travel expenses for council meetings and approved business of the council, in accordance with the provisions of the Washington state travel regulations.~~

NEW SECTION

WAC 304-12-047 Library council of Washington—Mission—Roles. The mission of the library council of Washington is to promote access to library service and information resources for all people in Washington state. To meet this commitment, the council's membership represents the broadest possible range of library community interests. The roles of the council shall include to:

- (1) Serve as a catalyst for developing and implementing state-wide library programs that will improve service at all Washington libraries;
- (2) Provide a forum for the library community to discuss issues of concern, with individual members keeping their constituents abreast of the council's progress and regularly requesting their input;
- (3) Advise the Washington state library commission and state library staff on state-wide areas of need in library service;
- (4) Encourage and support multitype cooperation throughout the state;
- (5) Assist in the development, implementation and evaluation of state-wide library development plans and long-range library services and technology act (LSTA) plans;
- (6) Advise the Washington state library commission on the use of federal funds;
- (7) Pursue opportunities for collaboration with other agencies and community partners that share similar interests with libraries.

AMENDATORY SECTION (Amending Order 84-1, filed 3/14/84)

WAC 304-12-125 General statement of criteria. (1)

In a free and open society the mission of libraries is to be aware of individuals' need for knowledge and personal growth and to respond to those needs by providing access to the wisdom, experience and imagination of mankind.

(2) The state agency's criteria for determining the adequacy of library service to the public are:

(a) That ninety percent of the requests by library users for specific titles is available through their library in a manner that is satisfactory to the users.

(b) That ninety percent of the requests by library users for works by a particular author or creator is available through their library in a manner that is satisfactory to the users.

(c) That ninety percent of the requests by library users for materials on a specific subject is available through their library in a manner that is satisfactory to the users.

(d) That ninety percent of the requests by library users for information is answered through their library in a manner that is satisfactory to the users.

(e) That ninety percent of the people in a library's service area is aware of the kinds of services provided by their library.

(f) That the percentage of use by each demographic group as defined in the Library Services and Construction Act regulations is the same, +/- fifteen percent, based on the highest percentage of use.

The determination of adequacy is made by comparing these criteria with annual reports which by law must be submitted to the state agency by each public library.

~~(In allocating library services and construction funds, special consideration will be given to library programs, research and projects which:~~

~~(i) Serve disadvantaged persons residing in urban or rural areas with high concentrations of low-income families and to areas with high concentrations of persons with limited English speaking ability;*~~

~~(ii) Serve persons residing in sparsely settled areas of the state which are distant from adequate public library facilities;~~

~~(iii) Serve physically handicapped persons (including the blind or other visually handicapped);~~

~~(iv) Serve inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, residential schools for handicapped persons, and other general or special institutions or hospitals operated or substantially supported by the state;~~

~~(v) Serve persons residing in areas of the state having no local public library service;~~

~~(vi) Extend the range and improve the qualities of career development opportunities for people of all ages without regard to educational level;~~

~~(vii) Lead to the improvement and efficient management of library resources, both human and material, and which provide to all people maximum accessibility to those resources;~~

~~(viii) Strengthen metropolitan public libraries which serve as national or regional resource centers.~~

Footnote: ~~*In accord with requirements of the Library Services and Construction Amendments of 1970 (Public Law 91-600) and the Code of Federal Regulations (45 CFR Part 130) priority will be given to (i) above, i.e. programs or projects which serve urban and rural areas with high concentrations of low income families and to programs and projects which serve areas with high concentrations of persons with limited English speaking ability (as defined by PL 93-380, Education Amendments of 1974).~~

~~These areas are defined as those areas with low income families or with concentrations of non-English speaking persons as reported in U.S. Bureau of Census 1970 PC (1) C Series: General Social and Economic Characteristics. Low income families are defined as those with annual incomes as designated by federal agencies. This information will be updated through publications of the Washington state office of economic opportunity.~~

~~Programs and priorities will change as needs in the state change or as revised federal regulations and/or new federal legislation may require.~~

~~Where applicable, an evaluation component will be a part of each project.~~

~~Where applicable, each grant request should contribute toward the achievement of the existing Washington state plan for library development, now called the Proposed Regional Library Plan for Washington by Charles Bowerman, 1950, or any plan which supersedes this existing plan.~~

~~Programs may also be developed across state lines when such inclusion meets the standards set forth and will contribute to the basic objectives of library development in Washington state. Interstate compact legislation facilitates such programs.)~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 304-12-035 Washington council on continuing education—Duties.
- WAC 304-12-040 Washington state advisory council on libraries created—Appointments—Terms—Expenses.
- WAC 304-12-050 Privacy of library circulation records policy.
- WAC 304-12-070 Washington state library gift policy.
- WAC 304-12-140 Other services grant programs—Principles.
- WAC 304-12-145 Other services grant programs—Rules.
- WAC 304-12-275 Construction grant program—Criteria.
- WAC 304-12-290 Construction grant program—Rules.

- WAC 304-12-360 Forms—Application—Public library construction grant.
- WAC 304-12-370 Forms—Contract.
- WAC 304-12-380 Rules and regulations for aid to library districts—Principle.

Chapter 304-20 WAC

STATE LIBRARY PUBLIC RECORDS—GENERAL POLICY

NEW SECTION

WAC 304-20-005 State library public records—General policy. With the exception of those public records exempt from public inspection and copying in the Revised Code of Washington, the state library recognizes its stewardship of public records and shall endeavor to comply with requests for public records in a timely and good-faith manner.

AMENDATORY SECTION (Amending Order I-76, filed 4/22/76)

WAC 304-20-010 ((Public records available.)) Availability of records. ((All public records of the Washington state library, as defined in WAC 304-20-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973, and WAC 304-20-060.)) **(1) Requests for state library public records resident in the Pritchard Building or any state library branch state-wide shall be directed to the Office of the State Librarian, Olympia, Washington, 98504, for initial action. The state librarian, or public records officer if otherwise designated, shall send an initial response to the requestor within the time frame required in chapter 42.17 RCW which:**

- (a) Acknowledges receipt of the request, including the date and time of day it was received; and**
- (b) Provides the requestor with a target date for complying with the request.**
- (2) Requests shall be submitted in writing—through letter, telefacsimile, or electronic mail. Requests shall include at least the following information:**
- (a) The date and time of day on which the request was made;**
- (b) The name of the requestor and the address to which responses to the request are to be directed;**
- (c) As detailed a description of desired records as possible;**
- (d) Any limitations on desired formats to be searched; and**
- (e) To the extent possible, a reference to the current state library public records index.**

Unless the request is received in such a manner that automatically so indicates, state library staff shall affix to the request a date and time of receipt as soon as the request is received by the state library.

PERMANENT

The state librarian or designated public records officer may inquire of the requestor as to the purpose of the request only to the extent to which such information will elucidate the request and facilitate a timely and complete response. Except as permitted by chapter 42.17 RCW, the requestor shall not be compelled to disclose that information, nor shall failing to disclose that information in any way adversely affect the response to the inquiry.

AMENDATORY SECTION (Amending Order I-76, filed 4/22/76)

WAC 304-20-050 ((Copying)) Fees. ((No fee shall be charged for the inspection of public records. The agency shall charge a fee equal to the amount necessary to reimburse the agency for its actual costs incident to such copying.)) The state library shall charge no fee for inspection of public records. Depending upon the extent of an individual request, the library may charge a fee equal to the amount necessary to reimburse the agency for its actual costs incident to copying public records, not to exceed limits imposed by the legislature.

AMENDATORY SECTION (Amending Order 83-1, filed 3/23/83)

WAC 304-20-060 Exemptions. (1) Privacy of inquiry is central to freedom and the success of a democratic society. Any state library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user, is exempt from public disclosure, in accordance with RCW 42.17.310. The state library will not disclose these records, outside the requirements of RCW 42.17.310 and absent judicial action to compel such disclosure.

(2) The library reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 304-20-040 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

((2)) (3) In addition, pursuant to section 26, chapter 1, Laws of 1973, the library reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

((3)) (4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

((4) The library will regard the disclosure of any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user, as an invasion of privacy.)

NEW SECTION

WAC 304-20-065 Response to requests for public records. The state library's response to a request to inspect and/or copy public records shall contain at least the following elements:

- (1) A restatement of the nature of the request;
- (2) The date of the response;
- (3) The extent to which the state library has been able to comply with the request;
- (4) Reason(s) for denial of any portion of the request;
- (5) The location at which the records may be inspected and copied; and
- (6) The procedure for appealing denial of any portion of the request.

AMENDATORY SECTION (Amending Order I-76, filed 4/22/76)

WAC 304-20-070 Review of denial((s)) of ((public records)) request((s)). ((1)) Any person who objects to ((the)) a denial of a request for ((a)) public records may ((petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the librarian. The librarian shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the state library commission as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the library has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first)) do so in writing, petitioning a prompt review of that decision. The state librarian shall immediately consider such a request for review and either reverse the denial or call a special meeting of the state library commission to review the denial and make a final decision. If the commission is to review the denial, the librarian will respond with a date certain for that review within five business days.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 304-20-020	Definitions.
WAC 304-20-030	Public records officer.
WAC 304-20-040	Requests for public records.
WAC 304-20-090	Request for records by mail—Address.

WAC 304-20-100 Adoption of form.
 WAC 304-20-990 Appendix A—Request for public records.

WSR 00-11-035
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed May 10, 2000, 11:20 a.m., effective August 1, 2000]

Date of Adoption: May 10, 2000.

Purpose: WAC 388-414-0001, this food assistance eligibility rule explains categorical eligibility and describes what types of households are categorically eligible for food assistance.

Citation of Existing Rules Affected by this Order: Amending WAC 388-414-0001.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.510.

Adopted under notice filed as WSR 00-07-076 on March 14, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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: August 1, 2000.

May 10, 2000

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-414-0001 ~~Some food assistance ((categorical)) households do not have to meet all eligibility requirements.~~ (1) ~~((A food assistance unit is categorically eligible (CE) to receive food benefits when all members are authorized to receive a cash benefit under any of the following cash programs:~~

- ~~(a) Temporary assistance for needy families (TANF);~~
- ~~(b) State family assistance (SFA);~~
- ~~(c) Supplemental Security Income (SSI); or~~
- ~~(d) General assistance cash programs.~~

~~(2) Some food assistance units are not categorically eligible to receive food benefits even after meeting the requirements in subsection (1) of this section. Categorical eligibility does not happen when the entire assistance unit or any member of the unit fits into the following situations:~~

~~(a) The entire food assistance unit is:~~

~~(i) Living in an institution;~~

~~(ii) Disqualified from receiving food assistance for any reason; or~~

~~(iii) Terminated from food assistance because of failure to meet monthly reporting requirements;~~

~~(b) Any member of the food assistance unit is:~~

~~(i) Disqualified from food assistance for an intentional program violation (IPV);~~

~~(ii) Disqualified from food assistance because of failure to meet work registration requirements;~~

~~(iii) Not eligible for food assistance because of their alien or student status; or~~

~~(iv) Receiving SSI as an essential person or an ineligible spouse, not eligible for SSI on their own behalf.~~

~~(3) A categorically eligible assistance unit has already met cash eligibility requirements. Some requirements are similar for food assistance. A food assistance unit determined to be categorically eligible does not have to meet food assistance eligibility requirements regarding:~~

~~(a) Residency;~~

~~(b) Social security number;~~

~~(c) Sponsored alien;~~

~~(d) Resources; and~~

~~(e) The gross and net income standards)) What is "categorical eligibility"?~~

Some food assistance households do not have to meet all of the eligibility requirements for food assistance. The department calls this categorical eligibility. Categorically eligible households have already met these requirements for another program:

(a) Resources;

(b) Gross and net income standards; and

(c) Residency.

(2) **Who is categorically eligible for food assistance?**

Your household is categorically eligible when

(a) **All members** of your household are getting general assistance (GA) cash benefits;

(b) **All members** of your household are getting Supplemental Security Income (SSI) on their own behalf;

(c) **All members** of your household are getting either GA or SSI on their own behalf; or

(d) **Some members** of your household are authorized to receive payments or services from the following programs and you all benefit from the assistance:

(i) Temporary assistance for needy families (TANF) cash assistance;

(ii) State family assistance (SFA);

(iii) Diversion cash assistance (DCA) for the month you receive assistance and the three following months; or

(iv) TANF post-employment services (as defined in WAC 388-310-1800) as long as your assistance unit meets TANF resource requirements.

WSR 00-11-038
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION

[Order 199—Filed May 10, 2000, 1:55 p.m.]

Date of Adoption: May 9, 2000.

Purpose: Adds farm implement dealers, agri-chemical deals and employees of each to the farmer exemptions to certain rules related to operating escort vehicles when moving overdimensional farm implements. Also corrects spelling errors and modifies a defined state route included in the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-290.

Statutory Authority for Adoption: RCW 46.44.090.

Adopted under notice filed as WSR 00-08-047 on March 31, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 9, 2000

Gerald E. Smith, P.E.

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 192, filed 8/23/99, effective 9/23/99)

WAC 468-38-290 Farm implements. (1) A farm implement includes any device that directly affects the production of agricultural products, including fertilizer and chemical applicator rigs and equipment auxiliary to them. For purposes of this section, it must weigh less than forty-five thousand pounds, be less than twenty feet in width, and move on pneumatic tires, or solid rubber tracks having protuberances that will not hurt the highway, when on public highways.

(2) Self-propelled farm implements, including a farm tractor pulling no more than two implements (no vehicle capable of carrying a load may pull more than one trailing implement, i.e., a truck of any kind) up to sixteen feet wide are exempt from acquiring a special motor vehicle permit for movement: Provided, That the movement of the implement(s) complies with the following safety requirements:

(a) Oversize signs: If the farm implement exceeds ten feet wide, it must display an "oversize load" sign(s) visible to both oncoming and overtaking traffic. Signs must comply with the requirements of WAC 468-38-190. If the implement

is both preceded and followed by escort vehicles a sign will not be required on the implement itself.

(b) Curfew/commuter hours: Movement of a farm implement in excess of ten feet wide must also comply with any published curfew or commuter hour restrictions.

(c) Red flags: If the farm implement, moving during daylight hours, exceeds ten feet wide, the vehicle configuration must display clean, bright red flags at least twelve inches square, so as to ~~((waive))~~ wave freely at all four corners, or extremities, of the overwidth implement and at the extreme ends of all protrusions, projections or overhangs. If the transported implement exceeds the end of the trailer by more than four feet, one flag is required at the extreme rear, also, if the width of the protrusion exceeds two feet, there shall be required two flags at the rear of the protrusion to indicate the maximum width.

(d) Warning lights: Lamps, and other lighting must be in compliance with RCW 46.37.160 Hazard warning lights and reflectors on farm equipment—Slow moving vehicle emblem. The slow moving vehicle emblem is for equipment moving at a speed of twenty-five miles per hour or less.

(e) Convoys: Farm implement convoys shall maintain at least five hundred feet between vehicles to allow the traveling public room to pass safely. If five or more vehicles become lined up behind an implement, escorted or unescorted, the driver/operator of the transported implement, and escorts, if any, shall pull off the road at the first point wide enough to allow traffic to pass safely. Convoying of farm implements is permitted with properly equipped escort vehicles.

(f) Escort vehicles: In general, the use of escort vehicles must comply with WAC 468-38-110 Escort vehicle requirements and WAC 468-38-100, which covers when escort vehicles are required. The following specific exemptions are provided:

(i) A farmer ~~((operating his own equipment, or operated by his employee (to include farmers working in a cooperative effort with their neighbors, but not to include commercial for hire farming operations), in transport between his own fields)), farm implement dealer, or agri-chemical dealer (including employees of each)~~ is exempt from WAC 468-38-110 (5)(a) and (b), (6) relative to passengers, WAC 468-38-110 (11)(e), and (16)(a) and (b) when ((operating)) moving a farm implement off of the interstate and on the following rural interstate segments:

I-90 between Exit 109 ~~((Ellensburg)) Ellensburg~~ and Exit 270 (Tyler);

I-82 between junction with I-90 ~~((Ellensburg)) Ellensburg~~ and Exit 31 (Yakima);

I-82 between Exit 37 (Union Gap) and ~~((Exit 102 (West Richland))~~;

~~I-82 between Exit 114 and~~ the Washington/Oregon border;

I-182 between junction with I-82 (West Richland) and junction with SR-395;

I-5 between Exit 208 (near Marysville) and Exit 250 (near Bellingham).

(ii) On two-lane highways, one escort vehicle must precede the implement(s) and one escort vehicle must follow the implement(s) when the width exceeds twelve and one-half

feet wide; implements not exceeding twelve and one-half feet wide are exempt from using escort vehicles.

(iii) On multiple-lane highways, one escort in the rear is required if the vehicle exceeds fourteen feet wide.

(iv) A flagperson(s) may be used in lieu of an escort(s) for moves of less than five hundred yards. This allowance must be stated on any permit that may be required for the move.

(g) Road posting: Posting a route may be used in lieu of escort vehicles if the route to be traveled is less than two miles. Signs reading "**oversize vehicle moving ahead**" on a square at least three feet on each side (in diamond configuration), with black lettering on orange background, shall be placed at points before the oversize implement enters or leaves the highway and at any entry points along the way. The signs must be removed immediately after the move has been completed.

(3) Farm implements exceeding sixteen feet wide, but not more than twenty feet wide, are required to have a special motor vehicle permit for movement on state highways. A quarterly or annual permit may be purchased by a farmer, or any person engaged in the business of selling and/or maintaining farm implements, to move within a designated area, generally three to four counties. The permit is required to be physically present at the time of movement. In addition to the safety requirements listed in subsection (2) of this section, notification of a move (~~(must)~~ should be made to all (~~Washington state patrol detachment offices or~~) Washington department of transportation maintenance areas affected by the move, to determine if the route is passable. Phone listings are provided with each permit.

WSR 00-11-040

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 99-01—Filed May 10, 2000, 3:00 p.m.]

Date of Adoption: May 10, 2000.

Purpose: The dangerous waste regulations set forth waste management standards for all Washington state dangerous waste generators, transporters, and facilities. Federal rules were incorporated and state-only requirements were updated, including changes to transportation and fertilizer requirements.

Citation of Existing Rules Affected by this Order: Amending dangerous waste regulations, chapter 173-303 WAC.

Statutory Authority for Adoption: Chapters 70.105, 70.105D, and 15.54 RCW.

Other Authority: RCW 70.105.007.

Adopted under notice filed as WSR 00-11-039 on May 10, 2000, and WSR 00-02-081 on January 5, 2000.

Changes Other than Editing from Proposed to Adopted Version: **1. WAC 173-303-040 "Cleanup-only facility"** means a site, including any contiguous property owned or under the control of the owner or operator of the site, where the owner or operator is or will be treating, storing, or disposing of remediation waste, including dangerous remediation

waste, and is, has not and will not be treating, storing or disposing of dangerous waste that is not remediation waste. A cleanup-only facility is not a "facility" for purposes of corrective action under WAC 173-303-646.

2. WAC 173-303-040 "Enforceable document" means an order, consent decree, plan or other document that meets the requirements of 40 C.F.R. 271.16(e) and is issued by the director to apply alternative requirements for closure, post-closure, ground water monitoring, corrective action or financial assurance under WAC 173-303-610 (1)(d), 173-303-645 (1)(e), or 173-303-620 (8)(d) or, as incorporated by reference at WAC 173-303-040 400, 40 C.F.R. 265.90(f), 265.110(d), or 265.140(d). Enforceable documents include, but are not limited to, closure plans and post-closure plans, permits issued under chapter 70.105 RCW, orders issued under chapter 70.105 RCW and orders and consent decrees issued under chapter 70.105D RCW, ~~and closure plans and post-closure plans~~.

3. WAC 173-303-040 "Large quantity handler of universal waste" means a universal waste handler (as defined in this section) who accumulates 11,000 pounds or more total of universal waste (batteries, thermostats, and lamps calculated collectively) and/or who accumulates more than 2,200 pounds of lamps at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 11,000 pounds or more total of universal waste and/or 2,200 pounds of lamps is accumulated.

4. WAC 173-303-040 "Marine terminal operator" means a person engaged in the business of furnishing wharfage, dock, pier, warehouse, covered and/or open storage spaces, cranes, forklifts, bulk loading and/or unloading structures and landings in connection with a highway or rail carrier and a water carrier. A marine terminal operator includes, but is not limited to, terminals owned by states and their political subdivisions; railroads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehouseman and stevedores who operate port terminal facilities.

5. WAC 173-303-040 "Micronutrient" fertilizer means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorous, potash, calcium, magnesium, or sulfur. Micronutrients are boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

6. WAC 173-303-040 "Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (that is, sorted), and fines, drosses and related materials that have been agglomerated. Note: Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid

waste for shredded circuit boards being recycled (WAC 173-303-071 (3)(ff) (gg)).

7. WAC 173-303-045 (2)(d):

(d) 40 C.F.R. Parts 270.1 (c)(1)(i); 270.3; 270.60(b); and 270.64.

8. WAC 173-303-110 (2)(a)(vi):

(vi) Containerized liquid wastes - "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the equivalent representative sampling method AC & D Liquid Sampler, as demonstrated pursuant to WAC 173-303-910(2) known as the plunger type sampler, described in ASTM D 5743-97, section 8.6; and.

9. WAC 173-303-120 (5) and (6):

~~(5) Use of the used oil recycling statute, chapter 70.951 RCW. This subsection applies to persons who use or manage used oil as defined under chapter 70.951 RCW and its implementing regulations, as amended. The department requires persons who use or manage used oils to do so in accordance with chapter 70.951 RCW and its implementing regulations, as amended.~~

~~(6) Used oil that is recycled and is also a dangerous waste solely because it exhibits a dangerous waste characteristic or criteria is not subject to the requirements of this chapter except for 40 C.F.R. Part 279 which is incorporated by reference at WAC 173-303-515. Used oil that is recycled includes any used oil that is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil that is re-refined, reclaimed, burned for energy recovery, or reprocessed.~~

10. WAC 173-303-190 (5)(b)(ii):

(ii) The state shipping description as described in WAC 173-303-180 ~~(6)(7)~~.

11. WAC 173-303-200 (1)(b)(i) and (ii):

(b)(i) The waste is placed in containers and the generator complies with ~~the applicable requirements of WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), and (10), 173-303-690, 173-303-691, and 173-303-692 and (11)~~.

(ii) The waste is placed in tanks and the generator complies with ~~the applicable requirements of WAC 173-303-640 (2) through (10)(11)~~, except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) ~~and 173-303-690, 173-303-691, and 173-303-692~~.

12. WAC 173-303-240(6):

(6) Transfer facility. The requirements of this subsection apply to a transporter or marine terminal operator who owns or leases and operates a transfer facility. Transfer of a shipment of dangerous waste from one transport vehicle to another transport vehicle, from one container to another container, and from one transporter to another transporter and any ten-day storage activities may only occur at a transfer facility that is registered with the department. ~~The A~~ transporter may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), ~~and (3)~~, and (5) for ten days or less at a transfer facility: Provided, That ~~they comply~~ he or she complies with the following:

(a) A transporter who owns or leases and operates a transfer facility within Washington that is related to their

dangerous waste transportation activities must register with the department. Washington registration is not required for ~~an out-of-state~~ a transporter whose activities are limited to passing through Washington with shipments of dangerous waste or picking up shipments from Washington generators or delivering shipments to designated treatment, storage or disposal facilities. In order to obtain registration, a transporter must complete a Notification of Dangerous Waste Activities Form 2 per Form 2 instructions and submit it to the department;

(b) Maintains ~~F~~ ten-day storage records that include the dates that a manifested shipment of dangerous waste entered the facility and departed the facility. The ten-day records must be ~~kept and~~ retained for a period of three years from the date the shipment was transported from the transfer facility;

(c) WAC 173-303-310 (1) and (2), Security. Instead of WAC 173-303-310(2) for an enclosed or an open flatbed transport vehicle parked at a transfer facility that has no twenty-four-hour surveillance system or natural or artificial barrier, the transport vehicle must meet the placarding requirements of 49 C.F.R. Part 172 and be secured (that is, locked) or the shipment must be transferred to a secured area of the facility to prevent unknowing entry and minimize unauthorized entry;

13. WAC 173-303-240(11):

~~(11) WAC 173-303-578 identifies how the requirements of WAC 173-303-240 through 173-303-270 apply to military munitions classified as solid waste at WAC 173-303-578(2).~~

14. WAC 173-303-281(2):

(2) Applicability. This section applies to owners/operators of proposed facilities. This section also applies to existing facilities applying for a significant expansion, as defined in WAC 173-303-282(3).

15. WAC 173-303-281(5):

(5)(a) Applicability. The requirements of this section apply to all final facility part B applications seeking initial permits for dangerous waste management units over which the department has permit issuance authority. The requirements of this section also apply to final facility part B applications seeking renewal of permits for such units under WAC 173-303-806 (7)(a). For the purposes of this section only, "dangerous waste management units over which the department has permit issuance authority" refers to dangerous waste management units for which the department has been authorized to issue final facility permits. The requirements of this section do not apply to permit modifications under WAC 173-303-840 ~~830~~(4) or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

16. WAC 173-303-380 (1)(c):

(c) Records and results of waste analyses, waste determinations (as required by Subpart CC), and trial tests required by WAC 173-303-300 General waste analysis, and by 40 C.F.R. sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7;

17. WAC 173-303-505 (1)(b)(i)(A)(I), (II), and (III):

(A) Initial criteria.

(I) The applicable land disposal restriction (LDR) certification as described in 40 C.F.R. Part 268, or total metals

toxicity characteristic leaching procedures (TCLP) data that indicate the product contains less than ~~twenty~~ times the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and

(II) Total halogenated organic compounds (HOC) test data that indicate the product contains less than 1% total HOC; and

~~(III) Total Polycyclic Aromatic Hydrocarbons (PAH) test data that indicate the product contains less than 1% total PAH.~~

18. WAC 173-303-515 (2), (3), (5)(a) and (c), (6)(b) and (d), and (7)(a), (c), and (d):

(2) **Definitions.** In addition to the terms used in this chapter, the definitions of 40 C.F.R. Part 279 are incorporated by reference when ~~receiving~~ managing used oil under this section. The term "hazardous waste" used in 40 C.F.R. Part 279 means "dangerous waste" as defined in WAC 173-303-040.

(3) **Applicability.** This section identifies those materials subject to regulation as used oil. For the purpose of this section, the applicability statements of 40 C.F.R. Part 279.10 are incorporated by reference, except 40 C.F.R. Part 279.10 (b)(2) and (3), and as modified below.

(5) **Prohibitions.** The prohibitions of 40 C.F.R. Part 279.12 are incorporated by reference. The prohibitions for managing materials under this section include those listed in 40 C.F.R. Part 279.12 and the following:

(a) Materials designating as EHW or W001 cannot be managed under this section when burned for energy recovery. Note: Materials managed under this section containing 2 ppm or greater PCBs are subject to the applicable requirements of 40 C.F.R. Part 761.20(e).

(c) Ethylene glycol ~~base~~ based fluids cannot be managed under this section. These fluids are subject to section WAC 173-303-522 when recycled.

(6) Standards for used oil generators.

(b) Secondary containment requirements for storage of material managed under this section in tanks and containers. The department may require secondary containment, on a case-by-case basis, in accordance with some or all of the requirements in WAC 173-303-630(7) and 173-303-640(4) if the department determines that a potential for spills and discharges, mismanagement, or other factors pose a threat to human health or the environment.

~~(d) Additional reports. Upon determination by the department that the storage of used oil in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store used oil. This authority applies to tanks and secondary containment systems used to store used oil in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of used oil or the generation of hazardous by-products (e.g., hydrogen sulfide gas). Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of~~

~~joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.~~

~~(i) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.~~

~~(ii) Requirement for facility repairs and improvements: If, upon evaluation of information obtained by the department under subsection (8)(a) of this section, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the used oil until such repairs or improvements are completed and approved by the department.~~

(7) Standards for used oil collection centers and aggregation points. For the purpose of managing materials under this section, 40 C.F.R. Parts 279.30 through 279.32 are incorporated by reference. The standards for used oil collection centers under this subsection are those federal regulations listed above and the following modifications: In addition to the requirements of 40 C.F.R. Part 279.31, the owner or operator of a used oil collection center may accept greater than 55 gallons of used oil from generators. Provided, That:

(a) The requirements for a used oil transfer facility (40 C.F.R. Parts 279.40 through ~~279.46~~ 279.47) are complied with while that used oil is on site; and

~~(c) Meets the requirements of a used oil transfer facility (40 C.F.R. 279.40 through 279.46) while that oil is on site; and~~

(d) Such records are kept on site for a period of three years.

19. WAC 173-303-573 (1)(a)(iii):

~~(iii) Lamps as described in subsection (5) of this section.~~

20. WAC 173-303-573 (2)(c)(iii):

~~(iii) Lamps as described in subsection (5) of this section.~~

21. WAC 173-303-573 (5)(c)(i):

~~(i) A used lamp becomes a waste on the date it is permanently removed from its fixture discarded.~~

22. WAC 173-303-573 (9)(c)(i), (iii), (iv), and (v):

(i) A small quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions ~~in a container~~. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A small quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents the container from being exposed to the elements;

~~(iv) A small quantity handler of universal waste may manage universal waste lamps for the purpose of volume reduction at the site where they were generated: Provided, That the handler:~~

~~(A) Crushes the lamps in a controlled manner in a crushing unit engineered to prevent releases of mercury or other hazardous constituents to the environment and the crushing~~

~~operations and maintenance of the unit are performed in accordance with written procedures developed by the manufacturer of the equipment, including specific instructions for the frequency of filter changes;~~

~~(B) Ensures that the crushing occurs in a final accumulation container that is in good condition suitable to prevent releases during storage, handling, and transportation. Additionally, if crushed lamps are accumulated in fiber containers, the storage must be indoors;~~

~~(C) Ensures that response procedures as specified in subsection (13) of this section are followed in the event of a release during the crushing activity, including determining if the material resulting from the release is a dangerous waste;~~

~~(D) Ensures that the area in which lamps containing mercury are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA/WISHA exposure levels for mercury;~~

~~(E) Ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury to appropriate containers;~~

~~(v) A small quantity handler of universal waste who crushes lamps must ensure that any residues (for example, filters from the crushing unit) generated from the crushing activity are managed as dangerous waste for the purposes of disposal, such that no mercury or other hazardous constituents will be released to the environment. The handler is considered the generator of the dangerous waste and is subject to WAC 173-303-170 through 173-303-230.~~

23. WAC 173-303-573 (20)(c)(i), (iii), (iv), and (v):

(i) A large quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions ~~in a container~~. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A large quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents a container from being exposed to the elements;

~~(iv) A large quantity handler of universal waste may manage universal waste lamps for the purpose of volume reduction at the site where they were generated. Provided, That the handler:~~

~~(A) Crushes the lamps in a controlled manner in a crushing unit engineered to prevent releases of mercury or other hazardous constituents to the environment and the crushing operations and maintenance of the unit are performed in accordance with written procedures developed by the manufacturer of the equipment, including specific instructions for the frequency of filter changes;~~

~~(B) Ensures that the crushing occurs in a final accumulation container that is in good condition suitable to prevent releases during storage, handling, and transportation. Additionally, if crushed lamps are accumulated in fiber containers, the storage must be indoors;~~

~~(C) Ensures that response procedures as specified in subsection (13) of this section are followed in the event of a release during the crushing activity, including determining if the material resulting from the release is a dangerous waste;~~

~~(D) Ensures that the area in which lamps containing mercury are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;~~

~~(E) Ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury to appropriate containers;~~

~~(v) A large quantity handler of universal waste who crushes lamps must ensure that any residues (for example, filters from the crushing unit) generated from the crushing activity are managed as dangerous waste for the purposes of disposal, such that no mercury or other hazardous constituents will be released to the environment. The handler is considered the generator of the dangerous waste and is subject to WAC 173-303-170 through 173-303-230.~~

24. WAC 173-303-578 (4)(a)(i):

~~(i) Waste military munitions in storage that exhibit a dangerous waste characteristic, criteria, or are listed as dangerous waste under WAC 173-303-070 may be stored under the following conditions are listed or identified as a dangerous waste (and thus are subject to regulation under this chapter), unless all the following conditions are met:~~

25. WAC 173-303-600 (3)(o):

~~(3) The final facility standards do not apply to:~~

~~(o) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.~~

~~(i) Batteries as described in WAC 173-303-573(2); and~~

~~(ii) Thermostats as described in WAC 173-303-573(3); and~~

~~(iii) Lamps as described in WAC 173-303-573(5);~~

~~**Rationale for Change:** This reference was added for consistency with other provisions of the universal waste rule.~~

26. WAC 173-303-610 (1)(d)(ii):

~~(ii) It is not necessary to apply the requirements of this section (or the unit-specific requirements referenced in subsection (2)(b) of this section) because tThe alternative requirements will protect human health and the environment.~~

27. WAC 173-303-610 (8)(b)(iii) and (iv):

~~(iii) And tThe name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the postclosure care period.~~

~~(iv) And, for facilities where the director has applied alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e), or 173-303-620 (8)(d), the post-closure plan must include either the alternative requirements or a reference to the enforceable document that contains the alternative requirements.~~

28. WAC 173-303-620 (1)(d)(ii):

~~(ii) Determines that it is not necessary to apply the requirements of this section because the alternative require-~~

ments for financial assurance will protect human health and the environment.

29. WAC 173-303-645 (1)(e)(ii):

(ii) It is not necessary to apply the requirements of this section because The alternative requirements will protect human health and the environment.

30. WAC 173-303-650(12):

(12) Air emission standards. The owner or operator must manage all hazardous waste placed in a tank surface impoundment in accordance with the applicable requirements of 40 C.F.R. Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

31. WAC 173-303-690 (1)(c) and (d):

(c) If the owner or operator of process vents subject to the requirements of 40 C.F.R. 264.1032 through 264.1036 has received a permit under section 3005 of RCRA prior to December 21, 1990, the requirements of 264.1032 through 264.1036 must be incorporated when the permit is reissued under WAC 173-303-840(8) or reviewed under WAC 173-303-806(11). For the owner and operator of a facility subject to this section and who received a final hazardous waste permit prior to December 6, 1996, the requirements of this section must be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806(11). Until such date when the owner and operator receives a final permit incorporating the requirements of this section, the owner and operator is subject to the requirements of 40 C.F.R. subpart AA.

Note: The requirements of 40 C.F.R. Parts 264.1032 through 264.1036 apply to process vents on hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(d) The requirements of this section do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this section are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 C.F.R. part 60, part 61, or part 63. The documentation of compliance under regulations at 40 C.F.R. part 60, part 61, or part 63 must be kept with, or made readily available with, the facility operating record.

32. WAC 173-303-692 (1)(b)(v):

(v) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of WAC 173-303-646, or RCRA section 3008(h), or CERCLA authorities.

33. WAC 173-303-692(2):

(2) 40 C.F.R. Parts ~~264.1080(e)~~ 264.1081 through 264.1091 (Subpart CC) is incorporated by reference.

34. WAC 173-303-800 (7)(c)(i)(C):

(C) A discharge of a material that, when discharged, becomes a dangerous waste;

~~(E)~~(D) An immediate threat to human health, public safety, property, or the environment from the known or sus-

pected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

~~(D)~~(E) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

35. WAC 173-303-803(3):

(3) ~~The owner or operator of an existing dangerous waste management facility may be required to submit part B of their permit application.~~ The department may require submission of part B if the department has received interim or final authorization; if not, the EPA Regional Administrator may require submission of part B. Any owner or operator will be allowed at least six months from the date of request to submit part B of the application. Any owner or operator of an existing dangerous waste management facility may voluntarily submit part B of the application at any time. Notwithstanding the above, any owner or operator of an existing dangerous waste management facility must submit a part B permit application in accordance with the dates specified in WAC 173-303-805(8). Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under RCRA or the Hazardous Waste Management Act that render the facility subject to the requirement to have an RCRA permit must submit a part B application in accordance with the dates specified in WAC 173-303-805(8). Note that the following subsections will be renumbered.

36. WAC 173-303-803 (3)(n):

(n) For dangerous hazardous debris, a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility.

37. WAC 173-303-805 (1)(b)(ii) and WAC 173-303-803:

WAC 173-303-805 (1)(b)(ii) Complied with the requirements of WAC 173-303-~~806~~ 803 governing submission of part A applications.

WAC 173-303-803(1) **Applicability.** The requirements in this section apply to both interim and final status facilities. In addition to this section, the applicable provisions of WAC 173-303-800, WAC 173-303-805, and 173-303-806 must be followed. Persons currently authorized with interim status must apply for permits when required by the department (see requirements at WAC 173-303-806).

38. WAC 173-303-806(4):

(4) Contents of Part B. Part B of a permit application must consist of the information required in (a) through ~~(h)~~ (m) of this subsection.

If you would like to receive a copy of the rationale for the changes, the concise explanatory statement is available from Chipper Hervieux, P.O. Box 47600, Olympia, WA 98504. You may also request a copy by e-mail pher461@ecy.wa.gov or view it at <http://www.wa.gov/ecology/leg/activity/wac173303.html>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 3, Amended 42, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 13, 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.

May 10, 2000

Tom Fitzsimmons
Director

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-010 Purpose. This regulation implements chapter 70.105 RCW, the Hazardous Waste Management Act of 1976 as amended (~~in 1980 and 1983~~), and implements, in part, chapters 70.105A, 70.105D, and 15.54 RCW, and Subtitle C of Public Law 94-580, the Resource Conservation and Recovery Act, which the legislature has empowered the department to implement. The purposes of this regulation are to:

- (1) Designate those solid wastes which are dangerous or extremely hazardous to the public health and environment;
- (2) Provide for surveillance and monitoring of dangerous and extremely hazardous wastes until they are detoxified, reclaimed, neutralized, or disposed of safely;
- (3) Provide the form and rules necessary to establish a system for manifesting, tracking, reporting, monitoring, recordkeeping, sampling, and labeling dangerous and extremely hazardous wastes;
- (4) Establish the siting, design, operation, closure, post-closure, financial, and monitoring requirements for dangerous and extremely hazardous waste transfer, treatment, storage, and disposal facilities;
- (5) Establish design, operation, and monitoring requirements for managing the state's extremely hazardous waste disposal facility;
- (6) Establish and administer a program for permitting dangerous and extremely hazardous waste management facilities; and
- (7) Encourage recycling, reuse, reclamation, and recovery to the maximum extent possible.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-016 Identifying solid waste. (1) Purpose and applicability.

(a) The purpose of this section is to identify those materials that are and are not solid wastes.

(b)(i) The definition of solid waste contained in this section applies only to wastes that also are dangerous for purposes of the regulations implementing chapter 70.105 RCW. For example, it does not apply to materials (such as nondangerous scrap, paper, textiles, or rubber) that are not otherwise dangerous wastes and that are recycled.

(ii) This section identifies only some of the materials which are solid wastes and dangerous wastes under chapter 70.105 RCW. A material which is not defined as a solid waste in this section, or is not a dangerous waste identified or listed in this section, is still a solid waste and a dangerous waste for purposes of these sections if reason and authority exists under chapter 70.105 RCW and WAC 173-303-960. Within the constraints of chapter 70.105 RCW, this includes but is not limited to any material that: Is accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or, due to the dangerous constituent(s) in it, when used or reused would pose a threat to public health or the environment.

(c) Certain materials are solid wastes but are excluded from the requirements of this chapter by WAC 173-303-071 and 173-303-073.

(2) The following terms are used and have the meanings as defined in WAC 173-303-040:

- (a) Boiler
- (b) By-product
- (c) Incinerator
- (d) Industrial furnace
- (e) Reclaim
- (f) Recover
- (g) Recycle
- (h) Used or reused (see reuse or use)
- (i) Sludge
- (j) Scrap metal
- (k) Spent material
- (l) Excluded scrap metal
- (m) Processed scrap metal
- (n) Home scrap metal
- (o) Prompt scrap metal

(3) Definition of solid waste.

(a) A solid waste is any discarded material that is not excluded by WAC 173-303-017(2) or that is not excluded by variance granted under WAC 173-303-017(5).

(b) A discarded material is any material (~~which~~) that is:

- (i) Abandoned, as explained in subsection (4) of this section; or
- (ii) Recycled, as explained in subsection (5) of this section; or
- (iii) Considered inherently waste-like, as explained in subsection (6) of this section. Persons registering micronutrient or waste-derived fertilizers under chapter 15.54 RCW must submit information required by the department to indicate compliance with this chapter. The required minimum information is described in WAC 173-303-505; or

(iv) A military munition identified as a solid waste at WAC 173-303-578(2).

(4) Materials are solid waste if they are abandoned by being:

- (a) Disposed of; or
- (b) Burned or incinerated; or
- (c) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(5) Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in (a) through (d) of this subsection.

(a) Used in a manner constituting disposal. Materials noted with a "*" in column 1 of Table 1 are solid wastes when they are:

(i)(A) Applied to or placed on the land in a manner that constitutes disposal; or

(B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a solid waste).

(ii) However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(b) Burning for energy recovery. Materials noted with a "*" in column 2 of Table 1 are solid wastes when they are:

(i) Burned to recover energy;

(ii) Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).

However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are themselves fuels.

(c) Reclaimed. Materials noted with a "*" in column 3 of Table 1 are solid wastes when reclaimed.

(d)(i) Accumulated speculatively. Materials noted with a "*" in column 4 of Table 1 are solid wastes when accumulated speculatively.

(ii) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the seventy-five percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under WAC 173-303-071 (3)(n) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

TABLE 1

	Use constituting disposal WAC 173-303- 016(5)(a)	Energy recovery/ fuel WAC 173-303- 016(5)(b)	Reclamation WAC 173-303- 016(5)(c)	Speculative accumulation WAC 173-303- 016(5)(d)
Spent materials	(*)	(*)	(*)	(*)
Commercial chemical products	(*)	(*)	—	—
By-products listed in WAC 173-303-9904	(*)	(*)	(*)	(*)
Sludges listed in WAC 173-303- 9904	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic ¹ or criteria ²	(*)	(*)	—	(*)
Sludges exhibiting a characteristic ¹ or criteria ²	(*)	(*)	—	(*)
Scrap metal <u>other than excluded scrap metal (see WAC 173-303- 016(2)(l))</u>	(*)	(*)	(*)	(*)

Note: The terms "spent materials," "sludges," "by-products," ((and)) "scrap metal" and "processed scrap metal" are defined in WAC 173-303-040.

¹ The characteristics of dangerous waste are described in WAC 173-303-090.

² The dangerous waste criteria are described in WAC 173-303-100.

(6) Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(a) Dangerous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028.

(b) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a dangerous waste or are listed as a dangerous waste as defined in WAC 173-303-090 or 173-303-080 through 173-303-082, except for brominated material that meets the following criteria:

(i) The material must contain a bromine concentration of at least 45%; and

(ii) The material must contain less than a total of 1% of toxic organic compounds listed in WAC 173-303-9905; and

(iii) The material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping).

(c) The department will use the following criteria to add wastes to (a) of this subsection:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(B) The materials contain toxic constituents listed in WAC 173-303-9905 and these constituents are not ordinarily

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found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

(ii) The material may pose a substantial hazard to human health or the environment when recycled.

(7) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-040 Definitions. When used in this chapter, the following terms have the meanings given below.

"Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

"Active portion" means that portion of a facility which is not a closed portion, and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

The effective date of the waste's designation by 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion.")

"Active range" means a military range that is currently in service and is being regularly used for range activities.

"Acute hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P", including those wastes mixed with source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954. The abbreviation "AHW" will be used in this chapter to refer to those dangerous and mixed wastes which are acute hazardous wastes. Note - the terms acute and acutely are used interchangeably.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of dangerous waste from its point of generation to a

storage or treatment tank(s), between dangerous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

"Batch" means any waste which is generated less frequently than once a month.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Berm" means the shoulder of a dike.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit will be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

"By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Carcinogenic" means a material known to contain a substance which has sufficient or limited evidence as a human or animal carcinogen as listed in both IARC and either IRIS or HEAST.

"Chemical agents and chemical munitions" are defined as in 50 U.S.C. section 1521 (j)(1).

"Cleanup-only facility" means a site, including any contiguous property owned or under the control of the owner or operator of the site, where the owner or operator is or will be treating, storing, or disposing of remediation waste, including dangerous remediation waste, and is not, has not and will not be treating, storing or disposing of dangerous waste that is not remediation waste. A cleanup-only facility is not a "facility" for purposes of corrective action under WAC 173-303-646.

"Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

"Closure" means the requirements placed upon all TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure").

"Commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and includes, but is not limited to, limes, gypsum, and manipulated animal manures and vegetable compost. The commercial fertilizer must be registered with the state or local agency regulating the fertilizer in the locale in which the fertilizer is being sold or applied.

"Compliance procedure" means any proceedings instituted pursuant to the Hazardous Waste Management Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Component" means either the tank or ancillary equipment of a tank system.

"Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of WAC 173-303-695.

"Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten human health or environment.

"Contract" means the written agreement signed by the department and the state operator.

"Corrective action management unit" ((or "CAMU" means an area within a facility that is designated by the director pursuant to WAC 173-303-646 (4), (5), and (6) for the purpose of implementing the corrective action requirements of WAC 173-303-646(2). A CAMU may be used only for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility)) means an area that is used to treat, store or dispose only remediation wastes for implementing corrective action under WAC 173-303-646 or other clean up activities.

"Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents that have caused a waste to be a dangerous waste under this chapter.

"Dangerous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-100 as dangerous, or extremely hazardous or mixed waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter. The abbreviation "DW" will refer only to that part of the regulated universe which is not extremely hazardous waste. (See also "extremely hazardous waste," "hazardous waste," and "mixed waste" definitions.)

"Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic

material. However, the following materials are not debris: Any material for which a specific treatment standard is provided in 40 CFR Part 268 Subpart D (incorporated by reference in WAC 173-303-140 (2)(a)); process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least seventy-five percent of their original volume. A mixture of debris that has not been treated to the standards provided by 40 CFR 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

"Department" means the department of ecology.

"Dermal LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

"Designated facility" means a dangerous waste treatment, storage, or disposal facility that has received a permit (or interim status) in accordance with the requirements of this chapter, has received a permit (or interim status) from another state authorized in accordance with 40 CFR Part 271, has received a permit (or interim status) from EPA in accordance with 40 CFR Part 270, or is regulated under WAC 173-303-120 (4)(c) or 173-303-525 when the dangerous waste is to be recycled, and that has been designated on the manifest pursuant to WAC 173-303-180(1). If a waste is destined to a facility in an authorized state that has not yet obtained authorization to regulate that particular waste as dangerous, then the designated facility must be a facility allowed by the receiving state to accept such waste. The following are designated facilities only for receipt of state-only waste; they cannot receive federal hazardous waste from off-site: Facilities with permit-by-rule under WAC 173-303-802 (5)(a) and facilities operating under WAC 173-303-500 (2)(c).

"Designation" is the process of determining whether a waste is regulated under the dangerous waste lists, WAC 173-303-080 through 173-303-082; or characteristics, WAC 173-303-090; or criteria, WAC 173-303-100. The procedures for designating wastes are in WAC 173-303-070. A waste that has been designated as a dangerous waste may be either DW or EHW.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in WAC 173-303-573 (9)(a) ~~((and))~~, (b) and (c) and 173-303-573 (20)(a) ~~((and))~~, (b) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

"Director" means the director of the department of ecology or his designee.

"Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that

the substance, waste or a waste constituent may enter or be emitted into the environment.

"Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

"Domestic sewage" means untreated sanitary wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment.

"Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

"Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of nonearthen materials and designed to convey preservative kick-back or drip-page from treated wood, precipitation, and surface water runoff to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle, or vessel.

"Enforceable document" means an order, consent decree, plan or other document that meets the requirements of 40 CFR 271.16(e) and is issued by the director to apply alternative requirements for closure, post-closure, ground water monitoring, corrective action or financial assurance under WAC 173-303-610 (1)(d), 173-303-645 (1)(e), or 173-303-620 (8)(d) or, as incorporated by reference at WAC 173-303-400, 40 CFR 265.90(f), 265.110(d), or 265.140(d). Enforceable documents include, but are not limited to, closure plans and post-closure plans, permits issued under chapter 70.105 RCW, orders issued under chapter 70.105 RCW and orders and consent decrees issued under chapter 70.105D RCW.

"Environment" means any air, land, water, or ground water.

"EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of dangerous waste and that is in operation, or for which installation has commenced on or prior to February 3, 1989. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installa-

tion of the tank system to be completed within a reasonable time.

"Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

"Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state, and local statutes, regulations, and ordinances and either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other federal, state, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

"Extremely hazardous waste" means those dangerous and mixed wastes designated in WAC 173-303-100 as

extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous and mixed wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

"Facility" means:

- All contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. A facility may consist of several treatment, storage, or disposal operational units ((e.g.)) for example, one or more landfills, surface impoundments, or combination of them). Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" are used interchangeably. ~~(For the purposes of implementing corrective action imposed pursuant to WAC 173-303-646 (2) or (3), the term facility has the following meaning: All contiguous property under the control of an owner or operator seeking or required to have a permit under the provisions of chapter 70.105 RCW or chapter 173-303 WAC, including the definition of facility at RCW 70.105D.020(3).))~~

- For purposes of implementing corrective action under WAC 173-303-646 (2) or (3), "facility" also means all contiguous property under the control of an owner or operator seeking a permit under chapter 70.105 RCW or chapter 173-303 WAC and includes the definition of facility at RCW 70.105D.020(4).

"Facility mailing list" means the mailing list for a facility maintained by the department in accordance with WAC 173-303-840 (3)(e)(D)(D).

"Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility. Areas only subject to generator standards WAC 173-303-170 through 173-303-230 need not be included in final closure.

"Fish LC50" means the concentration that will kill fifty percent of the exposed fish in a specified time period. For book designation, LC50 data must be derived from an exposure period greater than or equal to twenty-four hours. A hierarchy of species LC50 data should be used that includes (in decreasing order of preference) salmonids, fathead minnows (*Pimephales promelas*), and other fish species. For the ninety-six-hour static acute fish toxicity test, described in WAC 173-303-110 (3)(b)(i), coho salmon (*Oncorhynchus kisutch*), rainbow trout (*Oncorhynchus mykiss*), or brook trout (*Salvelinus fontinalis*) must be used.

"Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

"Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

"Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

"Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

"Ground water" means water which fills voids below the land surface and in the earth's crust.

"Halogenated organic compounds" (HOC) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, or iodine which is/are bonded directly to a carbon atom. This definition does not apply to the federal land disposal restrictions of 40 CFR Part 268 which are incorporated by reference at WAC 173-303-140 (2)(a). Note: Additional information on HOCs may be found in *Chemical Testing Methods for Designating Dangerous Waste*, Ecology Publication #97-407.

"Hazardous debris" means debris that contains a hazardous waste listed in WAC 173-303-9903 or 173-303-9904, or that exhibits a characteristic of hazardous waste identified in WAC 173-303-090.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090 or 173-303-100.

"Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous and/or mixed waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

"Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

"Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5).

"Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

"Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

"Incinerator" means any enclosed device that:

Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility

because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

"Independent qualified registered professional engineer" means a person who is licensed by the state of Washington, or a state which has reciprocity with the state of Washington as defined in RCW 18.43.100, and who is not an employee of the owner or operator of the facility for which construction or modification certification is required. A qualified professional engineer is an engineer with expertise in the specific area for which a certification is given.

"Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy: Cement kilns; lime kilns; aggregate kilns; phosphate kilns; blast furnaces; smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces); titanium dioxide chloride process oxidation reactors; coke ovens; methane reforming furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and halogen acid furnaces (HAFs) for the production of acid from halogenated dangerous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for dangerous waste burned as fuel, dangerous waste fed to the furnace has a minimum halogen content of 20% as-generated. The department may decide to add devices to this list on the basis of one or more of the following factors:

The device is designed and used primarily to accomplish recovery of material products;

The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

The device burns or reduces raw materials to make a material product;

The device is in common industrial use to produce a material product; and

Other factors, as appropriate.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction

materials of the tank or container from the waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

"Lamp," also referred to as "universal waste lamp" means any type of high or low pressure bulb or tube portion of an electric lighting device that generates light through the discharge of electricity either directly or indirectly as radiant energy. Universal waste lamps include, but are not limited to, fluorescent, mercury vapor, metal halide, high-pressure sodium and neon. As a reference, it may be assumed that four, four-foot, one-inch diameter unbroken fluorescent tubes are equal to 2.2 pounds in weight.

"Land disposal" means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a(±) landfill(±), surface impoundment(±), waste pile(±), injection well(±), land treatment facility(±), salt dome ((±) formation, salt bed formation(±), underground mine or cave(±), or placement in a concrete vault(±), or bunker(± or miscellaneous unit) intended for disposal purposes.

"Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

"Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this section) who accumulates 11,000 pounds or more total of universal waste (batteries ((±)), thermostats, and lamps calculated collectively) and/or who accumulates more than 2,200 pounds of lamps at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 11,000 pounds or more total of universal waste and/or 2,200 pounds of lamps is accumulated.

"Leachable inorganic waste" means solid dangerous waste (i.e., passes paint filter test) that is not an organic/carbonaceous waste and exhibits the toxicity characteristic (dangerous waste numbers D004 to D011, only) under WAC 173-303-090(8).

"Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of dangerous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an

interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of dangerous waste into the secondary containment structure.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

"Major facility" means a facility or activity classified by the department as major.

"Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180, which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

"Manufacturing process unit" means a unit which is an integral and inseparable portion of a manufacturing operation, processing a raw material into a manufacturing intermediate or finished product, reclaiming spent materials or reconditioning components.

"Marine terminal operator" means a person engaged in the business of furnishing wharfage, dock, pier, warehouse, covered and/or open storage spaces, cranes, forklifts, bulk loading and/or unloading structures and landings in connection with a highway or rail carrier and a water carrier. A marine terminal operator includes, but is not limited to, terminals owned by states and their political subdivisions; railroads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehousemen and stevedores who operate port terminal facilities.

"Micronutrient fertilizer" means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorous, potash, calcium, magnesium, or sulfur. Micronutrients are boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

"Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

"Military munitions" means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: Confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar

rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include nonnuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

"Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

"Miscellaneous unit" means a dangerous waste management unit where dangerous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR Part 146, containment building, corrective action management unit, temporary unit, ~~((underground injection well with appropriate technical standards under 40 CFR Part 146))~~ staging pile, or unit eligible for a research, development, and demonstration permit under WAC 173-303-809.

"Mixed waste" means a dangerous, extremely hazardous, or acutely hazardous waste that contains both a nonradioactive hazardous component and, as defined by 10 CFR 20.1003, source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of dangerous waste and for which installation has commenced after February 3, 1989; except, however, for purposes of WAC 173-303-640 (4)(g)(ii) and 40 CFR 265.193 (g)(2) as adopted by reference in WAC 173-303-400(3), a new tank system is one for which construction commences after February 3, 1989. (See also "existing tank system.")

"New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

"NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

"Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Off-specification used oil fuel" means used oil fuel that exceeds any specification level described in Table 1 in WAC 173-303-515.

"Onground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right of way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Noncontiguous properties owned by the same person but connected by a right of way which they control and to which the public does not have access, are also considered on-site property.

"Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

"Oral LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

"Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

"Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-670 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

"Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

- The department, pursuant to this chapter;
- United States EPA, pursuant to 40 CFR Part 270; or
- Another state authorized by EPA, pursuant to 40 CFR Part 271.

"Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

"Persistence" means the quality of a material that retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions. Persistent compounds are either halogenated organic compounds (HOC) or polycyclic aromatic hydrocarbons (PAH) as defined in this section.

"Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

"Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

"Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

"Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

"Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more fused benzene rings. For purposes of this chapter, the PAHs of concern for designation are: Acenaphthene, acenaphthylene, fluorene, anthracene, fluoranthene, phenanthrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, pyrene, chrysene, benzo(a)pyrene, dibenz(a,h)anthracene, indeno(1,2,3-c,d)pyrene, benzo(g,h,i)perylene, dibenzo [(a,e), (a,h), (a,i), and (a,l)] pyrenes, and dibenzo(a,j) acridine.

"Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

"Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (that is, sorted), and fines, drosses and related materials that have been agglomerated. Note: Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (WAC 173-303-071 (3)(gg)).

"Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

"Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality,

which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

"Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground water hydrology and related fields to make sound professional judgments regarding ground water monitoring and contaminant fate and transport. Sufficient training and experience may be demonstrated by state registration, professional certifications, or completion of accredited university courses.

"Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).

"Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

"Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

"Recycle" means to use, reuse, or reclaim a material.

"Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

July 26, 1982, for wastes regulated by 40 CFR Part 261;

October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

"Release" means any intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous wastes, or dangerous constituents as defined at WAC 173-303-646 (1)(c), into the environment and includes the abandonment or discarding of barrels, containers, and other receptacles containing dangerous wastes or dangerous constituents and includes the definition of release at RCW 70.105D.020((4)) (20).

"Remediation waste" means all solid ((s)) and dangerous waste((s)) and all media (including ground water, surface water, soils, and sediments) and debris((, which)) that contain listed dangerous wastes((s)) or ((which themselves)) that exhibit a dangerous waste characteristic or criteria((, that are managed for the purpose of implementing corrective action requirements imposed pursuant to WAC 173-303-646 (2) or (3). For a given facility, remediation wastes may originate only from within the facility boundary, except that remediation waste may include wastes managed in implementing corrective action in accordance with WAC 173-303-646 (2)(b) for releases extending beyond the facility boundary)) when managed for implementing cleanup.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and that is subsequently reused to treat, store, or dispose of dangerous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal

of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or state approved corrective action.

"Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

"Reuse or use" means to employ a material either:

As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

"Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

"Satellite accumulation area" means a location at or near any point of generation where hazardous waste is initially accumulated in containers (during routine operations) prior to consolidation at a designated ninety-day accumulation area or storage area. The area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes into the satellite containers.

"Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

"Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this section) who does not accumulate (~~more than~~) 11,000 pounds or more total of universal waste (batteries (~~or~~), thermostats, and lamps, calculated collectively) and/or who does not accumulate more than 2,200 pounds of lamps at any time.

"Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of WAC 173-303-090 (6)(a)(iii).

"Solid waste management unit" or "SWMU" means any discernible location at a facility, as defined for the purposes of corrective action, where solid wastes have been placed at

any time, irrespective of whether the location was intended for the management of solid or dangerous waste. Such locations include any area at a facility at which solid wastes, including spills, have been routinely and systematically released. Such units include regulated units as defined by chapter 173-303 WAC.

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. *Sorb* means to either adsorb or absorb, or both.

"Special incinerator ash" means ash residues resulting from the operation of incineration or energy recovery facilities managing municipal solid waste from residential, commercial and industrial establishments, if the ash residues are designated as dangerous waste only by this chapter and not designated as hazardous waste by 40 CFR Part 261.

"Special waste" means any state-only dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is: Corrosive waste (WAC 173-303-090 (6)(b)(ii)), toxic waste that has Category D toxicity (WAC 173-303-100(5)), PCB waste (WAC 173-303-9904 under State Sources), or persistent waste that is not EHW (WAC 173-303-100(6)). Any solid waste that is regulated by the United States EPA as hazardous waste cannot be a special waste.

"Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

"Stabilization" and "solidification" means a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

"Staging pile" means an accumulation of solid, nonflowing, remediation waste that is not a containment building or a corrective action management unit and that is used for temporary storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities.

"State-only dangerous waste" means a waste designated only by this chapter, chapter 173-303 WAC, and is not regulated as a hazardous waste under 40 CFR Part 261.

"State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

"Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect dangerous waste for transport to dangerous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

"Tank system" means a dangerous waste storage or treatment tank and its associated ancillary equipment and containment system.

~~"Temporary unit" ((or "TU" means a tank or container unit used temporarily for the treatment or storage of remediation waste, that is designated by the director pursuant to WAC 173-303-646(7) for the purpose of implementing the corrective action requirements of WAC 173-303-646 (2) or (3)))~~ means a tank or container that is not an accumulation unit under WAC 173-303-200 and that is used for temporary treatment or storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities.

"Thermal treatment" means the treatment of dangerous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the dangerous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of WAC 173-303-573 (9)(b)(ii) or (20)(b)(ii).

"TLM₉₆" means the same as "Aquatic LC₅₀."

"Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

"Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, buildings, piers, and other similar areas where shipments of ~~((hazardous))~~ dangerous waste are held ~~((for)),~~ consolidated, or transferred within a period of ten days or less during the normal course of transportation.

"Transport vehicle" means a motor vehicle, water vessel, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, steamship, etc.) is a separate transport vehicle.

"Transportation" means the movement of dangerous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of dangerous waste.

"Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

"Treatability study" means a study in which a dangerous waste is subjected to a treatment process to determine: Whether the waste is amenable to the treatment process; what pretreatment (if any) is required; the optimal process conditions needed to achieve the desired treatment; the efficiency of a treatment process for a specific waste or wastes; or the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the exemptions contained in WAC 173-303-071 (3)(r) and (s), are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of dangerous waste.

"Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the exception of compacting, repackaging, and sorting as allowed under WAC 173-303-400(2) and 173-303-600(3).

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

"Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

"Unexploded ordnance (UXO)" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating dangerous waste without posing a threat of release of dangerous waste to the environment.

"Universal waste" means any of the following dangerous wastes that are subject to the universal waste requirements of WAC 173-303-573:

Batteries as described in WAC 173-303-573(2); ~~((and))~~ Thermostats as described in WAC 173-303-573(3); and Lamps as described in WAC 173-303-573(5).

"Universal waste handler":

Means:

A generator (as defined in this section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Does not mean:

A person who treats (except under the provisions of WAC 173-303-573 (9)(a) ~~((or))~~, (b) or (c) or (20)(a) ~~((or))~~, (b) or (c)) disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolid products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

"Wastewater treatment unit" means a device that:

Is part of a wastewater treatment facility which is subject to regulation under either:

Section 402 or section 307(b) of the Federal Clean Water Act; or

Chapter 90.48 RCW, State Water Pollution Control Act, provided that the waste treated at the facility is a state-only dangerous waste; and

Handles dangerous waste in the following manner:

Receives and treats or stores an influent wastewater; or

Generates and accumulates or treats or stores a wastewater treatment sludge; and

Meets the definition of tank or tank system in this section.

"Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

"Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a dangerous waste release, can be readily cleaned up prior to the

release of dangerous waste or dangerous constituents to ground water or surface water.

Any terms used in this chapter which have not been defined in this section have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. (1) Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, are in reference to those rules as they existed on July 1, ~~(1996, except for the following:~~

(a) ~~Update III to SW 846 is incorporated in accordance with the June 13, 1997, Federal Register Volume 62, Number 114; and~~

(b) ~~The Land Disposal Restriction requirements for carbamate wastes are those that appeared at 40 CFR 268.39 and 268.40 in the June 17, 1997, Federal Register Volume 62, Number 116)) 1999.~~ Copies of the appropriate referenced federal requirements are available upon request from the department.

(2) The following sections and any cross-reference to these sections are not incorporated or adopted by reference because they are provisions that EPA cannot delegate to states:

(a) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.

(b) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(c) 40 CFR Parts 268.5 and 268.6; 268 Subpart B; ~~((and))~~ 268.42(b) and 268.44 except for 268.44(h).

(d) 40 CFR Parts 270.1 (c)(1)(i); ~~270.3;~~ 270.60(b); and 270.64.

(e) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-060 Notification and identification numbers. (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste TSD facility must have a current EPA/state identification number (EPA/state ID#). Any person who offers a dangerous waste to a transporter or to a dangerous waste TSD facility which does not have an EPA/state ID#, or whose EPA/state ID# has been cancelled or withdrawn, is in violation of this regulation.

(2) Every person who must have an EPA/state ID#, and who has not already received ~~(his)~~ their ID#, must notify the department by obtaining and completing a Washington State Notification of Dangerous Waste Activities (Form 2) and submitting the completed form to the department. Any person already assigned an EPA/state ID# must notify the department of any changes to ~~(his)~~ their company's name, mailing address, ownership, physical location, or type of dangerous waste activity, by submitting a revised Form 2. A revised Form 2 must be submitted prior to adding or dropping any of the following activities: Permitted treating, storing and/or disposing, immediate recycling, transporting, permit by rule, and/or treatment by generator. For changes of company name ~~((or))~~, mailing address, or ownership, the generator may submit a corrected ~~((Registration))~~ Verification ~~((Report))~~ Form (part of the Dangerous Waste Annual Report) in lieu of a revised Form 2. Any change in site location will require the issuance of a new EPA/state ID# for waste generation and management facilities. An EPA/state ID# may not be used at new company locations. A company that has obtained an ID# as a "transporter only" can move to a new location and continue to use the same ID#. A revised notification Form 2 must be submitted to the department. Notification of dangerous waste activities, Form 2 and instructions for its completion may be obtained by contacting the department.

(3) Any person with an EPA/state ID# may request that his ID# be withdrawn if he will no longer be handling dangerous waste at the site the ID# has been assigned to. Any person whose ID# has been withdrawn must notify the department before he uses the ID# at any later date. Notification must be in writing, except in the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(4) Any person with an EPA/state ID# may request that his ID# be cancelled if he will no longer occupy the site. Notification must be in writing. An EPA/state ID# will be considered cancelled only after all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(5) Any person with a current EPA/state ID# must submit an annual report as required by WAC 173-303-070(8), 173-303-220, and 173-303-390. Any person who has withdrawn or cancelled their ID# must submit an annual report up to the effective date of cancellation or withdrawal. The generator should write the effective date on the notification form for the cancellation or withdrawal; it is the date by which all regulated waste activities (generation, transportation, and management) have ceased at the site.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-070 Designation of dangerous waste.

(1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not their solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter.

(c) The requirements for the small quantity generator exemption are found in subsection (8) of this section.

(2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and

(ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or

(iii) If originally designated only through WAC 173-303-100, it does not meet any of the criteria of WAC 173-303-100.

Such solid waste will include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation run-off. Precipitation run-off will not be considered a dangerous waste if it can be shown that the run-off has not been contaminated with the dangerous waste, or that the run-off is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the run-off does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(c) Notwithstanding subsections (1) and (2) of this section and provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

(i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

(3) Designation procedures.

(a) To determine whether or not a solid waste is designated as a dangerous waste a person must:

(i) First, determine if the waste is a listed discarded chemical product, WAC 173-303-081;

(ii) Second, determine if the waste is a listed dangerous waste source, WAC 173-303-082;

(iii) Third, if the waste is not listed in WAC 173-303-081 or 173-303-082, or for the purposes of compliance with the federal land disposal restrictions as adopted by reference in WAC 173-303-140, determine if the waste exhibits any dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets any dangerous waste criteria, WAC 173-303-100.

(b) A person must check each section, in the order set forth, until they determine whether the waste is designated as a dangerous waste. Once the waste is determined to be a dangerous waste, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

(c) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person must either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and

(B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site.

(4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that its designation must be changed, then they are subject to the applicable requirements of this chapter 173-303 WAC. The department will base a requirement to test a waste on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;

(c) Evidence that the persons' waste has historically been a DW or EHW;

(d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or

(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated properly.

(5) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. ~~((Subsections (5)(a) through (e) of this section))~~ The following subsections describe how waste that has been designated as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, or in the case of (c) of this subsection, under the lists, characteristics, or criteria, must ((also)) be further designated under the dangerous waste criteria, WAC 173-303-100(;) . This further designation under the criteria is necessary because ((designation under the criteria)) it may change how the waste must be managed. Additional designation is required when:

(a) The waste is designated as DW with a QEL of 220 pounds and the generator otherwise qualifies as a small quantity generator. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or

(b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802(4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or

(c) The waste is designated as a state-only DW and the waste is to be:

(i) Burned for energy recovery, as used oil, under the provisions of WAC 173-303-515; or

(ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, they must use all the dangerous waste numbers which they know are assignable to the waste from the dangerous waste lists, characteristics, or criteria. For example, if the waste is ignitable *and* contains more than 5 mg/l leachable lead when tested for the toxicity characteristic, they must use the dangerous waste numbers of D001 and D008. This will not be construed as requiring a person to designate their waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is subject to the full requirements of this chapter.

Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or meets the criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to the requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific limits for waste accumulation or the specific quantity exclusion limits (QEL) for waste generation. Waste quantities must be aggregated for all wastes with common QEL's. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (230 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates one pound of a toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). (Note: In order to remain a small quantity generator, the total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, must not equal or exceed 220 pounds. Not more than 2.2 pounds of a waste with a 2.2 pound QEL may be part of that total.)

(c) When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:

- (i) Is exempt from regulation under WAC 173-303-071; or
 - (ii) Is recycled under WAC 173-303-120 (2)(a), (3)(c), (e), or (h); or
 - (iii) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or
 - (iv) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or
 - (v) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or
 - (vi) Is universal waste managed under WAC 173-303-077 and 173-303-573.
- (d) In determining the quantity of dangerous waste generated, a generator need not include:
- (i) Dangerous waste when it is removed from on-site storage; or
 - (ii) Reserve; or
 - (iii) Spent materials that are generated, reclaimed, and subsequently reused on-site, as long as such spent materials have been counted once (Note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or
 - (iv) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).
- (8) Small quantity generators.

(a) A person is a small quantity generator and subject to the requirements of this subsection if:

(i) Their waste is dangerous waste under subsection (3) of this section, and the quantity of waste generated per month (or the aggregated quantity if more than one kind of waste is generated) does not equal or exceed the quantity exclusion limit (QEL) for such waste (or wastes) as described in WAC 173-303-070(7); and

(ii) The quantity accumulated or stored does not exceed 2200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(iv) and 173-303-082 (2)(b) is 220 lbs); and

(iii) The total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, does not equal or exceed 220 pounds. If a person generates any dangerous wastes that exceed the QEL or accumulates or stores waste that exceeds the accumulation limits, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. A small quantity generator who generates in excess of the quantity exclusion limits or, accumulates, or stores waste in excess of the accumulation limits becomes subject to the full requirements of this chapter and cannot again be a small quantity generator until after all dangerous waste on-site at the time he or she became fully regulated have been removed, treated, or disposed.

Example. If a person generates four pounds of an acute hazardous waste discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste.

(Comment: If a generator generates acute hazardous waste in a calendar month in quantities greater than the QELs, all quantities of that acute hazardous waste are subject to full regulation under this chapter. "Full regulation" means the regulations applicable to generators of greater than 2200 pounds of dangerous wastes in a calendar month.)

(b) Small quantity generators will not be subject to the requirements of this chapter if they:

- (i) Designate their waste in accordance with WAC 173-303-070; and
- (ii) Manage their waste in a way that does not pose a potential threat to human health or the environment; and
- (iii) Either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the ((U.S.)) United States, is:
 - (A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage moderate-risk waste under chapter 173-304 WAC (Minimum functional standards for solid waste handling), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;

(E) Permitted, licensed, or registered to manage municipal ((or industrial)) solid waste ((in accordance with state or local regulations, or in accordance with another state's solid waste laws if the waste is sent out of state)) and, if managed in a municipal solid waste landfill is subject to 40 CFR Part 258 or chapter 173-351 WAC;

(F) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 through 257.30;

(G) A publicly owned treatment works (POTW): Provided, That small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a); or

~~((G))~~ (H) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; and

(iv) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060.

(c) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also regulated if it is destined to be burned for energy recovery.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment

permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;

(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 CFR Part 403.5; and

(D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:

(i) Receives and burns only:

(A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and

(B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and

(ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads,

dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Treated wood waste and wood products including:

(i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only), or which fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use.

(ii) Wood treated with other preservatives provided such treated wood is, within one hundred eighty days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through WAC 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.

(h) Irrigation return flows;

(i) ~~((Materials subjected to in-situ mining techniques which are not removed from the ground during extraction))~~

Reserve;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 CFR Part 266;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 CFR Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

(l) Samples:

(i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its char-

acteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(m) Reserve;

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)~~((v+))~~ (vii)~~((;))~~ and (viii)~~((-or-ix))~~. These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in

which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

(r) Treatability study samples.

(i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study evaluation:

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:

(I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(V) Such other information that the department considers necessary.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(F) Additional reports.

(I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(II) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined

that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Constituent Maximum for any single composite sample-TCLP (mg/l)

Generic exclusion levels for K061 and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2)Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic exclusion levels for F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous

waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

~~(cc) ((Recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) at or before a point (other than direct insertion into a coker) where contaminants are removed. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing dangerous waste listed in WAC 173-303-9904 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in WAC 173-303-040.)) (i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided, That the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.~~

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil

recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the Toxicity Characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 - organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.

(ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(gg) Shredded circuit boards being recycled: Provided, That they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically collocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic

or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).

(jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources - Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA Hazardous Waste No. K172). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria.

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, and K172 if these wastes had been generated after the effective date of the listing (February 8, 1999);

(ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate does not exhibit any characteristic or criteria of dangerous waste nor is derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) After February 13, 2001, leachate or gas condensate will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(ll) Dredged material. Dredged material as defined in 40 CFR 232.2 that is subject to:

(i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (ll)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 CFR 336.1, 336.2 and 337.3.

(mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-073 Conditional exclusion of special wastes. (1) Purpose. Special wastes pose a relatively low hazard to human health and the environment. The department believes that special wastes can be safely managed with a level of protection that is intermediate between dangerous and nondangerous solid wastes. This section establishes a conditional exclusion for the management of special wastes.

(2) Exclusion. Special wastes are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050; 173-303-060; 173-303-140 (4)(c); 173-303-145; 173-303-960; and 173-303-510 excluding subsections (4)(a), (4)(b)(iii), (5), (6)(c), and (6)(d). In addition, special waste must be treated as dangerous waste for purposes of pollution prevention planning as required in chapters 173-307 and 173-305 WAC. Special wastes will not be considered as dangerous waste, provided they are managed in accordance with the standards in this subsection and provided they are disposed, legitimately recycled, or treated on-site consistent with the requirements of WAC 173-303-170 (3)(c).

(a) Generators may not accumulate special waste on-site for more than one hundred eighty days from the date the quantity of waste exceeds two thousand two hundred pounds. The generator must keep a written record showing the dates when accumulation of the wastes began;

(b) During accumulation, special waste must be stored in a manner to prevent releases to the environment. This includes, but is not limited to, storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures, etc.;

(c) Facilities that receive special waste for recycling must meet the requirements of (b) of this subsection and store special wastes for no more than one hundred eighty days.

(d) All workers handling special wastes must be informed of the waste's potential hazard, either through worker training, health and safety plans, or notification of workers on a case-by-case basis;

(e) Special wastes must be transported directly from their site of generation to any off-site recycling, treatment, or disposal destination. The wastes must not pass through any intermediate solid waste processing facility, such as a transfer station, unless:

(i) The transfer station operator has made specific provisions for managing special waste by physical segregation, packing, or other means to ensure that workers and the public are not exposed to the waste stream at the transfer station;

(ii) The provisions are reflected in the facilities operating plans;

(iii) The plans have been approved by the transfer station's solid waste permitting authority; and

(iv) The transfer station operator has informed workers of the wastes' potential hazard according to (d) of this subsection;

(f) A document must accompany special waste during transit which identifies the type and amount of special waste, its place of origin, the identity of the generator, and the facility to which it is directed. An example form is provided in WAC 173-303-9906. The generator and the receiving facility

must maintain a record of the facilities receipt of the special waste for at least five years;

(g) Disposal of special waste must be in landfill units which:

(i) Are permitted in accordance with chapter 173-351 WAC, provided that an engineered liner is used to meet the requirements of arid landfill design requirements, WAC 173-351-300 (2)(b), or are permitted under WAC 173-303-800 through 173-303-840 or if out-of-state under 40 CFR Part 258 or Part 270; and

(ii) Are not currently undergoing corrective action under WAC 173-351-440(6), 40 CFR 258.56, or a similar requirement in state regulations approved by the United States EPA pursuant to 42 USC 6945 (c)(1)(B).

(3) Reserve.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-077 Requirements for universal waste. The wastes listed in this section are exempt from regulation under WAC 173-303-140, 173-303-170 through 173-303-9907 (except for WAC 173-303-960), and except as specified in WAC 173-303-573, and therefore are not fully regulated as dangerous waste. The wastes listed in this section are subject to regulation under WAC 173-303-573:

- (1) Batteries as described in WAC 173-303-573(2);
- (and)
- (2) Thermostats as described in WAC 173-303-573(3);
- and
- (3) Lamps as described in WAC 173-303-573(5).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes; and
- (b) Persistent dangerous wastes.

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is adopted by reference.

(3) A person must use data which is available to him, and, when such data is inadequate for the purposes of this section, must refer to the NIOSH RTECS to determine:

(a) Toxicity data or toxic category for each known constituent in the waste;

(b) Whether or not each known constituent of the waste is a halogenated organic compound or a polycyclic aromatic hydrocarbon as defined in WAC 173-303-040.

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5) and (6) of this section. If a person's solid waste meets one or more of these criteria then he or she is a dangerous waste generator (and may not be con-

sidered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of the waste exceeds the following quantity exclusion limits:

(a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month.

(b) For all other wastes designating under this section the quantity exclusion limit is 220 lbs. (100 kg) per month or per batch.

(5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person must determine if a solid waste meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.

(b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:

(i) A person must determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, or by obtaining data from the NIOSH RTECS and checking this data against the toxic category table, below. If data is available for more than one of the toxicity criteria (fish, oral, inhalation, or dermal), then the data indicating severest toxicity must be used, and the most acutely toxic category must be assigned to the constituent. If the NIOSH RTECS or other data sources do not agree on the same category, then the category arrived at using the NIOSH RTECS will be used to determine the toxic category. If toxicity data for a constituent cannot be found in the NIOSH RTECS, or other source reasonably available to a person, then the toxic category need not be determined for that constituent.

TOXIC CATEGORY TABLE

Toxic Category	Fish LC ₅₀ (mg/L)*	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
X	<0.01	<.5	<.02	< 2
A	0.01 - <0.1	.5 - <5	.02 - <.2	2 - <20
B	0.1 - <1	5 - <50	.2 - <2	20 - <200
C	1 - <10	50 - <500	2 - <20	200 - <2000
D	10 - 100	500 - 5000	20 - 200	2000 - 20,000

* The LC₅₀ data must be from an exposure period greater than or equal to twenty-four hours. LC₅₀ data from any species is acceptable, however, if salmonid LC₅₀ data is available it will supersede all other fish data. If salmonid data is unavailable but fathead minnow data is available, it will supersede all other fish species data.

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Toxic Category	Fish LC ₅₀ (mg/L)*	Oral (Rat) LD ₅₀ (mg/kg)	Inhalation (Rat) LC ₅₀ (mg/L)	Dermal (Rabbit) LD ₅₀ (mg/kg)
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Note: "Inhalation LC₅₀" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for four hours or less, kills within fourteen days half of a group of ten rats each weighing between 200 and 300 grams.

(ii) A person whose waste contains one or more toxic constituents must determine the equivalent concentration for the waste from the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\sum X\%}{1} + \frac{\sum A\%}{10} + \frac{\sum B\%}{100} + \frac{\sum C\%}{1000} + \frac{\sum D\%}{10,000}$$

where $\sum(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (A Category) - .01%; Endrin (A Category) - 1%; Benzene (D Category) - 4%; Phenol (C Category) - 2%; Dinoseb (B Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{0\%}{1} + \frac{(0.01\% + 1.0\%)}{10} + \frac{5.0\%}{100} + \frac{2.0\%}{1000} + \frac{4.0\%}{10,000} \\ &= 0\% + 0.101\% + 0.05\% + 0.002\% + 0.0004\% = 0.1534\% \end{aligned}$$

So the equivalent concentration equals 0.1534%.

(iii) A person whose waste contains toxic constituents must determine its designation according to the value of the equivalent concentration:

(A) If the equivalent concentration is less than 0.001%, the waste is not a toxic dangerous waste; or

(B) If the equivalent concentration is equal to or greater than 0.001% and less than 1.0%, the person will designate the waste as DW and assign the dangerous waste number WT02; and

(C) If the equivalent concentration is equal to or less than 0.01%, the DW may also be a special waste; or

(D) If the equivalent concentration is equal to or greater than 1.0%, the person will designate the waste as EHW and assign the dangerous waste number WT01.

Example 1. Continued. The equivalent concentration of 0.1534% (from Example 1. above) is greater than 0.001% and less than 1.0%. The waste is DW and the dangerous waste number WT02 must be assigned. Since 0.1534% is also greater than 0.01%, the waste is not a special waste.

(iv) Reserve.

(c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions of either:

(i) The DW bioassay. To determine if a waste is DW, a person must establish the toxicity category range (D category toxicity or greater toxicity) of a waste by means of the 100 mg/L acute static fish test or the 5000 mg/kg oral rat test, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). If data from the test indicates that the waste is DW, then the person will assign the dangerous waste number WT02. Otherwise, the waste is not

regulated as toxic dangerous waste. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to determine whether the waste is EHW, or in the case of state-only solid dangerous waste, if the person chooses to determine whether the waste is special waste; or

(ii) The EHW and special waste bioassay. To determine if a waste is EHW, a person must establish the toxicity category range of a waste by means of the fish bioassay at 10 mg/L or the rat bioassay at 50 mg/((£)) Kg, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). (NOTE: A fish bioassay at 1 mg/L corresponds with the definition of EHW, which includes toxic categories X-B. However, the fish bioassay is not reproducible at these low levels.) If data from the test indicates that the waste is EHW, then the person will assign the dangerous waste number WT01. Otherwise, the waste will be designated DW, and the person will assign the dangerous waste number WT02. A person with state-only solid waste may choose to test a waste to determine if it is special waste. Testing levels for special waste must be at 10 mg/L for the fish bioassay or 500 mg/((£)) Kg for the oral rat bioassay. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to test the waste in accordance with WAC 173-303-100 (5)(c)(i) to determine if the waste is not regulated as toxic dangerous waste.

(d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3), using either the static acute fish or the acute oral rat method, to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.

(e) A waste designated as DW by toxicity criteria must be assigned the dangerous waste number of WT02. A waste designated as EHW by toxicity criteria must be assigned the dangerous waste number of WT01.

(6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated organic compounds (HOC), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040. Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of persistent constituents by either applying knowledge of the waste or by testing the waste according to WAC 173-303-110 (3)(c) *Chemical Testing Methods for Designating Dangerous Waste*, February 1998.

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.

(b) When a waste contains one or more halogenated organic compounds (HOC) for which the concentrations are known, the total halogenated organic compound concentration must be determined by summing the concentration per-

centages for all of the halogenated organic compounds for which the concentration is known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated organic compound concentration would be:

$$\text{Total HOC Concentration (\%)} = .009\% + .012\% + .020\% = .041\%$$

(c) A person whose waste contains polycyclic aromatic hydrocarbons (PAH) as defined in WAC 173-303-040, must determine the total PAH concentration by summing the concentration percentages of each of the polycyclic aromatic hydrocarbons for which they know the concentration.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo(a)pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

$$\text{Total PAH Concentration (\%)} = .08\% + 1.22\% = 1.30\%$$

(d) A person whose waste contains halogenated organic compounds and/or polycyclic aromatic hydrocarbons must determine its designation from the persistent dangerous waste table or persistent dangerous waste criteria graph WAC 173-303-9907.

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains . . .	At a total concentration level of . . .	Then your waste's designation, and waste # are . . .
Halogenated Organic Compounds (HOC)	0.01% to 1.0% greater than 1.0%	DW, WP02 EHW, WP01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, WP03

*No DW concentration level for PAH.

(7) Reserve.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-110 Sampling and testing methods. (1) Purpose. This section sets forth the testing methods to be used to comply with the requirements of this chapter. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation. All methods and publications listed in this section are incorporated by reference.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

- (i) Crushed or powdered material - ASTM Standard D346-75;
- (ii) Extremely viscous liquid - ASTM Standard D140-70;
- (iii) Fly ash-like material - ASTM Standard D2234-86;

(iv) Soil-like material - ASTM Standard D1452-80 (Reapproved 1990);

(v) Soil or rock-like material - ASTM Standard D420-93;

(vi) Containerized liquid wastes - "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the equivalent representative sampling method known as the plunger type sampler, described in ASTM D 5743-97, section 8.6; and,

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards and the AC & D Liquid Sampler Method which can be obtained by writing to:

ASTM

1916 Race Street
Philadelphia, PA 19103.

AC & D Liquid Sampler Method

AC & D Liquid Samplers

77 Symons Street
Richland, WA 99352

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of Department of Ecology test methods:

Attn: Test Procedures
Hazardous Waste Section
Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

For copies of SW 846, including updates, and 40 CFR Part 261:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
(202) 512-1800

For copies of ASTM methods:

ASTM
1916 Race Street
Philadelphia, PA 19103

For copies of APTI methods:

APTI
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

The document titles and included test procedures are as follows:

(a) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846* (Third Edition (November 1986) as amended by Updates I (dated

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July 1992), II (dated September 1994), IIA (dated August 1993), IIB (dated January 1995), ((and)) III (dated December 1996), and IIIA (dated April 1998)). The Third Edition of SW-846 and its Updates (document number 955-001-00000-1) are available from the Superintendent of Documents, Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 401 M Street, SW, Washington, D.C. 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847;

(b) *Biological Testing Methods*, Department of Ecology Publication #80-12, the latest revision, describing procedures for:

- (i) Static acute fish toxicity test; and
- (ii) Acute oral rat toxicity test;

(c) *Chemical Testing Methods for Designating Dangerous Waste*, Department of Ecology Publication #97-407, February 1998 describing methods for testing:

- (i) Ignitability;
- (ii) Corrosivity;
- (iii) Reactivity;
- (iv) Toxicity characteristic leaching procedure;
- (v) Halogenated organic compounds; and
- (vi) Polycyclic aromatic hydrocarbons.

(d) Reserve;

(e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and
(ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.

(f) 40 CFR Part 261 Appendix III *Chemical Analysis Test Methods*, which refers to appropriate analytical procedures to determine whether a sample contains a given toxic constituent in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication SW-846, and 40 CFR Part 261 Appendix II, which refers to *Method 1311 Toxicity Characteristic Leaching Procedure*.

(g) The following publications for air emission standards.

(i) ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography, ASTM Standard D 1946-82.

(ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D 2382-83.

(iii) ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM Standard E 169-87.

(iv) ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM Standard E 168-88.

(v) ASTM Standard Practice for Packed Column Gas Chromatography, ASTM Standard E 260-85.

(vi) ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, ASTM Standard D 2267-88.

(vii) ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope, ASTM Standard D 2879-86.

(viii) APTI Course 415: Control of Gaseous Emissions, EPA Publication EPA-450/2-81-005, December 1981.

(ix) "API Publication 2517, Third Edition," February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(x) "ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

(h) The following publications:

(i) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210.

(ii) U.S. EPA, "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-450/R-92-019, Environmental Protection Agency, Research Triangle Park, NC.

(iii) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-88, Test Method C-Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(iv) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry. Available from NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(v) ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester, ASTM Standard D-3278-78, available from American Society for Testing and Materials.

(vi) ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester, ASTM Standard D-93-79 or D-93-80.

(vii) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(4) Substantial changes to the testing methods described above will be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-120 Recycled, reclaimed, and recovered wastes. (1) This section describes the requirements for

persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

- (i) Industrial ethyl alcohol that is reclaimed;
- (ii) Reserve;
- (iii) ~~((Used oil that exhibits one or more of the characteristics or criteria of dangerous waste and is recycled in some manner other than:~~

~~(A) Being burned for energy recovery; or~~

~~(B) Being used in a manner constituting disposal))~~

Reserved;

(iv) Scrap metal that is not excluded under WAC 173-303-071 (3)(ff);

(v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing dangerous wastes where such recovered oil is already excluded under WAC 173-303-071 (3)(cc));

(vi) Reserve;

(vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;

(viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under ~~((WAC 173-303-515 (1)(d)))~~ 40 CFR 279.11 (which is incorporated by reference at WAC 173-303-515(4)) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under ~~((WAC 173-303-515 (1)(d)))~~ 40 CFR 279.11 (which is incorporated by reference at WAC 173-303-515(4)); and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under ~~((WAC 173-303-515 (1)(d))~~; and

~~(ix) Petroleum coke produced from petroleum refinery dangerous wastes containing oil by the same person who generated the waste, unless the resulting coke product exhibits~~

~~one or more of the characteristics of dangerous waste in WAC 173-303-090))~~ 40 CFR 279.11 (which is incorporated by reference at WAC 173-303-515(4)).

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or

(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The following recyclable materials are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500 through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840:

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Spent CFC or HCFC refrigerants that are recycled on-site or sent to be reclaimed off-site (see WAC 173-303-506);

(d) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

~~(e) ((Used oil that is burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:~~

~~(i) Exhibits one or more of the characteristics of a dangerous waste; or~~

~~(ii) Is designated as DW solely through WAC 173-303-100; or~~

~~(iii) Is designated solely as W001, (see WAC 173-303-515))~~ Reserved;

(f) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(g) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525);

(h) Spent antifreeze that is recycled on-site or sent to be recycled off-site (see WAC 173-303-522).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling. For the purpose of this section, recyclable materials received from off-site will be considered stored unless they are moved into an active recycling process within twenty-four hours after being received. An active recycling process refers to a dynamic recycling operation that occurs within a recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities. Passive storage-like activities are not eligible for the recycling exemption under this subsection.

The recycling process itself is generally exempt from permitting unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

(i) WAC 173-303-060,

(ii) WAC 173-303-120 (4)(e),

(iii) WAC 173-303-283 through 173-303-290,

(iv) WAC 173-303-310 through 173-303-395,

(v) WAC 173-303-630 (2) through (10), and

(vi) WAC 173-303-640 (2) through (10), except 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section). In lieu of the dates in WAC 173-303-640 (2) and (4), for existing tank systems regulated under this subsection, owners and operators must complete the assessment of the tank system's integrity by June 1, 1992, and must meet the secondary containment requirements of WAC 173-303-640(4) by January 12, 1993;

(vii) The owner or operator must obtain data, by screening-type analysis if necessary, confirming the designation of each waste stream, such that each dangerous waste received can be effectively recycled without jeopardizing human health or the environment. The owner or operator must verify the waste designation periodically, so that it is accurate and current, but at least once every six months or on a batch basis if shipments of a specific waste stream are less frequent. Copies of all analyses and data must be retained for at least five years and made available to the department upon request.

(d) Owners ~~((€))~~ and operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:

(i) For all recyclers, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395,

(B) WAC 173-303-800 through 173-303-840,

(C) WAC 173-303-140 (2)(a),

(D) WAC 173-303-120 (4)(e);

(ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iii) For recyclers with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650, and

(B) WAC 173-303-660.

(e) Owners and operators of facilities subject to dangerous waste permitting requirements with dangerous waste management units that recycle hazardous wastes are subject

to the requirements of WAC 173-303-690 ~~((and))~~, 173-303-691 (Air emission standards for process vents and equipment leaks), and WAC 173-303-692 (Air emission standards for tanks, surface impoundments, and containers) for final status facilities, and 40 CFR Part 265 Subparts AA ~~((and))~~, BB, and CC, incorporated by reference at WAC 173-303-400(3) for interim status facilities.

(5) ~~((Use of the used oil recycling statute, chapter 70.951 RCW. This subsection applies to persons who use or manage used oil as defined under chapter 70.951 RCW and its implementing regulations, as amended. The department requires persons who use or manage used oils to do so in accordance with chapter 70.951 RCW and its implementing regulations, as amended.))~~ Used oil that is recycled and is also a dangerous waste solely because it exhibits a dangerous waste characteristic or criteria is not subject to the requirements of this chapter except for 40 CFR Part 279 which is incorporated by reference at WAC 173-303-515. Used oil that is recycled includes any used oil that is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes, but is not limited to, oil that is re-refined, reclaimed, burned for energy recovery, or reprocessed.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-160 Containers. (1) Waste quantity. Containers and inner liners will not be considered as a part of the waste when measuring or calculating the quantity of a dangerous waste. Only the weight of the residues in non-empty or nonrinsed containers or inner liners will be considered when determining waste quantities.

(2) A container or inner liner is "empty" when:

(a) All wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (e.g., pouring, pumping, aspirating, etc.) and, no more than one inch of waste remains at the bottom of the container or inner liner, or the volume of waste remaining in the container or inner liner is equal to three percent or less of the container's total capacity, or, if the container's total capacity is greater than one hundred ten gallons, the volume of waste remaining in the container or inner liner is no more than 0.3 percent of the container's total capacity. A container which held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure; and

(b) If the container or inner liner held acutely hazardous waste, as defined in WAC 173-303-040, toxic EHW as defined in WAC 173-303-100 or pesticides bearing the danger or warning label, the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing must be ten percent or more of the container's or inner liner's capacity or of sufficient quantity to thoroughly decontaminate the container. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids ~~((e.g.))~~ for example, fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times ~~((e.g.))~~ for

example, on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department. A container or inner liner is also considered "empty" if the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal.

Any rinsate or vacuumed residue (~~(which)~~ that results from the cleaning of containers or inner liners must, whenever possible, be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner. In the case of a farmer, if the rinsate is a pesticide residue then the rinsate must be managed or reused in a manner consistent with the application instructions on the pesticide label (~~(, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property)~~). On-site disposal or burial of pesticide residues is prohibited. Otherwise, the rinsate must be checked against the designation requirements (WAC 173-303-070 through 173-303-100) and, if designated, managed according to the requirements of this chapter.

(c) In the case of a container, the inner liner, that prevented the container from contact with the commercial chemical product or manufacturing chemical, has been removed.

(3)(a) Any residues remaining in containers or inner liners that are "empty" as described in subsection (2) of this section will not be subject to the requirements of this chapter, and will not be considered as accumulated wastes for the purposes of calculating waste quantities.

(b) Any dangerous waste in either: A container that is not empty, or an inner liner removed from a container that is not empty (as defined in subsection (2) of this section) is subject to the requirements of this chapter.

(4) A person who cannot meet the provisions in (2)(b) of this section may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910(1).

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person is a dangerous waste generator if their solid waste is designated by the requirements of WAC 173-303-070 through 173-303-100.

(a) The generator is responsible for designating their waste as DW or EHW.

(b) The generator may request an exemption for their dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and must comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Any generator who stores, treats, or disposes of dangerous waste on-site must perform their operations in accor-

dance with the TSD facility requirements with the following exceptions:

(a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;

(b) Generators who treat dangerous waste on-site in accumulation tanks, containers, and containment buildings provided that the generator maintains a log showing the date and amount of waste treated and complies with:

(i) The applicable requirements of WAC 173-303-200, 173-303-201, and 173-303-202; and

(ii) WAC 173-303-283(3);

(c) Generators who treat special waste on-site provided:

(i) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;

(ii) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

(A) A release of waste and waste constituents to the environment;

(B) Endangerment of health of employees or the public;

(C) Excessive noise;

(D) Negative aesthetic impact on the use of adjacent property.

(iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(4) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(5) Persons responding to an explosives or munitions emergency in accordance with WAC 173-303-400 (2)(c)(xii)(A)(IV) or 173-303-600 (3)(p)(i)(D), (3)(p)(iv), or (3)(p)(xii)(D), and WAC 173-303-800 (7)(c)(iv) or (7)(e) are not required to comply with the standards of WAC 173-303-170 through 173-303-230.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-180 Manifest. Before transporting dangerous waste or offering dangerous waste for transport off the site of generation, the generator must prepare a manifest and must follow all applicable procedures described in this section.

(1) This subsection describes the form and contents of dangerous waste manifests. 40 CFR Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is adopted by reference. The manifest must be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 CFR Part 262, and in addition must contain the following information in the specified shaded items of the uniform manifest:

(a) Item D - The first transporter's telephone number must be provided in this space;

(b) Item F - If a second transporter is used, then the second transporter's telephone number must be provided in this space;

(c) Item H - The designated receiving facility's telephone number must be provided in this space;

(d) Item I, and R if the continuation sheet 8700-22A is used - The dangerous waste number (e.g., F001, D006, WT02) must be provided in this space for each corresponding waste entered and described under Item 11, and 28 if the continuation sheet 8700-22A is used. (Note: The waste code does not have to be entered in this block if it already appears in the corresponding U.S. DOT Description block.) As discussed in subsection (5) of this section, dangerous waste numbers WL01 or WL02 may be used in this space for labpacks;

(e) Item O, (on the continuation sheet 8700-22A) - If a third transporter is used, then the third transporter's telephone number must be provided in this space; and

(f) Item Q, (on the continuation sheet 8700-22A) - If a fourth transporter is used, then the fourth transporter's telephone number must be provided in this space.

(2) The manifest must consist of enough copies to provide the generator, transporter(s), and facility owner/operator with a copy, and a copy for return to the generator.

(3) Manifest procedures.

(a) The generator must:

(i) Sign and date the manifest certification by hand;

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator must give the remaining manifest copies to the transporter.

(c) If the transporter is unable to deliver the dangerous waste shipment to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste shipment.

(d) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(e) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

(i) The next nonrail transporter, if any; or

(ii) The designated facility if transported solely by rail; or

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(f) For shipments of federally regulated hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the genera-

tor, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford must notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator must not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

(5) Special instructions for shipment of labpacks. For purposes of completing the uniform dangerous waste manifest, dangerous waste numbers WL01 (for labpacks containing wastes designated as EHW) or WL02 (for labpacks containing wastes designated only as DW) may be used to complete Items I and R in lieu of the dangerous waste numbers that would otherwise be assigned to the contents of the labpack.

(6) The requirements of this section and WAC 173-303-190(2) do not apply to the transport of dangerous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way: Provided, That ecology has approved an alternative paper tracking system that serves the purpose of a manifest. Notwithstanding WAC 173-303-240(2), the generator or transporter must comply with the requirements for transporters set forth in WAC 173-303-270 and 173-303-145 in the event of a discharge of dangerous waste on a public or private right-of-way.

(7) Special instructions for state-only dangerous waste that designates only by the criteria under WAC 173-303-100 and is not regulated as a hazardous waste under 40 CFR Part 261 or as a hazardous material under the 49 CFR hazardous material regulations. For purposes of completing the uniform hazardous waste manifest, Item 11, and Item 28 if continuation sheet 8700-22A is used, or to describe a state-only dangerous waste on a shipping paper, the shipping description must include the following in sequence with no additional information interspersed:

(a) Material Not Regulated by DOT;

(b) Washington State Dangerous Waste Only followed by the appropriate criteria designation of the waste that is either toxic, persistent, solid corrosive or a combination of these entered in parentheses;

(c) Shipping description examples: Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic, Persistent); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Solid Corrosive).

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-190 Preparing dangerous waste for transport. The generator must fulfill the following requirements before transporting off-site or offering for off-site transport any dangerous waste.

(1) Packaging. The generator must package all dangerous waste for transport in accordance with United States DOT regulations on packaging, 49 CFR Parts 173, 178, and 179.

(2) Labeling. The generator must label each package in accordance with United States DOT regulations, 49 CFR Part 172.

(3) Marking. The generator must:

(a) Mark each package of dangerous waste in accordance with United States DOT regulations, 49 CFR Part 172; and

(b) Mark each package containing one hundred ten gallons or less of dangerous waste with the following, or equivalent words and information, displayed in accordance with 49 CFR 172.304:

HAZARDOUS WASTE - State and federal law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington state department of ecology or the United States Environmental Protection Agency.

Generator's Name and Address

.....
.....
.....

Manifest Document Number

.....

(4) Placarding. The generator will placard, or offer to the initial transporter all appropriate placards in accordance with United States DOT regulations, 49 CFR Part 172, Subpart F.

(5) State-only dangerous waste that is not regulated as a hazardous waste under 40 CFR Part 261 or as a hazardous material under 49 CFR must fulfill the following requirements before transport:

(a) Package in a nonleaking, nonsievable container or in a package that is equivalent to the manufacturing and testing specifications for packagings and containers of 49 CFR Parts 173, 178 and 179.

(b) Mark each package containing one hundred ten gallons or less with the following:

(i) Washington State Dangerous Waste-State law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington State Department of Ecology. The generator's name and address and manifest number must also be included; and

(ii) The state shipping description as described in WAC 173-303-180(7).

(c) Use of any other markings for a state-only dangerous waste is prohibited.

(6) State-only dangerous waste that is also regulated as a hazardous material under 49 CFR must be packaged, labeled

and marked in accordance with WAC 173-303-190 (1), (2), (3) and (5)(b)(i).

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;

(b)(i) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), ~~((and))~~ (10), and (11). For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7); and/or

(ii) The waste is placed in tanks and the generator complies with WAC 173-303-640 (2) through ~~((+0))~~ (11), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5); and/or

(iii) The waste is placed on drip pads and the generator complies with WAC 173-303-675 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with 40 CFR Part 265 Subpart DD, which is incorporated by reference, and the generator has placed its

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professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610(2).

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more; and

(e) The generator complies with the requirements for facility operators contained in:

(i) WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies) except for WAC 173-303-355 (SARA Title III coordination); and

(ii) WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection); and

(f) The generator complies with 40 CFR 268.7(a)((4) ~~(waste analysis plan when treating waste to meet treatment standards for land disposal restrictions))~~ (5).

(2) Satellite accumulation.

(a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste per waste stream in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Satellite accumulation is allowed without a permit provided the generator:

- (i) Complies with WAC 173-303-630 (2), (4), (5) (a) and (b), (8)(a), and (9) (a) and (b); and
- (ii) Complies with subsection (1)(d) of this section.

(b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste is accumulated per waste stream, the container(s) must be marked immediately with the accumulation date and moved within three days to a designated storage or accumulation area.

(c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

(3) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the ~~((quantity exclusion))~~ accumulation limit for such waste (or wastes); or

(c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste, per waste stream, is accumulated in a satellite accumulation area.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-201 Special accumulation standards.

(1) This section applies to persons who generate more than 220 pounds but less than 2200 pounds per calendar month and do not accumulate on-site more than 2200 pounds of dangerous waste. The special provisions of this section do not apply to acutely hazardous wastes or Toxic EHW (WT01) that exceed the QEL that are being generated or accumulated by the generator.

(2) For purposes of accumulating dangerous waste on-site, persons who generate no more than 2200 pounds per month ~~((and))~~ or who accumulate on-site ~~((less))~~ no more than 2200 pounds ~~((+1000 kg per month))~~ of dangerous waste at any one time are subject to all applicable provisions of WAC 173-303-200 except as follows:

(a) In lieu of the ninety-day accumulation period, dangerous wastes may be accumulated for one hundred eighty days or less. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport his waste, or offer his waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal, and the dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The generator need not comply with WAC 173-303-330 (Personnel training);

(c) In lieu of the contingency plan and emergency procedures required by WAC 173-303-350 and 173-303-360, the generator must comply with the following:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (c)(iv) of this subsection. This employee is the emergency coordinator.

(ii) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.):

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practicable, clean up the dangerous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached waters of the state, the generator must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four hour toll free number 800/424-8802). The report must include the following information:

(I) The name, address, and EPA/state identification number of the generator;

(II) Date, time, and type of incident (e.g., spill or fire);

(III) Quantity and type of hazardous waste involved in the incident;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if any;

(d) For waste that is placed in tanks, generators must comply with WAC 173-303-202 in lieu of WAC 173-303-200 (1)(b);

(e) The generator must comply with WAC 173-303-630 (1), (2), (4), (5), (6), and (9). The generator does not need to comply with 40 CFR Part 265.176 and 178.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-240 Requirements for transporters of dangerous waste. (1) Applicability. This section establishes standards that apply to persons transporting dangerous waste and transporters who own or lease and operate a transfer facility.

(2) A transporter must have a current EPA/state ID#. Transporters must comply with the notification and identification requirements of WAC 173-303-060(, Notification and identification numbers. Transporters who are involved in interstate transport must use the identification number assigned to their national headquarters office, unless the department requires, on a case-by-case basis, that a trans-

porter obtain his own unique EPA/state ID#. Transporters who are involved only in intrastate transport must use the identification number assigned to their headquarters office located within the state)). A transporter who has previously obtained an EPA/state ID# in another state is not required to obtain a new ID# when operating in Washington state. Transporters who must comply with the generator requirements as a result of a spill at a ((terminal)) transfer facility or during transport must obtain a separate generator EPA/state ID# for ((such)) the spill ((or terminal)).

((2)) (3) Any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when ((such)) the dangerous waste ((is required to)) must be manifested ((by)) in accordance with WAC 173-303-180.

((3)) (4) Any person who transports a dangerous waste must also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

((4)) (5) These requirements do not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners((/)) or operators of permitted TSD facilities.

((5) ~~Transporters may store at a transfer facility manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), and (3) for ten days or less. Transporters may not accumulate or store manifested shipments of dangerous waste for more than ten days. Reference to WAC 173-303-200 in 173-303-240(3) does not constitute authority for storage in excess of ten days for transporters. Transporters who do not comply with these conditions are subject to all applicable TSD facility requirements-)~~ (6) Transfer facility. The requirements of this subsection apply to a transporter or marine terminal operator who owns or leases and operates a transfer facility. Transfer of a shipment of dangerous waste from one transport vehicle to another transport vehicle, from one container to another container, and from one transporter to another transporter and any ten-day storage activities may only occur at a transfer facility that is registered with the department. A transporter may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), (3), and (5) for ten days or less at a transfer facility: Provided, That he or she complies with the following:

(a) A transporter who owns or leases and operates a transfer facility within Washington that is related to their dangerous waste transportation activities must register with the department. Washington registration is not required for a transporter whose activities are limited to passing through Washington with shipments of dangerous waste or picking up shipments from Washington generators or delivering shipments to designated treatment, storage or disposal facilities. In order to obtain registration, a transporter must complete a Notification of Dangerous Waste Activities Form 2 per Form 2 instructions and submit it to the department;

(b) Maintains ten-day storage records that include the dates that a manifested shipment of dangerous waste entered the facility and departed the facility. The ten-day records must be retained for a period of three years from the date the shipment was transported from the transfer facility;

(c) WAC 173-303-310 (1) and (2), Security. Instead of WAC 173-303-310(2) for an enclosed or an open flatbed transport vehicle parked at a transfer facility that has no twenty-four-hour surveillance system or natural or artificial barrier, the transport vehicle must meet the placarding requirements of 49 CFR Part 172 and be secured (that is, locked) or the shipment must be transferred to a secured area of the facility to prevent unknowing entry and minimize unauthorized entry;

(d) WAC 173-303-320, General inspection. Instead of keeping inspection records for a period of five years from the date of inspection in WAC 173-303-320 (2)(d), inspection records must be kept at the transfer facility for one year from the date of inspection;

(e) WAC 173-303-330, Personnel training;

(f) WAC 173-303-340, Preparedness and prevention except WAC 173-303-340(3), Aisle space;

(g) WAC 173-303-350, Contingency plan and emergency procedures;

(h) WAC 173-303-360, Emergencies;

(i) WAC 173-303-630 (2), (3), (4), (5)(a) and (b), (8), (9)(a) and (b) and (10), Use and management of containers;

(j) WAC 173-303-630(7) in areas where waste is transferred from container to container and in areas where containers are stored outside in the weather. The secondary containment system must be completed by October 15, 2001. The department may, on a case-by-case basis, grant an extension to the required completion date if the transporter has a design and has entered into binding financial or other agreements for construction prior to October 15, 2001;

(k) The requirements of WAC 173-303-630(7) may be required in areas other than those described in WAC 173-303-240 (6)(j) if the department determines that there is a potential threat to public health and the environment due to the nature of the wastes being stored or due to a history of spills or releases from waste stored in containers.

(7) Transporter exemptions. A transporter will not be required to comply with the following:

(a) The requirements of WAC 173-303-240(6) in the event of an emergency or other unforeseen event beyond the reasonable control of the transporter during transit over public highway, rail track or water route and the waste shipment is loaded, reloaded or transferred to another transport vehicle or container to facilitate transportation;

(b) The requirements of WAC 173-303-240 (6)(i) and (j) for dangerous waste that is stored in a secured, enclosed transport vehicle, intermodal container or portable tank during the time it is parked at a transfer facility;

(c) The requirements of WAC 173-303-240 (6)(i) and (j) for a transfer facility that is located at a pier, dock or barge unloading facility and associated with the loading and unloading of water vessels: Provided, That the dangerous waste shipment is stored within a transport unit, as defined under 49 CFR Part 176, and accepted by the approval authority of the United States Coast Guard;

(d) The requirements of WAC 173-303-240 (6)(j) for dangerous waste that is stored within a building: Provided, That the floor is compatible with and sufficiently impervious to the waste stored and is designed and operated so that any release or spill will be captured within the building and will prevent any waste from migrating to the soil, ground water or surface water.

(8) A transporter who accumulates or stores manifested shipments of dangerous waste for more than ten days at a transfer facility is subject to the dangerous waste management facility general requirements and permit requirements of this chapter with respect to the storage of those wastes.

(9) Reference to WAC 173-303-200 in WAC 173-303-240(4) does not constitute authority for storage in excess of ten days for a transporter who owns or leases and operates a transfer facility.

(10) The regulations in WAC 173-303-250 through 173-303-260 do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with WAC 173-303-400 (2)(c)(xiii)(A)(IV) or (xiii)(D) or WAC 173-303-600 (3)(p)(i)(D) or (3)(p)(iv), and WAC 173-303-800 (7)(c)(i)(C) or (D).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-280 General requirements for dangerous waste management facilities. (1) **Applicability.** The requirements of WAC 173-303-280 through 173-303-395 apply to all owners and operators of facilities which store, treat, or dispose of dangerous wastes and which must be permitted under the requirements of this chapter 173-303 WAC, unless otherwise specified in this chapter. Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements for generators, WAC 173-303-170 through 173-303-230.

(2) **Imminent hazard.** Notwithstanding any provisions of this chapter, enforcement actions may be brought in the event that the management practices of a facility present an imminent and substantial hazard to the public health and the environment, regardless of the quantity or concentration of a dangerous waste.

(3) **Identification numbers.** Every facility owner or operator must apply for an EPA/state identification number from the department in accordance with WAC 173-303-060.

(4) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(5) Salt dome formations, salt bed formations, underground mines and caves. The placement of any noncontainerized or bulk liquid dangerous waste in any salt dome formation, salt bed formation, underground mine or cave is prohibited.

(6) The requirements of WAC 173-303-290 through 173-303-360 and WAC 173-303-395 do not apply to cleanup-only facilities. Instead, owners/operators of cleanup-only facilities must comply with the following requirements.

(a) Obtain an EPA/state identification number in accordance with WAC 173-303-060(2).

(b) Obtain a detailed chemical and physical analysis of a representative sample of the dangerous remediation waste to be treated, stored or disposed at the site. At a minimum, this analysis must contain all information that must be known to treat, store or dispose of the dangerous remediation waste according to WAC 173-303-140 (2)(a), 173-303-280 through 173-303-395 and WAC 173-303-600 through 173-303-695 and must be kept accurate and up to date.

(c) Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the director that:

(i) Physical contact with the dangerous remediation waste, structures or equipment within the active portion of the remediation waste management site will not injure people or livestock who may enter the active portion of the remediation waste management site; and

(ii) Disturbance of the dangerous remediation waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of WAC 173-303-280 through 173-303-395 or WAC 173-303-600 through 173-303-695.

(d) Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may lead to a release of dangerous constituents to the environment or a threat to human health. Inspections must be conducted often enough to identify problems in time to correct them before they harm human health or the environment. Problems must be remedied before they lead to a human health or environmental threat. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(e) Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of WAC 173-303-280 through 173-303-395 and WAC 173-303-600 through 173-303-695 and on how to effectively respond to emergencies.

(f) Take precautions to prevent accidental ignition or reaction of ignitable or reactive dangerous remediation waste and prevent threats to human health and the environment from ignitable, reactive and incompatible dangerous remediation waste.

(g) Develop and maintain a construction quality assurance program for all surface impoundments, waste piles and landfill units that are required to comply with WAC 173-303-650 (2)(j) and (k), 173-303-660 (2)(j) and (k) or 173-303-655 (2)(h), (i) and (j). The construction quality assurance must meet the requirements of WAC 173-303-335.

(h) Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. The procedures must address proper design, construction, maintenance and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from, a fire, explosion or any other unplanned sudden or nonsudden

release of dangerous remediation waste or dangerous constituents to the air, soil or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store or dispose of the remediation waste in question and must be implemented immediately whenever a fire, explosion or release of dangerous remediation waste or dangerous constituents occurs and could threaten human health or the environment.

(i) Designate at least one employee, either on the remediation waste management site premises or on call (that is, available to respond to an emergency by reaching the remediation waste management site quickly), to coordinate all emergency response measures. The emergency coordinator must be thoroughly familiar with all aspects of the remediation waste management site contingency plan, all operations and activities at the site, the location and characteristics of dangerous remediation waste handled, the location of all records within the site, and the site layout. The emergency coordinator must have authority to commit the resources needed to carry out the contingency plan.

(j) Develop, maintain and implement a plan to meet the requirements of this subsection.

(k) Maintain records documenting compliance with this subsection.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-281 Notice of intent. (1) Purpose. The purpose of this section is to provide notification to the department, local communities and the public that the siting of a dangerous waste management facility is being considered. Also, to provide general information about the proposed facility owner/operator, the type of facility and the types of wastes to be managed and compliance with the siting criteria.

(2) Applicability. This section applies to owners/operators of proposed facilities. This section also applies to existing facilities ~~((for which the department receives an application for))~~ applying for a significant expansion, as defined in WAC 173-303-282(3). This section does not apply to owners/operators of facilities or portions of facilities who are applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to owners/operators of facilities operating under an emergency permit pursuant to WAC 173-303-804 or to persons at facilities conducting on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, Sections 3004(u), 3004(v), and 3008(h) of the Resource Conservation and Recovery Act, chapter 70.105 RCW, or chapter 70.105D RCW, provided the cleanup activities are being conducted under a consent decree, agreed order, or enforcement order, or is being conducted by the department or United States Environmental Protection Agency. As used in this section:

(a) "Proposed facility" means a facility which has not qualified for interim status under WAC 173-303-805 or for which the department has not issued a final facility permit under WAC 173-303-806 prior to the effective date of this section;

(b) "Existing facility" means a facility which has qualified for interim status under WAC 173-303-805 or for which the department has issued a final facility permit under WAC 173-303-806 prior to the effective date of this section; and

(c) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit application or final status permit, the addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility.

(3) Notice of intent to file for an interim status or a dangerous waste permit.

(a) The notice of intent to be prepared by the owners/operators of the applicable facilities must consist of:

(i) The name, address, and telephone number of the owner, operator, and corporate officers;

(ii) The location of the proposed facility or expansion on a topographic map with specifications as detailed in WAC 173-303-806 (4)(a)(xviii);

(iii) A brief description of the types and amounts of wastes to be managed annually;

(iv) A brief description of the major equipment items proposed, if any, and the waste management activities requiring a permit or revision of an existing permit;

(v) Demonstration of compliance with the siting criteria as required under WAC 173-303-282 (6) and (7). The site conditions with regards to satisfying the criteria are to be assessed as of the date of submittal of the notice of intent to the department;

(vi) For informational purposes a complete summary of compliance violations of permit conditions at hazardous waste management facilities owned or operated by the applicant, its subsidiaries or its parent company, during the ten calendar years preceding the permit application. Along with the summary of compliance violations, as issued by appropriate state or federal regulatory agencies, the applicant must also submit responses to past violations and any written correspondence with regulatory agencies regarding the compliance status of any hazardous waste management facility owned or operated by the applicant, its subsidiaries or parent company of the owner or operator. A more detailed compliance record must be provided upon request by the department;

(vii) For informational purposes the need for the proposed facility or expansion must be demonstrated by one of the following methods:

(A) Current overall capacity within Washington is inadequate for dangerous wastes generated in Washington as determined by regional or state dangerous waste management plans; or

(B) The facility is a higher priority management method, as described in RCW 70.105.150, than is currently in place or practical and available for the types of waste proposed to be managed; or

(C) The facility will add to the types of technology available or will reduce cost impacts (not to include transportation costs) to Washington generators for disposal of dangerous wastes; and

(ix) For informational purposes it must be shown how the capacity of the proposed facility or expansion will affect

the overall capacity within the state, in conjunction with existing facilities in Washington.

(b) The notice of intent must be filed with the department, and copies must be made available for public review, no less than one hundred fifty days prior to filing an application for a permit or permit revision. (~~Public notification of the notice of intent to file shall be given at the time of filing by announcement in a daily newspaper within the area of the proposed facility or expansion for a minimum of fourteen consecutive days. In addition,~~) The department will send a copy of the notice of intent to the elected officials of the lead local government and all local governments within the potentially affected area as required by WAC 173-303-902 (5)(b)(i). The department will continue to coordinate with interested local governments throughout the review of the proposal.

(c) Reserved.

(4) Preapplication public meeting and notice.

(a) Applicability. The requirements of subsections (4), (5), and (6) of this section apply to all final facility (part B) applications seeking initial permits for dangerous waste management units over which the department has permit issuance authority. These requirements also apply to final facility part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of these subsections, a "significant change" is any change that would qualify as a class 3 permit modification under WAC 173-303-840(4). For the purposes of these subsections only, "dangerous waste management units over which the department has permit issuance authority" refers to dangerous waste management units for which the department has been authorized to issue dangerous waste permits. The requirements of these subsections do not apply to permit modifications under WAC 173-303-840(4) or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

The applicant's meeting date must be coordinated with and approved by ecology. If timing allows, both the applicant and ecology's meetings may be held on the same day.

(b) Prior to the submission of a part B final facility permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed dangerous waste management activities. The applicant must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant must submit a summary of the meeting, along with the list of attendees and their addresses developed under (b) of this subsection, and copies of any written comments or materials submitted at the meeting, to the department as a part of the part B application, in accordance with WAC 173-303-806 (4)(a).

(d) The applicant must provide public notice of the pre-application meeting at least thirty days prior to the meeting. The applicant must maintain, and provide to the department upon request, documentation of the notice.

(i) The applicant must provide public notice in all of the following forms:

(A) A newspaper advertisement. The applicant must publish a notice, fulfilling the requirements in (d)(ii) of this subsection, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the department will instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties, where the department determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

(B) A visible and accessible sign. The applicant must post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in (d)(ii) of this subsection. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

(C) A broadcast media announcement. The applicant must broadcast a notice, fulfilling the requirements in (d)(ii) of this subsection, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the department.

(D) A notice to the department. The applicant must send a copy of the newspaper notice to the department and to the appropriate units of state and local government, in accordance with WAC 173-303-840 (3)(e)(i)(E).

(ii) The notices required under (d)(i) of this subsection must include:

(A) The date, time, and location of the meeting;

(B) A brief description of the purpose of the meeting;

(C) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

(D) A statement encouraging people to contact the facility at least seventy-two hours before the meeting if they need special access to participate in the meeting; and

(E) The name, address, and telephone number of a contact person for the applicant.

(5) Public notice requirements at the application stage.

(a) Applicability. The requirements of this section apply to all final facility part B applications seeking initial permits for dangerous waste management units over which the department has permit issuance authority. The requirements of this section also apply to final facility part B applications seeking renewal of permits for such units under WAC 173-303-806 (7)(a). For the purposes of this section only, "dangerous waste management units over which the department has permit issuance authority" refers to dangerous waste management units for which the department has been authorized to issue final facility permits. The requirements of this section do not apply to permit modifications under WAC 173-303-830(4) or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Notification at application submittal.

(i) The department will provide public notice as set forth in WAC 173-303-840 (3)(e)(i)(D), and notice to appropriate units of state and local government as set forth in WAC 173-

303-840 (3)(e)(i)(E), that a part B permit application has been submitted to the department and is available for review.

(ii) The notice will be published within a reasonable period of time after the application is received by the department. The notice must include:

(A) The name and telephone number of the applicant's contact person;

(B) The name and telephone number of the department's contact, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

(C) An address to which people can write in order to be put on the facility mailing list;

(D) The location where copies of the permit application and any supporting documents can be viewed and copied;

(E) A brief description of the facility and proposed operations, including the address or a map (for example, a sketched or copied street map) of the facility location on the front page of the notice; and

(F) The date that the application was submitted.

(iii) Concurrent with the notice required under (b) of this subsection, the department will place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the department's office.

(6) Information repository.

(a) Applicability. The requirements of this section apply to all applications seeking final facility permits for dangerous waste management units over which the department has permit issuance authority. For the purposes of this section only, "dangerous waste management units over which the department has permit issuance authority" refers to dangerous waste management units for which the department has been authorized to issue dangerous waste permits.

(b) The department may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the department will consider a variety of factors, including: The level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the department determines, at any time after submittal of a permit application, that there is a need for a repository, then the department will notify the facility that it must establish and maintain an information repository. (See WAC 173-303-810(16) for similar provisions relating to the information repository during the life of a permit.)

(c) The information repository must contain all documents, reports, data, and information deemed necessary by the department to fulfill the purposes for which the repository is established. The department will have the discretion to limit the contents of the repository.

(d) The information repository must be located and maintained at a site chosen by the facility. If the department finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the department will specify a more appropriate site.

(e) The department will specify requirements for informing the public about the information repository. At a minimum, the department will require the facility to provide a

written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner/operator will be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the department. The department may close the repository at its discretion, based on the factors in (b) of this subsection.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-300 General waste analysis. (1) Purpose. This section requires the facility owner or operator to confirm his knowledge about a dangerous waste before he stores, treats, or disposes of it. The purpose for the analysis is to insure that a dangerous waste is managed properly.

(2) The owner or operator must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis may include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, if necessary.

(3) The owner or operator of an off-site facility must confirm, by analysis if necessary, that each dangerous waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.

(4) Analysis must be repeated as necessary to ensure that it is accurate and current. At a minimum, analysis must be repeated:

(a) When the owner or operator has been notified, or has reason to believe, that the process or operation generating the dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), has significantly changed; and

(b) When a dangerous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.

(5) Waste analysis plan. The owner or operator must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section. He must keep this plan at the facility, and the plan must contain at least:

(a) The parameters for which each dangerous waste, or nondangerous waste if applicable under WAC 173-303-610 (4)(d), will be analyzed, and the rationale for selecting these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsections (1) through (4) of this section);

(b) The methods of obtaining or testing for these parameters;

(c) The methods for obtaining representative samples of wastes for analysis (representative sampling methods are discussed in WAC 173-303-110(2));

(d) The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;

(e) The waste analyses which generators have agreed to supply;

(f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods as specified in WAC 173-303-400(3) which incorporates by reference the regulations in 40 CFR Part 265 Subparts F through R 265.1034, 265.1063(d), 265.1084, 268.4(a) and 268.7 for interim status facilities and in WAC 173-303-140 (4)(b), 173-303-395(1), 173-303-630 through 173-303-670, and 40 CFR 264.1034, 264.1063(d), 264.1083, 268.4(a) and 268.7 for final status facilities;

(g) For off-site facilities, the waste analysis that dangerous waste generators have agreed to supply;

(h) For surface impoundments exempted from land disposal restrictions under 40 CFR 268.4(a), incorporated by reference in WAC 173-303-140(2), the procedures and schedules for:

(i) The sampling of impoundment contents;

(ii) The analysis of test data; and

(iii) The annual removal of residues that are not delisted under 40 CFR 260.22 or which exhibit a characteristic of hazardous waste and either:

(A) Do not meet applicable treatment standards of 40 CFR Part 268, Subpart D; or

(B) Where no treatment standards have been established;

(I) Such residues are prohibited from land disposal under 40 CFR 268.32 or RCRA section 3004(d); or

(II) Such residues are prohibited from land disposal under 40 CFR 268.33(f).

(i) For owners and operators seeking an exemption to the air emission standards of subpart CC in accordance with Sec. 264.1082, incorporated by reference at WAC 173-303-692, or with 265.1083, incorporated by reference at WAC 173-303-400 (3)(a):

(A) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the results of the analysis of test data to verify the exemption.

(B) If knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator or by the generator of the hazardous waste, if the waste is received from off-site, that is used as the basis for knowledge of the waste.

(6) For off-site facilities, the waste analysis plan required in subsection (5) of this section must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

(a) The procedures which will be used to determine the identity of each movement of waste managed at the facility;

(b) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling; and

(c) The procedures that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.

Comment: WAC 173-303-806 requires that the waste analysis plan be submitted with Part B of the permit application.

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

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-320 General inspection. (1) The owner or operator must inspect his facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

- (a) He must keep the schedule at the facility;
- (b) The schedule must identify the types of problems which are to be looked for during inspections;

(c) The schedule must indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills must be inspected daily when in use. At a minimum the inspection schedule must also include the applicable items and frequencies required for the specific waste management methods described in 40 CFR Part 265 Subparts F through R, 265.1033, 265.1052, 265.1053, ~~((and))~~ 265.1058 and 265.1084 through 265.1090, for interim status facilities and in WAC 173-303-630 through 173-303-680, and 40 CFR 264.1033, 264.1052, 264.1053, ~~((and))~~ 264.1058 and 264.1083 through 264.1089 for final status facilities; and

(d) The owner or operator must keep an inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.

(3) The owner or operator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-360 Emergencies. (1) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility within a

short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by WAC 173-303-350(2), all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(2) Emergency procedures. The following procedures must be implemented in the event of an emergency.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials.

(c) Concurrently, the emergency coordinator must assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment, he must report his findings as follows:

(i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) He must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24-hour toll free number (800) 424-8802).

(e) His assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

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(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The owner or operator must notify the department, and appropriate local authorities, that the facility is in compliance with (i) of this subsection before operations are resumed in the affected area(s) of the facility.

(k) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, he must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable;

(vii) Estimated quantity and disposition of recovered material that resulted from the incident;

(viii) Cause of incident; and

(ix) Description of corrective action taken to prevent reoccurrence of the incident.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-370 Manifest system. (1) Applicability. The requirements of this section apply to owners and operators who receive dangerous waste from off-site sources.

(2) If a facility receives dangerous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the dangerous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest, as described in subsection (4) of this section, on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within thirty days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identifica-

tion numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (4) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or shipping paper to the generator. However, if the manifest is not received within thirty days after the delivery, the owner or operator, or his agent, must send a copy of the signed and dated shipping paper to the generator; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(4) Manifest discrepancies.

(a) Manifest discrepancies are significant discrepancies between the quantity or type of dangerous waste designated on the manifest or shipping paper and the quantity or type of dangerous waste a facility actually receives. Significant discrepancies in quantity are variations greater than ten percent in weight for bulk quantities (e.g., tanker trucks, railroad tank cars, etc.), or any variations in piece count for nonbulk quantities (i.e., any missing container or package would be a significant discrepancy). Significant discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid).

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator ((~~or~~) and transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(5) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by his facility.

(a) The following are acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in subsection (4) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such

an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator must take those actions described in the contingency plan, WAC 173-303-350 (3)(b).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility must keep a written operating record at their facility. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses, waste determinations (as required by Subpart CC), and trial tests required by WAC 173-303-300, General waste analysis, and by 40 CFR sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);

(f) Monitoring, testing, or analytical data, and corrective action where required by 40 CFR Part 265 Subparts F through R and sections 265.1034(c) through (f), 265.1035, 265.1063 (d) through (i), ~~((and))~~ 265.1064, and 265.1083 through 265.1090 for interim status facilities, and by WAC 173-303-630 through 173-303-695 and 40 CFR sections 264.1034(c) through (f), 264.1035, 264.1063 (d) through (i), ~~((and))~~ 264.1064, and 264.1082 through 264.1090 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility;

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;

(i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 CFR 268.5, a petition pursuant to 40 CFR 268.6, or a certification under 268.8, and the applicable notice required by a generator under 40 CFR 268.7(a);

(j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8;

(k) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8;

(l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under 40 CFR 268.7 and 268.8, whichever is applicable;

(m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 CFR 268.7, except for the manifest number, and the certification and demonstration if applicable, required under 40 CFR 268.8, whichever is applicable;

(n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8; and

(o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8.

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility, as follows:

(a) Each dangerous waste received, treated, stored, or disposed of at the facility must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Each listed, characteristic, and criteria waste has its own four-digit dangerous waste number. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed, the waste description must include the process which generated the waste;

(b) The waste description must include the waste's physical form (i.e., liquid, solid, sludge, or contained gas);

(c) The estimated or manifest-reported weight, or volume and density, where applicable, of the dangerous waste must be recorded, using one of the units of measure specified in Table 1, below; and

TABLE 1

Unit of Measure	Code ¹
Gallons	G
Gallons per Hour	E
Gallons per Day	U

PERMANENT

TABLE 1

Unit of Measure	Code ¹
Liters	L
Liters per Hour	H
Liters per Day	V
Short tons (2000 lbs)	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic yards	Y
Cubic meters	C
Acres	B
Acres-foot	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I

Footnote: ¹Single-digit symbols are used here for data processing purposes.

(d) The method(s) (by handling code(s)) of management for each dangerous waste received or managed, and the date(s) of treatment, recycling, storage, or disposal must be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2 - Handling Codes for Treatment, Storage, and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of dangerous waste received.

1. Storage

- S01 Container (barrel, drum, etc.)
- S02 Tank
- S03 Waste pile
- S04 Surface impoundment
- S05 Drip Pad
- S06 Containment Building (Storage)
- S99 Other storage (specify)

2. Treatment

(a) Thermal Treatment

- T06 Liquid injection incinerator
- T07 Rotary kiln incinerator
- T08 Fluidized bed incinerator
- T09 Multiple hearth incinerator
- T10 Infrared furnace incinerator
- T11 Molten salt destructor
- T12 Pyrolysis
- T13 Wet air oxidation
- T14 Calcination
- T15 Microwave discharge
- T18 Other (specify)

(b) Chemical treatment

- T19 Absorption mound
- T20 Absorption field
- T21 Chemical fixation
- T22 Chemical oxidation
- T23 Chemical precipitation
- T24 Chemical reduction
- T25 Chlorination
- T26 Chlorinolysis
- T27 Cyanide destruction
- T28 Degradation
- T29 Detoxification
- T30 Ion exchange
- T31 Neutralization
- T32 Ozonation
- T33 Photolysis
- T34 Other (specify)

(c) Physical treatment

(i) Separation of components

- T35 Centrifugation
- T36 Clarification
- T37 Coagulation
- T38 Decanting
- T39 Encapsulation
- T40 Filtration
- T41 Flocculation
- T42 Flotation
- T43 Foaming
- T44 Sedimentation
- T45 Thickening
- T46 Ultrafiltration
- T47 Other (specify)

(ii) Removal of specific components

- T48 Absorption-molecular sieve
- T49 Activated carbon
- T50 Blending
- T51 Catalysis
- T52 Crystallization
- T53 Dialysis
- T54 Distillation
- T55 Electrodialysis
- T56 Electrolysis
- T57 Evaporation
- T58 High gradient magnetic separation
- T59 Leaching
- T60 Liquid ion exchange
- T61 Liquid-liquid extraction
- T62 Reverse osmosis
- T63 Solvent recovery
- T64 Stripping
- T65 Sand filter
- T66 Other (specify)

(d) Biological treatment

- T67 Activated sludge
- T68 Aerobic lagoon
- T69 Aerobic tank
- T70 Anaerobic tank
- T71 Composting
- T72 Septic tank
- T73 Spray irrigation

PERMANENT

- T74 Thickening filter
- T75 Trickling filter
- T76 Waste stabilization pond
- T77 Other (specify)
- T78-79 (Reserved)
 - (e) Boilers and industrial furnaces
- T80 Boiler
- T81 Cement kiln
- T82 Lime kiln
- T83 Aggregate kiln
- T84 Phosphate kiln
- T85 Coke oven
- T86 Blast furnace
- T87 Smelting, melting, or refining furnace
- T88 Titanium dioxide chloride process oxidation reactor
- T89 Methane reforming furnace
- T90 Pulping liquor recovery furnace
- T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid
- T92 Halogen acid furnaces
- T93 Other industrial furnaces listed in WAC 173-303-040 (specify)
 - (f) Other treatment
- T94 Containment building (treatment)

3. Disposal

- D79 Underground injection
- D80 Landfill
- D81 Land treatment
- D82 Ocean disposal
- D83 Surface impoundment (to be closed as a landfill)
- D99 Other disposal (specify)

4. Miscellaneous (Subpart X)

- X01 Open burning/open detonation
- X02 Mechanical processing
- X03 Thermal unit
- X04 Geologic repository
- X99 Other Subpart X (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report - Form 6 (which may be obtained from the department) must be used for this report. The report must include at least the following information:

- (a) The EPA/state identification number, name, and address of the facility;
- (b) The date the facility received the waste;
- (c) The EPA/state identification number, name, and address of the generator and the transporter, if available;
- (d) A description and the quantity of each unmanifested dangerous waste the facility received;
- (e) The method of management for each dangerous waste;
- (f) The certification signed by the owner or operator of the facility or his authorized representative; and
- (g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number must prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the Dangerous Waste Annual Report (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:

- (a) The EPA/state identification number, name, and address of the facility;
- (b) The calendar year covered by the report;
- (c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;
- (d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;
- (e) The method of treatment, storage, or disposal for each dangerous waste;
- (f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

(g) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator must report to the department:

(a) Releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k)(~~facility closures specified in WAC 173-303-610(6)~~);

(b) Interim status ground water monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2);

(c) Facility closures specified in WAC 173-303-610(6); and

(d) As otherwise required by WAC 173-303-645 through 173-303-665, WAC 173-303-690 through (~~173-303-694~~) 173-303-692, and WAC 173-303-400.

The owner or operator must also submit any other reports (including engineering reports, plans, and specifications) required by the department.

(4) Recordkeeping. The owner/operator of a facility must keep a copy of all unmanifested waste reports, annual reports, and any other reports submitted to the department according to the requirements of this section for a period of three years from the date the report was submitted. Note that some records must be kept until closure of the facility as otherwise required under WAC 173-303-380.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-400 Interim status facility standards.

(1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) Except as provided in 40 CFR 265.1080(b), the interim status standards apply to owners and operators of facilities (~~which~~) that treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status applies to all facilities (~~which~~) that comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status will end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(8).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Reserved;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise;

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(viii) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);

(ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a); and

(x) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance.

(xi) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

- (A) Batteries as described in WAC 173-303-573(2); and
 (B) Thermostats as described in WAC 173-303-573(3).
(C) Lamps as described in WAC 173-303-573(5).

(xii) WAC 173-303-578 identifies when the requirements of this section apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(xiii)(A) Except as provided in (c)(xiii)(B) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(I) A discharge of a dangerous waste;

(II) An imminent and substantial threat of a discharge of dangerous waste;

(III) A discharge of a material that, when discharged, becomes a dangerous waste;

(IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(B) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(C) Any person who is covered by (c)(xiii)(A) of this section and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(D) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(3) Standards.

(a) Interim status standards are the standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Section 265.19 of Subpart B, Subparts F through R, Subpart W, ~~((and))~~ Subparts AA, BB, ~~((and))~~ CC (including references to 40 CFR Parts 60, 61, and 63), DD, EE, and Appendix VI, which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140; the facility requirements of WAC 173-303-280 through 173-

303-440 except WAC 173-303-335; and the corrective action requirements of WAC 173-303-646;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (5)(d), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, ~~((and DD))~~ CC, DD, and EE to the state of Washington facilities, the federal terms have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, must be replaced with) the following state of Washington meanings:

(i) "Regional administrator" means the "department" except for 40 CFR Parts 270.2; 270.3; 270.5; 270.10 (e)(1),(2) and (4); 270.10 (f) and (g); 270.11 (a)(3); 270.14 (b)(20); 270.32 (b)(2); and 270.51;

(ii) "Hazardous" means "dangerous" except for Subparts AA, BB, and DD. These subparts apply only to hazardous waste as defined in WAC 173-303-040;

(iii) "Compliance procedure" has the meaning set forth in WAC 173-303-040, Definitions;

(iv) "EPA hazardous waste numbers" mean "dangerous waste numbers".

(c) In addition to the changes described in (b) of this subsection, the following modifications are made to interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, ~~((and DD))~~ CC, DD, and EE:

(i) The words "the effective date of these regulations" means:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;

(B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date is the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261 subsequent to March 12, 1982, the effective date is the date on which the wastes become regulated.

(ii) "Subpart N - landfills" has an additional section added which reads: "An owner/operator must not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" has an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100";

(iv) "Subpart M - land treatment," section 265.273(b) is modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) includes the requirement that: "Ground water monitoring wells must be designed, constructed, and operated so as to prevent ground water contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";

(vi) "Subpart H - financial requirements" has an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H". In 40 CFR Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to, and maintained with the Regional Administrators of all such Regions." Instead, the following sentence applies: "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state." In addition, the following sections and any cross-reference to these sections are not incorporated by reference: 40 CFR Parts 265.149 and 265.150; and

(vii) "Subpart J - tank systems" section 265.193(a) is modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(viii) "Subpart J - tank systems" section 265.191(a) is modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(ix) "Subpart G - closure and post-closure" section 265.115 is modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure..." In addition, the clean-up levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(x) "Subpart B - general facility standards. References to "EPA" (etc.), means the "department" except at 40 CFR 265.11. Additionally, references to "administrator" (etc.), means the "director" except at 40 CFR 265.12(a)."

(xi) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:

- (A) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.
- (B) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.
- (C) 40 CFR Parts 268.5 and 6; 268 Subpart B; (~~and~~) 268.42(b); and 268.44 except for 268.44(h).
- (D) 40 CFR Parts 270.1 (c)(1)(i); 270.60(b); and 270.64.
- (E) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.
- (F) 40 CFR Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)-(c); 2.212-213; and 2.301-311.
- (G) 40 CFR 265.110(c) and 40 CFR 265.121.

(xii) "Subpart EE - Hazardous waste munitions and explosives storage." The first sentence at 40 CFR 265.1202 is modified to exclude the exception for hazardous wastes managed under 261.3(d).

(4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 CFR Part 268, and the 40 CFR Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability.

(a) This section applies to recyclable materials that are applied to or placed on the land:

- (i) Without mixing with any other substance(s); or
- (ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 CFR Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain. Registered commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. ~~((However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.))~~ For the purpose of implementation of this section, fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in 40 CFR Part 268 Subpart D that apply to the characteristics of dangerous waste that the state-only waste exhibits. The prohibition levels for fertilizer using K061, in mg/l, are as follows: Arsenic, 5.0; Barium, 100.0; Cadmium, 1.0; Chromium (Total), 5.0; Lead, 5.0; Mercury, 0.20; Selenium, 5.7; and Silver, 5.0. The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(i)(A) or (B) of this section:

(A) Initial Criteria.

(I) The applicable Land Disposal Restriction (LDR) Certification as described in 40 CFR Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and

(II) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary Criteria.

(I) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and

(II) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and

(III) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and

(IV) Other information as required by the department.

(ii) Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 CFR Part 268 (incorporated by reference in WAC 173-303-140 (2)(a) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

(d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability.

(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. These regulations do not apply to gas recovered from dangerous waste management activities when such gas is burned for energy recovery. Note: (This note is a reminder that all generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 CFR Part 266 Subpart H.)

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only through the criteria of WAC 173-303-100; or

(C) Is a dangerous waste designated solely as W001.

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste (unless such listed waste is only state source W001) or a waste designated as EHW through the criteria of WAC 173-303-100 (a) and (b) is subject to this section.

(ii) (Reserved.)

(2) Definitions. Any terms used in this section that are not defined below have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms have the described meanings:

(a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.

(b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.

(c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.

(d) "Marketer" means persons who are:

(i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;

(ii) Distributors, regulated under subsection (6) of this section;

(iii) Blenders, regulated under subsection (7) of this section.

(3) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and

(ii) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in the following devices only;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(4) Standards applicable to generators of dangerous waste fuel.

(a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:

(i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.

(ii) Notification. Comply with the notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Generators who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(iii) Accumulation. Comply with accumulation requirements of WAC 173-303-200 or 173-303-201.

(iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:

- (A) WAC 173-303-280 through 173-303-395; and
- (B) WAC 173-303-800 through 173-303-840; and
- (C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through ~~((173-303-694))~~ 173-303-692 for final status facilities.

(v) Required notice. Obtain, prior to initiating the first shipment of dangerous waste fuel, a one time written and signed certification notice from the burner certifying that:

(A) The burner has notified as described under subsection (3) of this subsection; and

(B) The burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this subsection.

(vi) Recordkeeping. Keep a copy of each certification notice received for at least five years from the date of the last dangerous waste fuel shipment to the burner who sent such notice.

(c) Generators who are burners also are subject to subsection (8) of this section.

(5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(6) Standards applicable to distributors of dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Distributors who have previously notified the department of their dangerous waste management activities and obtained an EPA/state

identification number, must renotify to identify their dangerous waste fuel activities.

(c) Storage. Distributors who store dangerous waste fuels must comply with the applicable storage provisions of:

- (i) WAC 173-303-280 through 173-303-395; and
- (ii) WAC 173-303-800 through 173-303-840; and
- (iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through ~~((173-303-694))~~ 173-303-692 for final status facilities;

(iv) The standards for generators in WAC 173-303-170 through 173-303-230.

(d) Off-site shipment. A distributor must meet the standards for generators in WAC 173-303-170 through 173-303-230 when the distributor initiates a shipment of dangerous waste fuel. Except that a distributor may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed certification notice from the distributor, blender, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another distributor or blender, the distributor must provide the other distributor or blender with a one-time written and signed certification that the distributor has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A distributor must keep a copy of each certification notice received or sent for at least five years from the date the distributor last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(7) Standards applicable to blenders of dangerous waste fuels.

(a) Prohibitions. The prohibitions under subsection (3) of this section.

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Blenders who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Facility. For tanks, containers, or other units used to hold dangerous waste prior to blending or processing; for blending or processing tanks, containers, or other units; and for tanks, containers, or other units, used to hold blended or processed fuel, blenders must comply with the applicable provisions of:

- (i) WAC 173-303-280 through 173-303-395; and
- (ii) WAC 173-303-800 through 173-303-840; and
- (iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through ~~((173-303-694))~~ 173-303-692 for final status facilities;

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a blender initiates a shipment of dangerous waste fuel, except that a blender may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another blender, a distributor, or a burner, a blender must obtain a one-time written and signed certification notice from the blender, distributor, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another blender or distributor, the blender must provide the other blender or distributor with a one-time written and signed certification that the blender has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date the blender last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (3)(b) of this section must comply with:

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. A burner who has previously notified the department of dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify the dangerous waste fuel activities;

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through ~~((173-303-691))~~ 173-303-692 for final status facilities (the air emission requirements do not apply to burners that meet the small quantity burner exemption at 40 CFR 266.101);

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a distributor, or a blender, or a generator the burner must provide the distributor, or the blender, or the generator a one-time written and signed notice certifying that:

(i) The burner has notified as described under subsection (3) of this section; and

(ii) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice sent for at least five years from the date the burner last receives dangerous waste fuel from the person who received the certification notice.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-515 (~~(Special requirements for used oil burned for energy recovery.)~~) **Standards for the management of used oil.** (1) (~~(Applicability:~~

~~(a) This section applies to used oil that is burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:~~

~~(i) Exhibits any characteristic of a dangerous waste identified in WAC 173-303-090; or~~

~~(ii) Is designated as DW solely through WAC 173-303-100; or~~

~~(iii) Is designated solely as W001.~~

~~(b)(i) This section does not apply to used oil burned for energy recovery that is mixed with a listed waste (except as provided in (a)(iii) of this subsection) or that is designated as EHW through WAC 173-303-100. Such used oil is subject to the requirements of WAC 173-303-510.~~

~~(ii) Used oil containing more than 1000 ppm of total halogens is presumed to be a dangerous waste because it has been mixed with halogenated dangerous waste listed in WAC 173-303-9903 or 173-303-9904. Such dangerous wastes are subject to the requirements of WAC 173-303-510. Persons may rebut this presumption by demonstrating that the used oil does not contain dangerous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated dangerous constituents listed in WAC 173-303-9905).~~

~~(iii) This section does not apply to used oil that is designated for any reason other than being listed as W001 if such used oil is burned for energy recovery by the generator of the used oil in his own marine or diesel engines.~~

~~(e) If a used oil subject to this section does not exceed any of the specifications of Table 1, it is subject only to the analysis and recordkeeping requirements under subsection (4)(b)(i) and (vi) of this section; otherwise, it is subject to all applicable provisions of this section.~~

~~(d) For the purposes of this chapter:~~

~~(i) "Used oil" means any oil that has been refined from crude oil, used, and, as a result of such use, is contaminated by physical or chemical impurities;~~

- (ii) Used oil fuel includes any fuel produced from used oil by processing, blending, or other treatments;
- (iii) Used oil fuel that exceeds any specification level (described in Table 1) is termed "off-specification used oil fuel."

TABLE 1

USED OIL EXCEEDING ANY SPECIFICATION LEVEL IS SUBJECT TO THIS SECTION WHEN BURNED FOR ENERGY RECOVERY

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100° F minimum
Total halogens	4,000 ppm maximum*
Polychlorinated Biphenyls	2 ppm maximum

*Used oil containing more than 1,000 ppm total halogens is presumed to be a dangerous waste under the rebuttable presumption provided under (b)(ii) of this subsection. Such used oil is subject to WAC 173-303-510 rather than this section when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(2) Prohibitions:

(a) A person may market off-specification used oil for energy recovery only:

(i) To burners or other marketers who have notified the department of their used oil management activities stating the location and general description of such activities, and who have an EPA/state identification number; and

(ii) To burners who burn the used oil in an industrial furnace or boiler identified in (b) of this subsection:

(b) Off-specification used oil may be burned for energy recovery in only the following devices:

(i) Industrial furnaces identified in WAC 173-303-040; or

(ii) Boilers, as defined in WAC 173-303-040 that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(B) Utility boilers used to produce electric power, steam; or heated or cooled air or other gases or fluids for sale; or

(C) Used oil-fired space heaters provided that:

(I) The heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generate used oil as household waste;

(II) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

(III) The combustion gases from the heater are vented to the ambient air.

(3) Standards applicable to generators of used oil burned for energy recovery:

(a) Except as provided in (b) and (c) of this subsection generators of used oil are not subject to this section:

(b) Generators who market used oil directly to a burner are subject to subsection (4) of this section:

(c) Generators who burn used oil are subject to subsection (5) of this section:

(4) Standards applicable to marketers of used oil burned for energy recovery:

(a) Persons who market used oil fuel are termed "marketers." Except as provided below, marketers include generators who market used oil fuel directly to a burner, persons who receive used oil from generators and produce, process, or blend used oil fuel from these used oils. However, the following persons are not marketers subject to this section:

(i) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. However, persons who burn some used oil fuel for purposes of processing or other treatment to produce used oil fuel for marketing are considered to be burning incidentally to processing. Thus, generators and collectors who market to such incidental burners are not marketers subject to this section;

(ii) Persons who market only used oil fuel that meets the specification under Table 1 of subsection (1) of this section and who are not the first person to claim the oil meets the specification (i.e., marketers who do not receive used oil from generators or initial transporters and marketers who neither receive nor market off-specification used oil fuel):

(b) Marketers are subject to the following requirements:

(i) Analysis of used oil fuel. Used oil fuel is subject to regulation under this section unless the marketer obtains analyses or other information documenting that the used oil fuel meets the specification provided under Table 1 of subsection (1) of this section.

(ii) Prohibitions. The prohibitions under subsection (2)(a) of this section;

(iii) Notification. Notification to the department stating the location and general description of used oil management activities. Even if a marketer has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an EPA/state identification number, he must renotify to identify his used oil management activities.

(iv) Invoice system. When a marketer initiates a shipment of off-specification used oil, he must prepare and send the receiving facility an invoice containing the following information:

(A) An invoice number;

(B) His own EPA/state identification number and the EPA/state identification number of the receiving facility;

(C) The names and addresses of the shipping and receiving facilities;

(D) The quantity of off-specification used oil to be delivered;

(E) The date(s) of shipment or delivery; and

(F) The following statement: "This used oil subject to Washington state department of ecology regulation under WAC 173-303-515;

Note: Used oil that meets the definition of combustible liquid (flash point below 200°F but at or greater than 100°F) or flammable liquid (flash point below 100°F) is subject to Department of

PERMANENT

Transportation Hazardous Materials Regulations at 49 CFR Parts 100-177.

(v) Required notices:

(A) Before a marketer initiates the first shipment of off-specification used oil to a burner or other marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(I) The burner or marketer has notified the department stating the location and general description of his used oil management activities; and

(II) If the recipient is a burner, the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(B) Before a marketer accepts the first shipment of off-specification used oil from another marketer subject to the requirements of this subsection, he must provide the marketer with a one-time written and signed notice certifying that he has notified the department of his used oil management activities; and

(vi) Recordkeeping:

(A) Used oil fuel that meets the specification. A marketer who first claims under (b)(i) of this subsection that used oil fuel meets the specification must keep copies of analysis (or other information used to make the determination) of used oil for three years. Such marketers must also record in an operating log and keep for three years the following information on each shipment of used oil fuel that meets the specification. Such used oil fuel is not subject to further regulation, unless it is subsequently mixed with dangerous waste or unless it is mixed with used oil so that it no longer meets the specification:

(I) The name and address of the facility receiving the shipment;

(II) The quantity of used oil fuel delivered;

(III) The date of shipment or delivery; and

(IV) A cross-reference to the record of used oil analysis (or other information used to make the determination that the oil meets the specification) required under (b)(vi)(A) of this subsection.

(B) Off-specification used oil fuel. A marketer who receives or initiates an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that he receives or sends for three years from the date he last engages in an off-specification used oil fuel marketing transaction with the person who sends or receives the certification notice.

(5) Standards applicable to burners of used oil burned for energy recovery:

Owners and operators of facilities that burn used oil fuel are "burners" and are subject to the following requirements:

(a) Prohibition. The prohibition under subsection (2)(b) of this section;

(b) Notification. Burners of off-specification used oil fuel and burners of used oil fuel who are the first to claim that the oil meets the specification provided under WAC 173-303-515 (1)(e), and 173-303-515 (1)(d)(ii) through (iii), except burners who burn specification oil that they generate must notify the department stating the location and general

description of used oil management activities. Burners of used oil fuel that meets the specification who receive such oil from a marketer that previously notified EPA are not required to notify. Owners and operators of used oil fired space heaters that burn used oil fuel under the provisions of subsection (2)(b)(ii) of this section are exempt from these notification requirements. Even if a burner has previously notified the department of his dangerous waste management activities under WAC 173-303-060 and obtained an identification number, he must renotify to identify his used oil management activities:

(e) Required notices. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(i) He has notified the department stating the location and general description of his used oil management activities; and

(ii) He will burn the used oil only in an industrial furnace or boiler identified in subsection (2)(b) of this section; and

(d) Used oil fuel analysis:

(i) Used oil fuel burned by the generator is subject to regulation under this section unless the burner obtains analysis (or other information) documenting that the used oil meets the specification provided under Table 1 of subsection (1) of this section:

(ii) Burners who treat off-specification used oil fuel by processing, blending, or other treatment to meet the specification provided under Table 1 of subsection (1) of this section must obtain analyses (or other information) documenting that the used oil meets the specification:

(e) Recordkeeping. A burner who receives an invoice under the requirements of this section must keep a copy of each invoice for three years from the date the invoice is received. Burners must also keep for three years copies of analyses of used oil fuel as may be required by (d) of this subsection. In addition, he must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives off-specification used oil from that marketer.

(f) Local requirements. Any person who burns used oil for energy recovery, except for burning in used oil fired space heaters that meet the provisions of subsection (2)(b)(ii) of this section, must comply with the air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists:)) Purpose. The purpose of this section is to provide used oil management standards for generators, transporters, collection centers, aggregation points, transfer facilities, processors, and re-refiners, burners, and marketers of used oil.

(2) Definitions. In addition to the terms used in this chapter, the definitions of 40 CFR Part 279 are incorporated by reference when managing used oil under this section. The term "hazardous waste" used in 40 CFR Part 279 means "dangerous waste" as defined in WAC 173-303-040.

(3) Applicability. This section identifies those materials subject to regulation as used oil. For the purpose of this section, the applicability statements of 40 CFR Part 279.10 are

incorporated by reference, except 40 CFR Part 279.10 (b)(2) and (3), and as modified below.

Materials containing or otherwise contaminated with or derived from used oil: The term "materials" used in 40 CFR Part 279.10 does not include dangerous waste.

(4) **Used oil specifications.** For the purpose of managing materials under this section, 40 CFR Part 279.11 and 40 CFR Part 261.3 (a)(2)(v) (rebuttable presumption) are incorporated by reference.

The table is included below for the reader's convenience.

Table 1—Used Oil Exceeding any Specification Level is Subject to this Section When Burned for Energy Recovery

<u>Constituent/property</u>	<u>Allowable level</u>
<u>Arsenic</u>	<u>5 ppm maximum</u>
<u>Cadmium</u>	<u>2 ppm maximum</u>
<u>Chromium</u>	<u>10 ppm maximum</u>
<u>Lead</u>	<u>100 ppm maximum</u>
<u>Flash point</u>	<u>100° F minimum</u>
<u>Total halogens</u>	<u>4,000 ppm maximum\1\</u>

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).

\1\ Used oil containing more than 1,000 ppm total halogens is presumed to be a dangerous waste under the rebuttable presumption provided under 40 CFR 279.10(b)(1). Such used oil is subject to 40 CFR Subpart H of Part 266 rather than this section when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(5) **Prohibitions.** The prohibitions of 40 CFR Part 279.12 are incorporated by reference. The prohibitions for managing materials under this section include those listed in 40 CFR Part 279.12 and the following:

(a) Materials designating as EHW or W001 cannot be managed under this section when burned for energy recovery. Note: Materials managed under this section containing 2 ppm or greater PCBs are subject to applicable requirements of 40 CFR Part 761.20(e).

(b) Metal working fluids that are formulated with chlorinated compounds such as chlorinated paraffins or chlorinated alkene polymers cannot be managed under this section when burned for energy recovery.

(c) Ethylene glycol based fluids cannot be managed under this section. These fluids are subject to section WAC 173-303-522 when recycled.

(d) The use of used oil or other materials managed under this section as a dust suppressant is prohibited.

(e) Materials to be managed under this section are prohibited from being mixed with any dangerous waste. If any material managed under this section is mixed with dangerous waste, the resultant mixture is dangerous waste and must be managed as such.

(6) **Standards for used oil generators.** This subsection applies to all used oil generators and persons managing materials under this section. The standards for used oil generators

of 40 CFR Parts 279.20 through 279.24 are incorporated by reference except 40 CFR Part 279.21. Used oil generators and persons managing materials under this subsection are subject to the federal regulations listed above and the following:

(a) Storage requirements for containers and tanks.

(i) Containers must be closed at all times, except when adding or removing materials managed under this section.

(ii) Containers and tanks must not be opened, handled, managed or stored in a manner that may cause the container or tank to leak or rupture.

(b) Secondary containment requirements for storage of material managed under this section in tanks and containers.

The department may require secondary containment, on a case-by-case basis, in accordance with some or all of the requirements in WAC 173-303-630(7) and 173-303-640(4) if the department determines that a potential for spills and discharges, mismanagement, or other factors pose a threat to human health or the environment.

(c) Self-transport to approved collection centers. In addition to 40 CFR Part 279.24(a), generators may self-transport quantities greater than 55 gallons to a used oil collection center: Provided, That the owner/operator of the center records the name, address, telephone number, date of delivery and quantity of used oil being delivered to the site by the generator.

(7) **Standards for used oil collection centers and aggregation points.** For the purpose of managing materials under this section, 40 CFR Parts 279.30 through 279.32 are incorporated by reference. The standards for used oil collection centers under this subsection are those federal regulations listed above and the following modifications:

In addition to the requirements of 40 CFR Part 279.31, the owner or operator of a used oil collection center may accept greater than 55 gallons of used oil from generators: Provided, That:

(a) The requirements for a used oil transfer facility (40 CFR Parts 279.40 through 279.47) are complied with while that used oil is on site; and

(b) The owner/operator of the collection center records the name, address, telephone number, date of delivery and quantity of used oil being delivered to the site by the generator of the used oil; and

(c) Such records are kept on site for a period of three years.

(8) **Standards for used oil transporters and transfer facilities.** For the purpose of managing materials under this section, 40 CFR Parts 279.40 through 279.47 are incorporated by reference. The standards for used oil transfer facilities under this subsection are those federal regulations listed above and the following modifications:

Additional reports. Upon determination by the department that the storage of used oil in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store used oil. This authority applies to tanks and secondary containment systems used to store used oil in tanks and containers. The department's determination of a

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threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of used oil or the generation of hazardous by-products (e.g., hydrogen sulfide gas). Those observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(a) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(b) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (a) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the used oil until the repairs or improvements are completed and approved by the department.

(9) Standards for used oil processors and re-refiners. For the purpose of managing materials under this section, 40 CFR Parts 279.50 through 279.59 are incorporated by reference. The standards for used oil processors and re-refiners under this subsection are those federal regulations listed above and the following:

(a) In addition to the general facility standards of 40 CFR Part 279.52, used oil and other materials managed under this subsection may be stored on-site without a permit for ninety days prior to entering an active recycling process. An active recycling process refers to a dynamic recycling operation that occurs within the recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities.

(b) Additional reports. Upon determination by the department that the storage of used oil in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store used oil. This authority applies to tanks and secondary containment systems used to store used oil in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of used oil or the generation of hazardous by-products (for example, hydrogen sulfide gas). Those observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(i) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(ii) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (b) of this subsection, it is determined that repairs or structural improvements are necessary in order to elimi-

nate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the used oil until such repairs or improvements are completed and approved by the department.

(10) Standards for used oil burners who burn off-specification. For the purpose of managing materials under this subsection, 40 CFR Parts 279.60 through 279.67 are incorporated by reference.

(11) Standards for used oil fuel marketers. For the purpose of managing materials under this subsection, 40 CFR Parts 279.70 through 279.75 are incorporated by reference.

(12) Standards for disposal of used oil. For the purpose of managing materials under this subsection, 40 CFR Parts 279.80 through 279.82(a) are incorporated by reference.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes. This section applies to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries").

(1) Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are subject only to the requirements of WAC 173-303-016 through 173-303-161 except for 173-303-060, and WAC 173-303-960 if such spent batteries are going to a battery reclaimer. Persons who reclaim spent batteries through regeneration (such as by electrolyte replacement) are not subject to 40 CFR Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a).

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming (other than spent batteries that are to be regenerated) them are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

- (i) WAC 173-303-280 (2) and (3);
- (ii) WAC 173-303-282;
- (iii) WAC 173-303-283;
- (iv) WAC 173-303-290;
- (v) WAC 173-303-310 through 173-303-360;
- (vi) WAC 173-303-380;
- (vii) WAC 173-303-390 (2) and (3);
- (viii) WAC 173-303-395; and
- (ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

- (i) WAC 173-303-600 through 173-303-650; and
- (ii) WAC 173-303-660.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-522 Special requirements for recycling spent antifreeze. (1) Applicability. This section applies to the recycling of spent antifreeze. Antifreeze means ethylene glycol based coolant used as a heat exchange medium in motor vehicle radiators, motorized equipment, or in other industrial processes. For the purposes of this section recycling means reclamation and reuse, but not burning for energy recovery.

(2) Standards. Persons who generate, transport, or store spent antifreeze but do not reclaim or recycle it are subject to the requirements of WAC 173-303-050, 173-303-145, and 173-303-960 if their spent antifreeze is going to a recycler. Any discharge of spent antifreeze to the environment constitutes disposal and is subject to full regulation under this chapter.

(a) Generator requirements:

(i) Persons who reclaim or recycle their spent antifreeze on-site, or send their antifreeze off-site to be reclaimed or recycled, must keep records for a period of five years from the date of reclamation/recycling.

Proof of reclamation/recycling is either a log for on-site reclamation/recycling or an invoice or bill of lading for off-site reclamation/recycling.

(ii) Containers and tanks used to accumulate spent antifreeze must be labeled "spent antifreeze."

(iii) Spent antifreeze that is to be reclaimed can be accumulated on-site for any length of time, and in any amount.

(iv) During accumulation, spent antifreeze must be stored in a manner to prevent releases to the environment. This includes, but is not limited to, storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures.

(b) If ~~((used))~~ spent antifreeze is mixed with another dangerous waste, generators are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Persons who generate spent antifreeze that is not reclaimed/recycled, but is otherwise disposed, are subject to all applicable requirements of this chapter.

(3) Transporters and transfer facility requirements:

(a) Persons engaged in routine off-site transportation of spent antifreeze are required to obtain a state/EPA ID number, WAC 173-303-060, and to comply with the transporter requirements, WAC 173-303-240.

(b) If ~~((used))~~ spent antifreeze is mixed with another dangerous waste, transporters are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Transporters who store ~~((used))~~ spent antifreeze at a transfer facility are allowed to use tanks or containers as defined in WAC 173-303-040, and store such waste for up to ten days, WAC 173-303-240(5).

Transporters may store ~~((used))~~ spent antifreeze at a transfer facility for longer than ten days if they meet the requirements for tank and/or container management, including secondary containment in WAC 173-303-630 through 173-303-640.

(4) Reclamation/recycling facility requirements: Owners and operators of antifreeze reclaiming/recycling facilities

are subject to the conditions of WAC 173-303-120 (4)(c). These conditions apply equally to facilities whether or not twenty-four-hour storage of ~~((used))~~ spent antifreeze occurs prior to reclamation.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-573 Standards for universal waste management. (1) Scope.

(a) This section establishes requirements for managing the following:

(i) Batteries as described in subsection (2) of this section; ~~((and))~~

(ii) Thermostats as described in subsection (3) of this section; and

(iii) Lamps as described in subsection (5) of this section.

(b) This section provides an alternative set of management standards in lieu of regulation under the rest of this chapter except for WAC 173-303-050, 173-303-145, and 173-303-960.

(2) **Applicability—Batteries.**

(a) Batteries covered under this section.

(i) The requirements of this section apply to persons managing batteries, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(ii) Spent lead-acid batteries which are not managed under WAC 173-303-120 (3)(f) and 173-303-520, are subject to management under this section.

(b) Batteries not covered under this section. The requirements of this section do not apply to persons managing the following batteries:

(i) Spent lead-acid batteries that are managed under WAC 173-303-120(3) and 173-303-520.

(ii) Batteries, as described in WAC 173-303-040, that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070, including those that do not meet the criteria for waste generation in (c) of this subsection.

(iii) Batteries, as described in WAC 173-303-040, that are not dangerous waste. A battery is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100.

(c) Generation of waste batteries.

(i) A used battery becomes a waste on the date it is discarded (e.g., when sent for reclamation).

(ii) An unused battery becomes a waste on the date the handler decides to discard it.

(3) **Applicability—Mercury thermostats.**

(a) Thermostats covered under this section. The requirements of this section apply to persons managing thermostats, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(b) Thermostats not covered under this section. The requirements of this section do not apply to persons managing the following thermostats:

(i) Thermostats that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when thermostats become wastes.

(ii) Thermostats that are not dangerous waste. A thermostat is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100.

(c) Generation of waste thermostats.

(i) A used thermostat becomes a waste on the date it is discarded (e.g., sent for reclamation).

(ii) An unused thermostat becomes a waste on the date the handler decides to discard it.

(4) Applicability—Household and conditionally exempt small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this section:

(i) Household wastes that are exempt under WAC 173-303-071 (3)(c) and are also of the same type as the universal wastes defined at WAC 173-303-040; and/or

(ii) Small quantity generator wastes that are conditionally exempt under WAC 173-303-070(8) and are also of the same type as the universal wastes defined at WAC 173-303-040.

(b) Persons who commingle the wastes described in (a)(i) and (ii) of this subsection together with universal waste regulated under this section must manage the commingled waste under the requirements of this section.

~~(5) ((Reserve.))~~ **Applicability—Lamps.**

(a) Lamps covered under this section. The requirements of this section apply to persons managing lamps, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(b) Lamps not covered under this section. The requirements of this section do not apply to persons managing the following lamps:

(i) Lamps that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when lamps become wastes.

(ii) Lamps that are not dangerous waste. Lamps that do not exhibit one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100 are not dangerous waste.

(c) Generation of waste lamps.

(i) A used lamp becomes a waste on the date it is discarded.

(ii) An unused lamp becomes a waste on the date the handler decides to discard it.

(6) Applicability—Small quantity handlers of universal waste. Subsections (6) through (16) of this section apply to small quantity handlers of universal waste (as defined in WAC 173-303-040).

(7) Prohibitions.

A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (13) of this section; or by managing specific wastes as provided in subsection (9) of this section.

(8) Notification.

A small quantity handler of universal waste is not required to notify the department of universal waste handling activities.

(9) Waste management.

(a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(A) Sorting batteries by type;

(B) Mixing battery types in one container;

(C) Discharging batteries so as to remove the electric charge;

(D) Regenerating used batteries;

(E) Disassembling batteries or battery packs into individual batteries or cells;

(F) Removing batteries from consumer products; or

(G) Removing electrolyte from batteries.

(iii) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.

(A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it is subject to all applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste thermostats. A small quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leak-

age, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(A) Removes the ampules in a manner designed to prevent breakage of the ampules;

(B) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii)(A) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or clean-up residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).

(B) If the mercury, residues, and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it subject to WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(c) Universal waste lamps. A small quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound,

compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A small quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A small quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents the container from being exposed to the elements.

(10) Labeling/markings.

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies), or "Waste Battery(ies)," or "Used Battery(ies);"

(b) Universal waste thermostats (i.e., each thermostat), or a container in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Universal waste lamps (i.e., each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(11) Accumulation time limits.

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling each individual item of universal waste ((e.g.)) for example, each battery ((☉)), thermostat or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

(iv) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(12) Employee training.

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

(13) Response to releases.

(a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is dangerous waste, and if so, must manage the dangerous waste in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with WAC 173-303-170 through 173-303-230.

(14) Off-site shipments.

(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR Parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR Parts 172 through 180.

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving

handler or destination facility, the originating handler must either:

(i) Receive the waste back when notified that the shipment has been rejected, or

(ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(i) Send the shipment back to the originating handler; or

(ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.

(h) If a small quantity handler of universal waste receives a shipment of nondangerous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(15) Tracking universal waste shipments.

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

(16) Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a) (1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230(1);

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR Subpart E of Part 262 which is incorporated by reference at WAC 173-303-230(1); and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(17) Applicability—Large quantity handlers of universal waste.

Subsections (17) through (27) of this section apply to large quantity handlers of universal waste (as defined in WAC 173-303-040).

(18) Prohibitions.

A large quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (24) of this section; or by managing specific wastes as provided in subsection (20) of this section.

(19) Notification.

(a)(i) Except as provided in (a)(ii) (~~and (iii)~~) of this subsection, a large quantity handler of universal waste must have sent written notification of universal waste management to the department, and received an EPA Identification Number, before meeting or exceeding the ~~((5,000 kilogram)) 11,000 pound storage limit and/or before meeting or exceeding the 2,200 pound storage limit for lamps.~~

(ii) A large quantity handler of universal waste who has already notified the department of their dangerous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(b) This notification must include:

(i) The universal waste handler's name and mailing address;

(ii) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

(iii) The address or physical location of the universal waste management activities;

(iv) A list of all of the types of universal waste managed by the handler (e.g., batteries ~~((€))~~, thermostats or lamps);

(v) A statement indicating that the handler is accumulating more than 11,000 pounds of universal waste at one time and the types of universal waste (e.g., batteries ~~((€))~~, thermostats or lamps) the handler is accumulating above this quantity ~~((-))~~, and/or a statement indicating that the handler is accumulating more than 2,200 pounds of lamps at one time. (For example, if a handler is accumulating 5,000 pounds of batteries, 5,500 pounds of thermostats and 600 pounds of universal waste lamps, they would notify for having 11,100 pounds of universal waste at one time - likewise, if a handler is accumulating 2,000 pounds of batteries, 5,000 pounds of thermostats and 2,400 pounds of universal waste lamps, they would also need to notify for exceeding the 2,200 pound limit for universal waste lamps.)

(20) Waste management.

(a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(A) Sorting batteries by type;

(B) Mixing battery types in one container;

(C) Discharging batteries so as to remove the electric charge;

(D) Regenerating used batteries;

(E) Disassembling batteries or battery packs into individual batteries or cells;

(F) Removing batteries from consumer products; or

(G) Removing electrolyte from batteries.

(iii) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.

(A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste thermostats. A large quantity handler of universal waste must manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(A) Removes the ampules in a manner designed to prevent breakage of the ampules;

(B) Removes ampules only over or in a containment device (e.g., tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii)(A) A large quantity handler of universal waste who removes mercury-containing ampules from thermostats must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or clean-up residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).

(B) If the mercury, residues, and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(c) Universal waste lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A large quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A large quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents a container from being exposed to the elements.

(21) Labeling/marketing.

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with the any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) Universal waste thermostats (i.e., each thermostat), or a container or tank in which the thermostats are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)," or

"Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Universal waste lamp (i.e., each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(22) Accumulation time limits.

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling the individual item of universal waste ((e.g.) for example, each battery ((⊕)), thermostat or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on site that identifies the date the universal waste being accumulated became a waste or was received;

(iv) Maintaining an inventory system on site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(23) Employee training.

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(24) Response to releases.

(a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is dangerous waste, and if so, must manage the dangerous waste

in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material resulting from the release, and is subject to WAC 173-303-145 and 173-303-170 through 173-303-230.

(25) Off-site shipments.

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transportes universal waste off site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR Parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(i) Receive the waste back when notified that the shipment has been rejected; or

(ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he must contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler must:

(i) Send the shipment back to the originating handler; or

(ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.

(h) If a large quantity handler of universal waste receives a shipment of nondangerous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(26) Tracking universal waste shipments.

(a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form

of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received ~~((e.g.))~~ for example, batteries ~~((or))~~, thermostats or lamps;

(iii) The date of receipt of the shipment of universal waste.

(b) Shipments off site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(ii) The quantity of each type of universal waste sent ~~((e.g.))~~ for example, batteries ~~((or))~~, thermostats or lamps;

(iii) The date the shipment of universal waste left the facility.

(c) Record retention.

(i) A large quantity handler of universal waste must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.

(ii) A large quantity handler of universal waste must retain the records described in (b) of this subsection for at least three years from the date a shipment of universal waste left the facility.

(27) Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination must:

(a) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230(1);

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 CFR 262 Subpart E which is incorporated by reference at WAC 173-303-230(1); and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

(28) Applicability—Universal waste transporters.

Subsections (28) through (34) of this section apply to universal waste transporters (as defined in WAC 173-303-040).

(29) Prohibitions.

A universal waste transporter is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (32) of this section.

(30) Waste management.

(a) A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in 49 CFR Part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a dangerous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in WAC 173-303-180. Because universal waste does not require a dangerous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

(b) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under WAC 173-303-180, they may not be described by the DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste."

(31) Storage time limits.

(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements for small or large quantity handlers (subsections (6) through (27) of this section) while storing the universal waste.

(32) Response to releases.

(a) A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A universal waste transporter must determine whether any material resulting from the release is dangerous waste, and if so, it is subject to all applicable requirements of this chapter. If the waste is determined to be a dangerous waste, the transporter is subject to WAC 173-303-145 and 173-303-170 through 173-303-230.

(33) Off-site shipments.

(a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off site meets the Department of Transportation's definition of hazardous materials under 49 CFR 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 CFR Part 172.

(34) Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment.

(35) **Applicability—Destination facilities.** Subsections (35) through (37) of this section apply to destination facilities.

(a) The owner or operator of a destination facility (as defined in WAC 173-303-040) is subject to all applicable requirements of WAC 173-303-140 and 173-303-141, 173-303-280 through 173-303-525, 173-303-600 through 173-303-695, 173-303-800 through 173-303-840, and the notification requirement at WAC 173-303-060:

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with WAC 173-303-120 (4)(c).

(36) Off-site shipments.

(a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he must contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

(i) Send the shipment back to the original shipper; or

(ii) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the owner or operator of a destination facility receives a shipment containing dangerous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the shipper. The department will provide instructions for managing the dangerous waste.

(d) If the owner or operator of a destination facility receives a shipment of nondangerous, nonuniversal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

(37) Tracking universal waste shipments.

(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received ((e.g.)) for example, batteries or thermostats);

(iii) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.

(38) Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this section, immediately after the waste enters the United States, as indicated below:

(a) A universal waste transporter is subject to the universal waste transporter requirements of subsections (28) through (34) of this section.

(b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of subsections (6) through (27) of this section, as applicable.

(c) An owner or operator of a destination facility is subject to the destination facility requirements of subsections (35) through (37) of this section.

(39) General—Petitions. Subsections (39) and (40) of this section address petitions to include other wastes under this section.

(a) Any person seeking to add a dangerous waste or a category of dangerous waste to this section may petition for a regulatory amendment under subsections (39) and (40) of this section and WAC 173-303-910 (1) and (7).

(b) To be successful, the petitioner must demonstrate to the satisfaction of the department that regulation under the universal waste regulations of this section is: Appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the dangerous waste program. The petition must include the information required by WAC 173-303-910 (1)(b). The petition should also address as many of the factors listed in subsection (40) of this section as are appropriate for the waste or waste category addressed in the petition.

(c) The department will evaluate petitions using the factors listed in subsection (40) of this section. The department will grant or deny a petition using the factors listed in subsection (40) of this section. The decision will be based on the weight of evidence showing that regulation under this section is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the dangerous waste program.

(40) Factors for petitions to include other wastes under this section.

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in WAC 173-303-081 or 173-303-082, or (if not listed) a proportion of the waste stream exhibits one or more characteristics or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100. (When a characteristic waste is added to the universal waste regulations of this section by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in WAC 173-303-040 will be amended to include only the dangerous waste portion of the waste category (e.g., dangerous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more charac-

teristics or criteria (i.e., is dangerous waste) is subject to the universal waste regulations of this section;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (e.g., more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other dangerous wastes, and specific management standards proposed or referenced by the petitioner (e.g., waste management requirements appropriate to be added to subsections (9), (20), and (30) of this section; and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under this section will increase the likelihood that the waste will be diverted from nondangerous waste management systems (e.g., the municipal waste stream, nondangerous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with the Hazardous Waste Management Act chapter 70.105 RCW, this chapter, and RCRA Subtitle C.

(g) Regulation of the waste or category of waste under this section will improve implementation of and compliance with the dangerous waste regulatory program; and/or

(h) Such other factors as may be appropriate.

NEW SECTION

WAC 173-303-578 Military munitions. (1) Applicability.

(a) The rules in this section identify when military munitions become a solid waste, and, if these wastes are also dangerous under this section or WAC 173-303-016 through 173-303-100, the management standards that apply to these wastes.

(b) Unless otherwise specified in this section, all applicable requirements in this chapter apply to waste military munitions.

(2) Definition of solid waste.

(a) A military munition is not a solid waste when:

(i) Used for its intended purpose, including:

(A) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or

(B) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

(C) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(ii) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in WAC 173-303-016 (5)(a), or burning for energy recovery as defined in WAC 173-303-016 (5)(b).

(b) An unused military munition is a solid waste when any of the following occurs:

(i) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in (a) of this subsection), incinerated, or treated prior to disposal; or

(ii) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal; or

(iii) The munition is deteriorated or damaged (for example, the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

(iv) The munition has been declared a solid waste by an authorized military official.

(c) A used or fired military munition is a solid waste:

(i) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

(ii) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range.

(d) A used or fired military munition is a solid waste, and, therefore, is potentially subject to corrective action under WAC 173-303-646 or imminent and substantial endangerment authorities under WAC 173-303-960, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(e) Military munitions at closed or transferred ranges. Munitions discharged during military activities are discarded material (and therefore solid waste) for purposes of WAC 173-303-646 under the following circumstance:

The munition is left in place at the firing range at the time the range is closed or when the range is transferred from military control, whichever occurs first.

(3) Standards applicable to emergency responses.

Explosives and munitions emergencies involving military munitions or explosives are subject to WAC 173-303-170(5), 173-303-240 (6)(e), 173-303-400 (2)(c)(xii), 173-

303-600 (3)(p), and 173-303-800 (7)(c), or alternatively to WAC 173-303-804.

(4) Standards applicable to the storage of solid waste military munitions.

(a) Criteria for dangerous waste regulation of waste non-chemical military munitions in storage.

(i) Waste military munitions in storage that exhibit a dangerous waste characteristic, criteria, or are listed as dangerous waste under WAC 173-303-070 are listed or identified as a dangerous waste (and thus are subject to regulation under this chapter), unless all the following conditions are met:

(A) The waste military munitions are not chemical agents or chemical munitions.

(B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).

(C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.

(D) Within ninety days of August 12, 1997, or within ninety days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the department of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in (a)(i) of this subsection is claimed.

(E) The owner or operator must provide oral notice to the department within twenty-four hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of (a)(i) of this subsection that may endanger health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of (a)(i) of this subsection.

(F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of (a)(i) of this subsection, and must maintain records of the findings of these inventories and inspections for at least three years.

(G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

(ii) The conditional exemption in (a)(i) of this subsection from regulation as dangerous waste applies only to the storage of nonchemical waste military munitions. It does not affect the regulatory status of waste military munitions as dangerous wastes with regard to transportation, treatment or disposal.

(iii) The conditional exemption in (a)(i) of this subsection applies only so long as all of the conditions in (a)(i) of this subsection are met.

(b) Notice of termination of waste storage. The owner or operator must notify the department when a storage unit identified in (a)(i)(D) of this subsection will no longer be used to store waste military munitions.

(c) Reinstatement of conditional exemption. If any waste military munition loses its conditional exemption

under (a)(i) of this subsection, an application may be filed with the department for reinstatement of the conditional exemption from dangerous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of (a)(i) of this subsection. If the department finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the department may reinstate the conditional exemption under (a)(i) of this subsection. If the director does not take action on the reinstatement application within sixty days after receipt of the application, then reinstatement will be deemed granted, retroactive to the date of the application. However, the department may terminate a conditional exemption reinstated by default in the preceding sentence if it finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation, or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under (a)(i) of this subsection, the department may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

(5) Standards applicable to the treatment and disposal of waste military munitions.

The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards of this chapter.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-600 Final facility standards. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-695, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-695, the final facility standards include WAC 173-303-280 through 173-303-395.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) The owner or operator of a POTW which treats, stores, or disposes of dangerous waste provided he has a per-

mit by rule pursuant to the requirements of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-304 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(l) The compaction or sorting of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(m) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);

(n) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a); ~~((and))~~

(o) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(i) Batteries as described in WAC 173-303-573(2);
 ((and))

(ii) Thermostats as described in WAC 173-303-573(3);
 and

(iii) Lamps as described in WAC 173-303-573(5);

(p)(i) Except as provided in (p)(ii) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;

(B) An imminent and substantial threat of a discharge of dangerous waste;

(C) A discharge of a material that, when discharged, becomes a dangerous waste;

(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(ii) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(iii) Any person who is covered by (p)(i) of this subsection and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(iv) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

(q) WAC 173-303-578 identifies when the requirements of WAC 173-303-600 apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(4) Reserve.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(7) The final facility requirements apply to owners or operators of all facilities that treat, store, or dispose of haz-

ardous wastes referred to in 40 CFR Part 268, which is incorporated by reference at WAC 173-303-140(2).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-610 Closure and post-closure. (1) Applicability.

(a) Subsections (2) through (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.

(b) Subsections (7) through (11) of this section, (which concern post-closure care), apply to the owners and operators of all regulated units (as defined in WAC 173-303-040) at which dangerous waste will remain after closure, to tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills, to surface impoundments, waste piles, and miscellaneous units as specified in WAC 173-303-650(6), 173-303-660(9), and 173-303-680(4), respectively; to containment buildings that are required under 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695) to meet the requirements for landfills; and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and post-closure requirements, any portion of a facility which closes is subject to the applicable closure and post-closure standards even if the rest of the facility does not close and continues to operate.

(d) Except for subsection (2)(a) of this section, the director may, in an enforceable document, replace all or part of the requirements of this section and the unit-specific requirements referenced in subsection (2)(b) of this section with alternative requirements when he or she determines:

(i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this section (or the unit-specific requirements referenced in subsection (2)(b) of this section) because the alternative requirements will protect human health and the environment.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated run-off, or dangerous waste decomposition products to the ground, surface water, ground water, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680 (2) through (4), or 40

CFR 264.1102 (incorporated by reference at WAC 173-303-695) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) For soils, ground water, surface water, and air, the numeric cleanup levels calculated using residential exposure assumptions according to the Model Toxics Control Act Regulations, chapter 173-340 WAC as now or hereafter amended. Primarily, these will be numeric cleanup levels calculated according to MTCA Method B, although MTCA Method A may be used as appropriate, see WAC 173-340-700 through 173-340-760, excluding WAC 173-340-745; and

(ii) For all structures, equipment, bases, liners, etc., clean closure standards will be set by the department on a case-by-case basis in accordance with the closure performance standards of WAC 173-303-610 (2)(a)(ii) and in a manner that minimizes or eliminates post-closure escape of dangerous waste constituents.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the dangerous waste at partial or final closure are required by WAC 173-303-650(6) and 173-303-660(9) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(8), 173-303-645, 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680(2), and 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695). A copy of the approved plan and all revisions to the plan must be furnished to the department upon request, including request by mail until final closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include at least:

(i) A description of how each dangerous waste management unit at the facility will be closed in accordance with subsection (2) of this section;

(ii) A description of how final closure of the facility will be conducted in accordance with subsection (2) of this section. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility;

(iii) An estimate of the maximum inventory of dangerous wastes ever on-site over the active life of the facility. (Any change in this estimate is a (~~minor~~) Class 1 modification with prior approval under WAC 173-303-830(4));

(iv) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all dangerous wastes, and identification of the type(s) of the off-site dangerous waste management units to be used, if applicable;

(v) A detailed description of the steps needed to remove or decontaminate all dangerous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(vi) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and run-off control;

(vii) A schedule for closure of each dangerous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each dangerous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all dangerous waste inventory and of the time required to place a final cover must be included.); and

(viii) For facilities that use trust funds to establish financial assurance under WAC 173-303-620 (4) or (6) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(ix) For facilities where the director has applied alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e), or 173-303-620 (8)(d), the closure plan must include either the alternative requirements or a reference to the enforceable document that contains the alternative requirements.

(b) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended closure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever:

(A) Changes in operating plans or facility design affect the closure plan; or

(B) There is a change in the expected year of closure, if applicable; or

(C) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan; or

(D) The owner/operator requests the director apply alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e), or 173-303-620 (8)(d).

(iii) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to prepare a contingent closure plan under WAC 173-303-650(6) or 173-303-660(9), must submit an amended closure plan to the department no later than sixty days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665, or no later than thirty days from that date if the determination is made during partial or final closure. The department will approve, disapprove, or modify this amended plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved closure plan will become a condition of any permit issued.

(iv) The department may request modifications to the plan under the conditions described in (b)(ii) of this subsection. The owner or operator must submit the modified plan within sixty days of the department's request, or within thirty days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(c) Notification of partial closure and final closure.

(i) The owner or operator must notify the department in writing at least sixty days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the department in writing at least forty-five days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(ii) The date when he "expects to begin closure" must be either:

(A) No later than thirty days after the date on which any dangerous waste management unit receives the known final volume of dangerous wastes or, if there is a reasonable possibility that the dangerous waste management unit will receive additional dangerous wastes, no later than one year after the date on which the unit received the most recent volume of dangerous waste. If the owner or operator of a dangerous waste management unit can demonstrate to the department that the dangerous waste management unit or facility has the capacity to receive additional dangerous wastes and he has taken, and will continue to take, all steps to prevent threats to

human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit; or

(B) For units meeting the requirements of subsection (4)(d) of this section, no later than thirty days after the date on which the dangerous waste management unit receives the known final volume of nondangerous wastes, or if there is a reasonable possibility that the dangerous waste management unit will receive additional nondangerous wastes, no later than one year after the date on which the unit received the most recent volume of nondangerous wastes. If the owner or operator can demonstrate to the department that the dangerous waste management unit has the capacity to receive additional nondangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit.

(iii) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order to cease receiving dangerous wastes or to close, then the requirements of (c) of this subsection do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in subsection (4) of this section.

(iv) Removal of wastes and decontamination or dismantling of equipment. Nothing in this subsection will preclude the owner or operator from removing dangerous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at a dangerous waste management unit or facility, the owner or operator must treat, remove from the unit or facility, or dispose of on site, all dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, and either:

(i) The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is a reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved clo-

sure plan and within one hundred eighty days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at the dangerous waste management unit or facility. The department may approve an extension to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating dangerous waste management unit or facility, including compliance with all applicable permit requirements, and either:

(i) The partial or final closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(c) The demonstrations referred to in (a)(i) and (b)(i) of this subsection must be made as follows: The demonstrations in (a)(i) of this subsection must be made at least thirty days prior to the expiration of the specified ninety-day period; and the demonstration in (b)(i) of this subsection must be made at least thirty days prior to the expiration of the specified one hundred eighty-day period unless the owner or operator is otherwise subject to the deadlines in (d) of this subsection.

(d) The department may allow an owner or operator to receive only nondangerous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of dangerous wastes at that unit if:

(i) The owner or operator requests a permit modification in compliance with all applicable requirements in WAC 173-303-830 and 40 CFR Part 124 and in the permit modification request demonstrates that:

(A) The unit has the existing design capacity as indicated on the part A application to receive nondangerous wastes; and

(B) There is a reasonable likelihood that the owner or operator or another person will receive nondangerous wastes in the unit within one year after the final receipt of dangerous wastes; and

(C) The nondangerous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under this part; and

(D) Closure of the dangerous waste management unit would be incompatible with continued operation of the unit or facility; and

(E) The owner or operator is operating and will continue to operate in compliance with all applicable permit requirements; and

(ii) The request to modify the permit includes an amended wastes analysis plan, ground water monitoring and

response program, human exposure assessment required under RCRA section 3019, and closure and post-closure plan, and updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate, to reflect any changes due to the presence of dangerous constituents in the nondangerous wastes, and changes in closure activities, including the expected year of closure if applicable under subsection (3)(a)(viii) of this section, as a result of the receipt of nondangerous wastes following the final receipt of dangerous wastes; and

(iii) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of nondangerous wastes following receipt of the final volume of dangerous wastes; and

(iv) The request to modify the permit and the demonstration referred to in (d)(i) and (ii) of this subsection are submitted to the department no later than one hundred twenty days prior to the date on which the owner or operator of the facility receives the known final volume of dangerous wastes at the unit, or no later than ninety days after the effective date of this rule in the state in which the unit is located, whichever is later.

(e) In addition to the requirements in (d) of this subsection, an owner or operator of a dangerous wastes surface impoundment that is not in compliance with the liner and leachate collection system requirements in 42 U.S.C. 3004 (o)(1) and 3005 (j)(1) or 42 U.S.C. 3004 (o)(2) or (3) or 3005 (j)(2), (3), (4) or (13) must:

(i) Submit with the request to modify the permit:

(A) A contingent corrective measures plan, unless a corrective action plan has already been submitted under WAC 173-303-645(10); and

(B) A plan for removing dangerous wastes in compliance with (e)(ii) of this subsection; and

(ii) Remove all dangerous wastes from the unit by removing all dangerous liquids, and removing all dangerous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(iii) Removal of dangerous wastes must be completed no later than ninety days after the final receipt of dangerous wastes. The department may approve an extension to this deadline if the owner or operator demonstrates that the removal of dangerous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health and the environment.

(iv) If a release that is a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters of constituents specified in the permit or that exceeds the facility's ground water protection standard at the point of compliance, if applicable, is detected in accordance with the requirements in WAC 173-303-645, the owner or operator of the unit:

(A) Must implement corrective measures in accordance with the approved contingent corrective measures plan required by (e)(i) of this subsection no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(B) May continue to receive wastes at the unit following detection of the release only if the approved corrective mea-

ures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(C) May be required by the department to implement corrective measures in less than one year or to cease the receipt of wastes until corrective measures have been implemented if necessary to protect human health and the environment.

(v) During the period of corrective action, the owner or operator must provide semiannual reports to the department that describe the progress of the corrective action program, compile all ground water monitoring data, and evaluate the effect of the continued receipt of nondangerous wastes on the effectiveness of the corrective action.

(vi) The department may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in (e)(iv) of this subsection, or fails to make substantial progress in implementing corrective action and achieving the facility's ground water protection standard or background levels if the facility has not yet established a ground water protection standard.

(vii) If the owner or operator fails to implement corrective measures as required in (e)(iv) of this subsection or if the department determines that substantial progress has not been made pursuant to (e)(vi) of this subsection the department will:

(A) Notify the owner or operator in writing that the owner or operator must begin closure in accordance with the deadline in (a) and (b) of this subsection and provide a detailed statement of reasons for this determination; and

(B) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than twenty days after the date of the notice.

(C) If the department receives no written comments, the decision will become final five days after the close of the comment period. The department will notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, must be submitted within fifteen days of the final notice and that closure must begin in accordance with the deadlines in (a) and (b) of this subsection.

(D) If the department receives written comments on the decision, it will make a final decision within thirty days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the department determines that substantial progress has not been made, closure must be initiated in accordance with the deadlines in (a) and (b) of this subsection.

(E) The final determinations made by the department under (e)(vii)(C) and (D) of this subsection are not subject to administrative appeal.

(5) Disposal or decontamination of equipment, structures and soils. During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in WAC 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), or under the authority of WAC 173-303-680 (2) and (4). By removing any

dangerous wastes or dangerous constituents during partial and final closure, the owner or operator may become a generator of dangerous waste and must handle that waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-230.

(6) Certification of closure. Within sixty days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas), and within sixty days of the completion of final closure, the owner or operator must submit to the department by registered mail, a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until it releases the owner or operator from the financial assurance requirements for closure under WAC 173-303-620(4).

(7) Postclosure care and use of property.

(a) Postclosure care for each dangerous waste management unit subject to postclosure requirements must begin after completion of closure of the unit and continue for thirty years after that date and must consist of at least the following:

(i) Ground water monitoring and reporting as required by WAC 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680; and

(ii) Maintenance and monitoring of waste containment systems as applicable.

(b) Any time preceding partial closure of a dangerous waste management unit subject to postclosure care requirements or final closure, or any time during the postclosure period for a particular unit, the department may, in accordance with the permit modification procedures in WAC 173-303-800 through 173-303-840:

(i) Shorten the postclosure care period applicable to the dangerous waste management unit, or facility, if all disposal units have been closed, if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the dangerous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the dangerous waste management unit or facility is secure); or

(ii) Extend the postclosure care period applicable to the dangerous waste management unit or facility if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of dangerous waste at levels which may be harmful to human health and the environment).

(c) The department may require, at partial or final closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the postclosure period when:

(i) Dangerous wastes may remain exposed after completion of partial or final closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health.

(d) Postclosure use of property on or in which dangerous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All postclosure care activities must be in accordance with the provisions of the approved postclosure plan as specified in subsection (8) of this section.

(8) Postclosure plan; amendment of plan.

(a) The owner or operator of a dangerous waste disposal unit must have a written postclosure plan. In addition, certain surface impoundments and certain piles from which the owner or operator intends to remove or decontaminate the dangerous wastes at partial or final closure are required by WAC 173-303-650 and 173-303-660, respectively, to have written contingent postclosure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent postclosure plans under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department within ninety days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the postclosure requirements. The plan must be submitted with the permit application, in accordance with WAC 173-303-806, and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved postclosure plan will become a condition of any permit issued.

(b) For each dangerous waste management unit subject to the requirements of this subsection, the postclosure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed to comply with WAC 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680 during the post-closure care period, to ensure:

(A) The integrity of the cap and final cover or other containment structures in accordance with the requirements of 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680; and

(B) The function of the facility monitoring equipment;

(iii) ~~(And)~~ The name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the postclosure care period;

(iv) And, for facilities where the director has applied alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e) or 173-303-620 (8)(d), the postclosure plan must include either the alternative requirements or a reference to the enforceable document that contains the alternative requirements.

(c) Until final closure of the facility, a copy of the approved postclosure plan must be furnished to the department upon request, including request by mail. After final closure has been certified, the person or office specified in (b)(iii) of this subsection must keep the approved postclosure plan during the remainder of the postclosure period.

(d) Amendment of plan. The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved postclosure plan in accordance with the applicable requirements of WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended postclosure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the postclosure plan at any time during the active life of the facility or during the postclosure care period.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved postclosure plan whenever:

(A) Changes in operating plans or facility design affect the approved postclosure plan; or

(B) There is a change in the expected year of final closure, if applicable; or

(C) Events which occur during the active life of the facility, including partial and final closures, affect the approved postclosure plan; or

(D) The owner/operator requests the director apply alternative requirements under subsection (1)(d) of this section, WAC 173-303-645 (1)(e), or 173-303-620 (8)(d).

(iii) The owner or operator must submit a written request for a permit modification at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the postclosure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to submit a contingent postclosure plan under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department no later than ninety days after the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665. The department will approve, disapprove, or modify this plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved postclosure plan will become a permit condition.

(iv) The department may request modifications to the plan under the conditions described in (d)(ii) of this subsection. The owner or operator must submit the modified plan no later than sixty days after the department's request, or no later than ninety days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent postclosure plan. Any modifications requested by the department will be approved, disapproved, or modified in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(9) Notice to local land authority. No later than the submission of the certification of closure of each dangerous waste disposal unit, the owner or operator of a disposal facil-

ity must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other dangerous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the dangerous waste disposal unit in accordance with the applicable requirements of this section. In addition, no later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(10) Notice in deed to property.

(a) No later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the department a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes (as defined in WAC 173-303-040) disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within sixty days of certification of closure of the first dangerous waste disposal unit and within sixty days of certification of closure of the last dangerous waste disposal unit, the owner or operator must:

(i) Record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

- (A) The land has been used to manage dangerous wastes;
- (B) Its use is restricted under this section; and

(C) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or other dangerous waste disposal unit of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department; and

(ii) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in (b)(i) of this subsection, including a copy of the document in which the notation has been placed, to the department.

(c) If the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located wishes to remove dangerous wastes and dangerous waste residues, the liner, if any, or contaminated soils, he must request a modification to the postclosure permit in accordance with

the applicable requirements in WAC 173-303-800 through 173-303-840. The owner or operator must demonstrate that the removal of dangerous wastes will satisfy the criteria of subsection (7)(d) of this section. By removing dangerous waste, the owner or operator may become a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the department approve either:

(i) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(ii) The addition of a notation to the deed or instrument indicating the removal of the dangerous waste.

(11) Certification of completion of postclosure care. No later than sixty days after completion of the established postclosure care period for each dangerous waste disposal unit, the owner or operator must submit to the department, by registered mail, a certification that the postclosure care period for the dangerous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until he releases the owner or operator from the financial assurance requirements for postclosure care under WAC 173-303-620(6).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-620 Financial requirements. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply to owners and operators of:

- (i) Dangerous waste disposal facilities;
- (ii) Tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills;
- (iii) Miscellaneous units as specified in WAC 173-303-680(4);

(iv) Waste piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section; and

(v) Containment buildings that are required under WAC 173-303-695 to meet the requirements for landfills.

(c) States and the federal government are exempt from the requirements of this section. Operators of state or federally owned facilities are exempt from the requirements of this section, except subsections (3) and (5) of this section. Operators of facilities who are under contract with (but not owned by) the state or federal government must meet all of the requirements of this section.

(d) The director may, in an enforceable document, replace all or part of the requirements of this section with

alternative requirements for financial assurance when he or she:

(i) Applies alternative requirements for ground water monitoring, closure or postclosure under WAC 173-303-610 (1)(d) or 173-303-645 (1)(e); and

(ii) Determines that it is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(2) Definitions. As used in this section, the following listed or referenced terms have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Postclosure plan" means the plan for postclosure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f), (g), and (h) are incorporated by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680 (2) through (4) and 173-303-695. The closure cost estimate:

(i) Must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a));

(ii) Must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility;

(iii) May not incorporate any salvage value that may be realized with the sale of dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and

(iv) May not incorporate a zero cost for dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), that might have economic value.

(b) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than

thirty days after the department has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product or Gross Domestic Product* as published by the United States Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator must meet all the requirements set forth in 40 CFR 264.143 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(5) Cost estimate for postclosure monitoring and maintenance.

(a) The owner or operator of a facility subject to postclosure monitoring or maintenance requirements must have a

detailed written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-680(4). The postclosure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct postclosure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required by WAC 173-303-610.

(b) During the active life of the facility, the owner or operator must revise the postclosure cost estimate within thirty days after the department has approved the request to modify the postclosure plan, if the change in the postclosure plan increases the cost of postclosure care. The revised postclosure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the postclosure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the postclosure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the postclosure cost estimate in current dollars or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product or Gross Domestic Product* as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the postclosure cost estimate by the inflation factor. The result is the adjusted postclosure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted postclosure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest postclosure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted postclosure cost estimate.

(6) Financial assurance for postclosure monitoring and maintenance.

(a) An owner or operator of a facility subject to postclosure monitoring or maintenance requirements must establish financial assurance for postclosure care in accordance with the approved postclosure care plan. He must choose from the following options or combination of options:

(i) Postclosure trust fund;

(ii) Surety bond guaranteeing payment into a postclosure trust fund;

(iii) Surety bond guaranteeing performance of postclosure care;

(iv) Postclosure letter of credit;

(v) Postclosure insurance; or

(vi) Financial test and corporate guarantee for postclosure care.

(b) In satisfying the requirements of financial assurance for facility postclosure care in this subsection, the owner or operator must meet all the requirements set forth in 40 CFR 264.145 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(7) Use of a mechanism for financial assurance of both closure and postclosure care. An owner or operator may satisfy the requirements for financial assurance for both closure and postclosure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145 which are incorporated by reference. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a) which is incorporated by reference.

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040) or a disposal miscellaneous unit or units used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b), 264.177 (f), (g), (h), (i), and (j) which are incorporated by reference.

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be

based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(f) The following subsections are incorporated by reference: 40 CFR section 260.147(f), Financial test for liability coverage, (g) Guarantee for liability coverage, (h) Letter of credit for liability coverage, (i) Surety bond for liability coverage, and (j) Trust fund for liability coverage.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the

authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section must contain the wording specified by 40 CFR 264.151 which is incorporated by reference, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the words Washington state department of ecology;

(b) The words "hazardous waste" must be replaced with the words "dangerous waste";

(c) Any other words specified by the department must be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section; and

(d) Whenever 40 CFR 264.151 requires that owners and operators notify several regional administrators of their financial obligations, the owner or operator must notify both the department and all regional administrators of regions that are affected by the owner or operator's financial assurance mechanisms.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-630 Use and management of containers. (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store containers of dangerous waste.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

(3) Identification of containers. The owner or operator must label containers in a manner which adequately identifies the major risk(s) associated with the contents of the containers for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(c) A minimum thirty-inch separation is required between aisles of containers holding dangerous waste(s). A row of drums must be no more than two drums wide.

(6) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The owner or operator must keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum twenty-five year storm of twenty-four hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Only containers holding free liquids, or holding wastes designated as F020, F021, F022, F023, F026, or F027 need to be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids, do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), and are not designated as F020, F021, F022, F023, F026, or F027, need not have a containment system as described in this subsection: Provided, That:

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) The department may require generators to protect their containers from the elements by means of a building or other protective covering if the department determines that such protection is necessary to prevent a release of waste or waste constituents due to the nature of the waste or design of the container. The building or other protective covering must allow adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the Uniform Fire Code's "American Table of Distances for Storage of Explosives," Table 77-201, ((4979)) 1997 edition or the version adopted by the local fire district.

(b) The owner or operator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the Uniform Fire Code. Where no specific standard or requirements are specified in the Uniform Fire Code, or in existing state or local fire codes, applicable sections of the NFPA Pamphlet # 30, "Flammable and Combustible Liquids Code," must be used. The owner/operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a container in accordance with the applicable requirements of 40 CFR Subparts

AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-640 Tank systems. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tank systems to treat or store dangerous waste, except as (b), (c), and (d) of this subsection provides otherwise.

(b) Tank systems that are used to store or treat dangerous waste which contain no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subsection (4) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the test method described in WAC 173-303-110 (3)((~~e~~)(~~t~~)) (a) must be used.

(c) Tank systems, including sumps, as defined in WAC 173-303-040, that serve as part of a secondary containment system to collect or contain releases of dangerous wastes are exempted from the requirements in subsection (4)(a) of this section.

(d) Tanks, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in WAC 173-303-040 and regulated under WAC 173-303-675, must meet the requirements of this section.

(2) Assessment of existing tank system's integrity.

(a) For each existing tank system, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in (b) of this subsection, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that attests to the tank system's integrity by January 12, 1988, for underground tanks that do not meet the requirements of subsection (4) of this section and that cannot be entered for inspection, or by January 12, 1990, for all other tank systems.

(b) Tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, must conduct this assessment within twelve months after the date that the waste becomes a dangerous waste.

(c) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

- (i) Design standard(s), if available, according to which the tank system was constructed;
- (ii) Dangerous characteristics of the waste(s) that have been and will be handled;
- (iii) Existing corrosion protection measures;
- (iv) Documented age of the tank system, if available (otherwise, an estimate of the age); and
- (v) Results of a leak test, internal inspection, or other tank system integrity examination such that:
 - (A) For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account

the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(B) For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that addresses cracks, leaks, corrosion, and erosion.

Note: The practices described in the American Petroleum Institute (API) Publication, Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines in conducting other than a leak test.

(d) If, as a result of the assessment conducted in accordance with (a) of this subsection, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subsection (7) of this section.

(e) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture, or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(3) Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain (and for facilities that are pursuing or have obtained a final status permit, submit to the department, at time of submittal of Part B information) a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of dangerous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment (which will be used by the department to review and approve or disapprove the acceptability of the tank system design at facilities which are pursuing or have obtained a final status permit) must include, at a minimum, the following information:

- (i) Design standard(s) according to which tank system(s) are constructed;
- (ii) Dangerous characteristics of the waste(s) to be handled;
- (iii) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:
 - (A) Factors affecting the potential for corrosion, including but not limited to:
 - (I) Soil moisture content;
 - (II) Soil pH;
 - (III) Soil sulfides level;
 - (IV) Soil resistivity;
 - (V) Structure to soil potential;

(VI) Influence of nearby underground metal structures (e.g., piping);

(VII) Existence of stray electric current;

(VIII) Existing corrosion-protection measures (e.g., coating, cathodic protection); and

(B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

(I) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

(II) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and

(III) Electrical isolation devices such as insulating joints, flanges, etc.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(iv) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(v) Design considerations to ensure that:

(A) Tank foundations will maintain the load of a full tank;

(B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is either placed in a saturated zone, or is located less than five hundred feet from a fault which has had displacement in Holocene times; and

(C) Tank systems will withstand the effects of frost heave.

(b) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

(i) Weld breaks;

(ii) Punctures;

(iii) Scrapes of protective coatings;

(iv) Cracks;

(v) Corrosion;

(vi) Other structural damage or inadequate construction/installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(e) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(f) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery Piping," and ANSI Standard B31.4 "Liquid Petroleum Transportation Piping System," may be used, where applicable, as guidelines for proper installation of piping systems.

(g) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under (a)(iii) of this subsection, or other corrosion protection if the department believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(h) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of (b) through (g) of this subsection, that attest that the tank system was properly designed and installed and that repairs, pursuant to (c) and (e) of this subsection, were performed. These written statements must also include the certification statement as required in WAC 173-303-810 (13)(a).

(4) Containment and detection of releases.

(a) In order to prevent the release of dangerous waste or dangerous constituents to the environment, secondary containment that meets the requirements of this subsection must be provided (except as provided in (f) and (g) of this subsection):

(i) For all new tank systems or components, prior to their being put into service;

(ii) For all existing tank systems used to store or treat Dangerous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1989;

(iii) For those existing tank systems of known and documented age, within two years after January 12, 1989, or when the tank system has reached fifteen years of age, whichever comes later;

(iv) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1989; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches fifteen years of age, or within two years of January 12, 1989, whichever comes later; and

(v) For tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, within the time intervals required in (a)(i) through (iv) of this subsection, except that the date that a material becomes a dangerous waste must be used in place of January 12, 1989.

(b) Secondary containment systems must be:

(i) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(ii) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of (b) of this subsection, secondary containment systems must be at a minimum:

(i) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operations (including stresses from nearby vehicular traffic);

(ii) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(iii) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of dangerous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the department that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(iv) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the department that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

Note: If the collected material is a dangerous waste under WAC 173-303-070, it is subject to management as a dangerous waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-400 and WAC 173-303-600 through 173-303-695. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a publicly owned treatment works (POTW), it is subject to the requirements of section 307 of the Clean Water Act, as amended. If

the collected material is released to the environment, it may be subject to the reporting requirements of 40 CFR Part 302.

(d) Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank);

(ii) A vault;

(iii) A double-walled tank; or

(iv) An equivalent device as approved by the department.

(e) In addition to the requirements of (b), (c), and (d) of this subsection, secondary containment systems must satisfy the following requirements:

(i) External liner systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(C) Free of cracks or gaps; and

(D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(ii) Vault systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(C) Constructed with chemical-resistant water stops in place at all joints (if any);

(D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(I) Meets the definition of ignitable waste under WAC 173-303-090(5); or

(II) Meets the definition of reactive waste under WAC 173-303-090(7), and may form an ignitable or explosive vapor.

(F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(iii) Double-walled tanks must be:

(A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(C) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the department, and the department concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of (b) and (c) of this subsection except for:

(i) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this subsection if the department finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous waste or dangerous constituents into the ground water, or surface water at least as effectively as secondary containment during the active life of the tank system or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with (g)(ii) of this subsection, be exempted from the secondary containment requirements of this section.

(i) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the department will consider:

(A) The nature and quantity of the wastes;

(B) The proposed alternate design and operation;

(C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and

(D) All other factors that would influence the quality and mobility of the dangerous constituents and the potential for them to migrate to ground water or surface water.

(ii) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the department will consider:

(A) The potential adverse effects on ground water, surface water, and land quality taking into account:

(I) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

(II) The hydrogeological characteristics of the facility and surrounding land;

(III) The potential for health risks caused by human exposure to waste constituents;

(IV) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(V) The persistence and permanence of the potential adverse effects.

(B) The potential adverse effects of a release on ground water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground water flow;

(II) The proximity and withdrawal rates of ground water users;

(III) The current and future uses of ground water in the area; and

(IV) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality.

(C) The potential adverse effects of a release on surface water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground water flow;

(II) The patterns of rainfall in the region;

(III) The proximity of the tank system to surface waters;

(IV) The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and

(V) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality.

(D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(I) The patterns of rainfall in the region; and

(II) The current and future uses of the surrounding land.

(iii) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7) of this section, except subsection (7)(d) of this section; and

(B) Decontaminate or remove contaminated soil to the extent necessary to:

(I) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

(II) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water.

(C) If contaminated soil cannot be removed or decontaminated in accordance with (g)(iii)(B) of this subsection, comply with the requirements of subsection (8) of this section.

(iv) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7)(a), (b), (c), and (d) of this section; and

(B) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if ground water has been contaminated, the owner or operator must comply with the requirements of subsection (8)(b) of this section; and

(C) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of (a) through (f) of this subsection or reapply for a variance from secondary containment and meet the requirements for new tank systems in subsection (3) of this section if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and ground water or surface water has not been contaminated.

(h) The following procedures must be followed in order to request a variance from secondary containment:

(i) The department must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in (g) of this subsection according to the following schedule:

(A) For existing tank systems, at least twenty-four months prior to the date that secondary containment must be provided in accordance with (a) of this subsection.

(B) For new tank systems, at least thirty days prior to entering into a contract for installation.

(ii) As part of the notification, the owner or operator must also submit to the department a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in (g)(i) or (ii) of this subsection;

(iii) The demonstration for a variance must be completed within one hundred eighty days after notifying the department of an intent to conduct the demonstration; and

(iv) If a variance is granted under this subsection, the department will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(A) For nonenterable underground tanks, a leak test that meets the requirements of subsection (2)(c)(v) of this section or other tank integrity method, as approved or required by the department, must be conducted at least annually.

(B) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in (i)(A) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an

independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(C) For ancillary equipment, a leak test or other integrity assessment as approved by the department must be conducted at least annually.

Note: The practices described in the American Petroleum Institute (API) Publication Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines for assessing the overall condition of the tank system.

(D) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with (h)(iv)(A) through (C) of this subsection.

(E) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in (h)(iv)(A) through (C) of this subsection, the owner or operator must comply with the requirements of subsection (7) of this section.

(5) General operating requirements.

(a) Dangerous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(iii) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of subsection (7) of this section if a leak or spill occurs in the tank system.

(d) All tank systems holding dangerous waste must be marked with labels or signs to identify the waste contained in the tank. The label or sign must be legible at a distance of at least fifty feet, and must bear a legend which identifies the waste in a manner which adequately warns employees, emergency response personnel, and the public of the major risk(s) associated with the waste being stored or treated in the tank system(s). (Note—If there already is a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate.)

(e) All tank systems holding dangerous wastes which are acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(6) Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(b) The owner or operator must inspect at least once each operating day:

(i) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(ii) Data gathered from monitoring any leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of dangerous waste (e.g., wet spots, dead vegetation).

Note: WAC 173-303-320 requires the owner or operator to remedy any deterioration or malfunction he finds. Subsection (7) of this section requires the owner or operator to notify the department within twenty-four hours of confirming a leak. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of a release.

(c) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(ii) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(d) The owner or operator must document in the operating record of the facility an inspection of those items in (a) through (c) of this subsection. The owner or operator must keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of dangerous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of waste from tank system or secondary containment system.

(i) If the release was from the tank system, the owner/operator must, within twenty-four hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspection and repair of the tank system to be performed.

(ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:

(i) Prevent further migration of the leak or spill to soils or surface water; and

(ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(i) Any release to the environment, except as provided in (d)(ii) of this subsection, must be reported to the department within twenty-four hours of its detection. Any release above the "reportable quantity" must also be reported to the National Response Center pursuant to 40 CFR Part 302.

(ii) A leak or spill of dangerous waste is exempted from the requirements of (d) of this subsection if it is:

(A) Less than or equal to a quantity of one pound, or the "Reportable Quantity" (RQ) established in 40 CFR Part 302, whichever is less; and

(B) Immediately contained and cleaned-up.

(iii) Within thirty days of detection of a release to the environment, a report containing the following information must be submitted to the department:

(A) Likely route of migration of the release;

(B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty days, these data must be submitted to the department as soon as they become available;

(D) Proximity to downgradient drinking water, surface water, and populated areas; and

(E) Description of response actions taken or planned.

(e) Provision of secondary containment, repair, or closure.

(i) Unless the owner/operator satisfies the requirements of (e)(ii) through (iv) of this subsection, the tank system must be closed in accordance with subsection (8) of this section.

(ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(iii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subsection (4) of this section before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of (f) of this subsection are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subsections (3) and (4) of this section. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with subsection (4) of this section prior to being returned to use.

(f) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with (e) of this subsection, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with WAC 173-303-810 (13)(a) that the repaired system is capable of handling dangerous wastes without release for the intended life of the system. This certification must be submitted to the department within seven days after returning the tank system to use.

Note: See WAC 173-303-320 for the requirements necessary to remedy a failure. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of certain releases.

(8) Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as dangerous waste, unless WAC 173-303-070 (2)(a) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in WAC 173-303-610 and 173-303-620.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (a) of this subsection, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (see WAC 173-303-665(6)). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subsection (4)(b) through (f) of this section and is not exempt from the secondary containment requirements in accordance with subsection (4)(g) of this section, then:

(i) The closure plan for the tank system must include both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection.

(ii) A contingent post-closure plan for complying with (b) of this subsection must be prepared and submitted as part of the permit application.

(iii) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under (a) of this subsection.

(iv) Financial assurance must be based on the cost estimates in (c)(iii) of this subsection.

(v) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under this chapter (WAC 173-303-610 and 173-303-620).

(9) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank system is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the NFPA-30 *Flammable and Combustible Liquids Code* -1981, or as required by state and local fire codes when such codes are more stringent. The owner or operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(10) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a tank in accordance with the applicable requirements of 40 CFR Subparts AA.

BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

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

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-645 Releases from regulated units. (1) Applicability.

(a)(i) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste. The owner or operator must satisfy the requirements identified in (a)(ii) of this subsection for all wastes (or constituents thereof) contained in solid waste management units at the facility, regardless of the time at which waste was placed in such units.

(ii) All solid waste management units must comply with the requirements in WAC 173-303-646(2). Regulated units (as defined in WAC 173-303-040) must comply with the requirements of subsections (2) through (12) of this section, in lieu of WAC 173-303-646(2), for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The corrective action financial responsibility requirements of WAC 173-303-646(2) apply to corrective action regulated units.

(b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this section if:

(i) The owner or operator is exempted under WAC 173-303-600; or

(ii) He operates a unit which the department finds:

(A) Is an engineered structure;

(B) Does not receive or contain liquid waste or waste containing free liquids;

(C) Is designed and operated to exclude liquid, precipitation, and other run-on and run-off;

(D) Has both inner and outer layers of containment enclosing the waste;

(E) Has a leak detection system built into each containment layer;

(F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods; and

(G) To a reasonable degree of certainty, will not allow dangerous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period.

(iii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility

to meet the requirements of this section during the post-closure care period; or

(iv) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the postclosure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);

(ii) Apply during the postclosure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(d) Regulations in this section may apply to miscellaneous units when necessary to comply with WAC 173-303-680 (2) through (4).

(e) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for ground water monitoring and corrective action when he or she determines:

(i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section. Detected is defined as statistically significant evidence of contamination as described in subsection (9)(f) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section. Exceeded is defined as statistically significant evidence of increased contamination as described in subsection (10)(h) of this section. Exceeded is

defined as statistically significant evidence of contamination as described in WAC 173-303-645 (10)(d);

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, detected in the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the ground water protection standard in the facility permit when dangerous constituents have been detected in the ground water from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in 40 CFR Part 264 Appendix IX, which is adopted by reference (this list is available from the department), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the

detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1.
Maximum Concentration of Constituents
for Ground Water Protection

Constituent	Maximum Concentration ¹
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1m
2,4,5-TP Silvex	0.01

¹Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b)(i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection

standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically down-gradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit;

(A) A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(I) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and

(II) Sampling at other wells will provide an indication of background ground water quality that is representative or more representative than that provided by the upgradient wells; and

(ii) Represent the quality of ground water passing the point of compliance.

PERMANENT

(iii) Allow for the detection of contamination when dangerous waste or dangerous constituents have migrated from the waste management area to the uppermost aquifer.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. Wells must meet the requirements set forth in Parts 1 and 3 of chapter 173-160 WAC, "Minimum standards for construction and maintenance of wells."

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

- (i) Decontamination of drilling and sampling equipment;
- (ii) Sample collection;
- (iii) Sample preservation and shipment;
- (iv) Analytical procedures and quality assurance; and
- (v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of ground water quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) In detection monitoring or where appropriate in compliance monitoring, data on each dangerous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size must be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which will be specified in the unit permit upon approval by the department. This sampling procedure will be:

(i) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

(ii) An alternate sampling procedure proposed by the owner or operator and approved by the department.

(h) The owner or operator will specify one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent which, upon

approval by the department, will be specified in the unit permit. The statistical test chosen must be conducted separately for each dangerous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with (i)(v) of this subsection, the pql must be proposed by the owner or operator and approved by the department. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in (i) of this subsection.

(i) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(ii) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(iii) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(iv) A control chart approach that gives control limits for each constituent.

(v) Another statistical test method submitted by the owner or operator and approved by the department.

(i) Any statistical method chosen under (h) of this subsection for specification in the unit permit must comply with the following performance standards, as appropriate:

(i) The statistical method used to evaluate ground water monitoring data must be appropriate for the distribution of chemical parameters or dangerous constituents. If the distribution of the chemical parameters or dangerous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(ii) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test must be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period must be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(iii) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values must be proposed by the owner or operator and approved by the department if it finds it to be protective of human health and the environment.

(iv) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the owner or operator and approved by the department if it finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(v) The statistical method must account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the department under (h) of this subsection that is used in the statistical method must be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(vi) If necessary, the statistical method must include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(j) Ground water monitoring data collected in accordance with (g) of this subsection including actual levels of constituents must be maintained in the facility operating record. The department will specify in the permit when the data must be submitted for review.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must conduct a ground water monitoring program for each chemical parameter and dangerous constituent specified in the permit pursuant to (a) of this subsection in accordance with subsection (8)(g) of this section. The owner or operator must maintain a record of ground water analytical data as measured and in a form necessary for

the determination of statistical significance under subsection (8)(h) of this section.

(d) The department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or dangerous constituent specified in the permit under (a) of this subsection in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during detection monitoring.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter of dangerous constituent specified in the permit pursuant to (a) of this subsection at a frequency specified under (d) of this subsection.

(i) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. These method(s) must compare data collected at the compliance point(s) to the background ground water quality data.

(ii) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The department will specify in the facility permit what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(g) If the owner or operator determines pursuant to (f) of this subsection that there is statistically significant evidence of contamination for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what chemical parameters or dangerous constituents have shown statistically significant evidence of contamination:

(ii) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of 40 CFR Part 264 (which is adopted by reference) are present, and if so, in what concentration.

(iii) For any Appendix IX compounds found in the analysis pursuant to (g)(ii) of this subsection, the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to (g)(ii) of this subsection, the dangerous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

(iv) Within ninety days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of sub-

section (10) of this section. The application must include the following information:

(A) An identification of the concentration or any Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent detected at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek an alternate concentration limit under subsection (5)(b) of this section; and

(v) Within one hundred eighty days, submit to the department:

(A) All data necessary to justify an alternate concentration limit sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of subsection (11) of this section unless:

(I) All dangerous constituents identified under (g)(ii) of this subsection are listed in Table I of subsection (5) of this section and their concentrations do not exceed the respective values given in that Table; or

(II) The owner or operator has sought an alternate concentration limit under subsection (5)(b) of this section for every dangerous constituent identified under (g)(ii) of this subsection.

(vi) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant difference for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. The owner operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (g)(iv) of this subsection; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in (g)(iv) of this subsection unless the demonstration made under this subsection successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(A) Notify the department in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he intends to make a demonstration under this subsection;

(B) Within ninety days, submit a report to the department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

(C) Within ninety days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and

(D) Continue to monitor in accordance with the detection monitoring program established under this section.

(h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he or she must, within ninety days, submit an application for a permit modification to make any appropriate changes to the program.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with subsection (8)(g) and (h) of this section.

(i) The owner or operator must conduct a sampling program for each chemical parameter or dangerous constituent in accordance with subsection (8)(g) of this section.

(ii) The owner or operator must record ground water analytical data as measured and in form necessary for the determination of statistical significance under subsection (8)(h) of this section for the compliance period of the facility.

(d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or dangerous constituent specified in the permit, pursuant to (a) of this subsection, at a frequency specified under (f) of this subsection.

(i) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. The method(s) must compare data collected at the compliance point(s) to a concentration limit developed in accordance with subsection (5) of this section.

(ii) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit,

after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during the compliance period of the facility.

(g) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Part 264 at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in (f) of this subsection. If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the department within seven days after completion of the initial analysis and add them to the monitoring list. If the owner or operator determines, pursuant to (d) of this subsection, that any concentration limits under subsection (5) of this section are being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(ii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(i) If the owner or operator determines, pursuant to (d) of this subsection, that the ground water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place.

The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary; and beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. For a facility seeking or required to have a permit, the corrective action measures to be taken must be specified in the permit.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water

monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semi-annually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(12) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-645 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of WAC 173-303-645 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-646 Corrective action. (1) Purpose and applicability.

(a) The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.

(b) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.

(c) ~~((For the purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 appendix IX, any constituent which caused a waste to be listed or designated as dangerous under the provisions of chapter 173-303 WAC, and any constituent defined as a hazardous substance at RCW 70.105D.020(5).))~~
The provisions of this section do not apply to cleanup-only facilities.

(d) For purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 Appendix IX, any constituent that caused a waste to be listed as a dangerous waste or to exhibit a dangerous characteristic under this chapter or to meet a dangerous waste criteria under this chapter, and any constituent that is

within the meaning of "hazardous substance" under RCW 70.105D.020(7).

(2) Requirements.

(a) The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.

(b) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.

(c) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.

(d) At a minimum, corrective actions must be consistent with the following requirements of chapter 173-340 WAC.

(i) As necessary to select a cleanup action consistent with WAC 173-340-360, 173-340-350, state remedial investigation and feasibility study. Information that is adequate to support selection of a cleanup action consistent with WAC 173-340-360 but was developed under a different authority (for example, as part of closure under WAC 173-303-610 or as part of a federally overseen cleanup) may be used.

(ii) WAC 173-340-360, selection of cleanup actions.

(iii) WAC 173-340-400, cleanup actions.

(iv) WAC 173-340-410, compliance monitoring requirements.

(v) WAC 173-340-420, periodic site reviews.

(vi) WAC 173-340-440, institutional controls.

(vii) WAC 173-340-700 through 173-340-760, cleanup standards.

(3) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under subsection (2) of this section using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act will be in compliance with the requirements of subsection (2) of this section and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation will in no way affect the timing or scope of review of the Model Toxics Control Act action.

(4) Corrective action management unit (CAMU).

~~(a) ((For the purpose of implementing corrective actions required by subsection (2) of this section, the director may choose to designate an area at a facility as a corrective action management unit. Designation of a CAMU will be in accordance with the provisions of this subsection and subsections (5) and (6) of this section. The director may choose to designate one or more CAMUs at a facility.~~

~~(b) Placement of remediation wastes, as defined in WAC 173-303-040 into or within a CAMU does not constitute land disposal of dangerous waste, however, when necessary to protect human health and the environment, the department may require remediation waste meet land disposal standards before placement in a CAMU.~~

~~(c) Consolidation or placement of remediation wastes, as defined in WAC 173-303-040 into or within a CAMU does not constitute creation of a unit subject to the minimum technology requirements of WAC 173-303-140(2), however, when necessary to protect human health and the environment, the department may require a CAMU meet all or part of the minimum technology requirements.~~

(d)) In accordance with the requirements of this subsection, the director may designate an area at a facility as a corrective action management unit for the purpose of treating, storing or disposing of remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. Placement of dangerous remediation waste into or within a CAMU does not constitute land disposal of dangerous waste. Consolidation or placement of dangerous remediation waste into or within a CAMU does not constitute creation of a unit subject to minimum technology requirements.

(b) Designation of a CAMU will not in any way affect the department's existing authorities, including authority under chapter 70.105D RCW, to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.

~~((e))~~ (c) Designation of a CAMU will not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to subsection (3) of this section to fulfill the corrective action requirements of subsection (2) of this section or the corrective action requirements of WAC 173-303-645.

(5) Designation of a corrective action management unit.

(a) When designating a CAMU, the director will do so in accordance with subsection (4) of this section, and the following:

(i) The CAMU will facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(ii) Waste management activities associated with the CAMU will not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;

(iii) The CAMU will include uncontaminated areas of the facility only if including such areas for the purposes of managing remediation wastes is more protective than management of such wastes at contaminated areas of the facility;

(iv) Areas within the CAMU where wastes remain in place after closure of the CAMU, will be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;

(v) When appropriate and practicable, the CAMU will expedite the timing of remedial activity implementation;

(vi) The CAMU will enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(vii) The CAMU will, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(b) When designating a CAMU, the director will specify requirements for the CAMU including the following:

(i) The areal configuration of the CAMU;

(ii) Requirements for remediation waste management within the CAMU including specification of applicable design, operation, and closure requirements;

(iii) Requirements for ground water and/or vadose zone monitoring that are sufficient to:

(A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and

(B) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.

(iv) Requirements for closure that will minimize the need for further maintenance of the CAMU and will include, as appropriate and deemed necessary by the director, the following:

(A) Requirements for excavation, removal, treatment, and/or containment of wastes;

(B) For areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and

(C) Requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.

(c) In establishing closure requirements for CAMUs under (b)(iv) of this subsection the director will consider the following factors:

(i) CAMU characteristics;

(ii) Volume of wastes which will remain in place after CAMU closure;

(iii) Potential for releases from the CAMU;

(iv) Physical and chemical characteristics of the waste;

(v) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU; and

(vi) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.

(d) The director will, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements will include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities will be performed to ensure the integrity of any cap, final cover, or other containment system.

(e) The owner/operator of a facility must provide sufficient information to enable the director to designate a CAMU in accordance with the criteria in subsections (4), (5)(a) through (d), and (6) of this section.

(f) The director will document the rationale for designating CAMUs and will make such documentation available to the public.

(g) Incorporation of the designation of and requirements for a CAMU into a existing permit must be approved by the director according to the procedures for agency initiated permit modifications under WAC 173-303-830(3), or according to the permit modification procedures of WAC 173-303-830(4).

(6) Incorporation of a regulated unit within a CAMU.

(a) The director may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(i) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and

(ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.

(b) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

(7) Temporary units (TUs).

(a) ~~((For temporary tanks and container storage areas used for treatment or storage of remediation wastes during implementation of the corrective action requirements of subsection (2) of this section, the director may determine that a design, operating, or closure standard applicable to such units may be replaced by alternative requirements which are protective of human health and the environment.))~~ In accordance with the requirements of this subsection, the director may designate a tank or container storage area at a facility as a temporary unit for the purpose of treating or storing remediation waste that originates at the same facility in order to implement remedies under this section or to implement other cleanup actions. The director may replace the design, operating and closure standards applicable to dangerous waste tank and container treatment and storage units under this chapter with alternative requirements that protect human health and the environment.

(b) Any temporary unit to which alternative requirements are applied in accordance with (a) of this subsection will be:

(i) Located within the facility boundary; and

(ii) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of subsection (2) of this section at the facility.

(c) In establishing standards to be applied to a temporary unit, the director will consider the following factors:

(i) Length of time unit will be in operation;

(ii) Type of unit;

(iii) Volumes of wastes to be managed;

(iv) Physical and chemical characteristics of the wastes to be managed in the unit;

(v) Potential for releases from the unit;

(vi) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and

(vii) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.

(d) The director will specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director will also specify design, operating, and closure requirements for the temporary unit.

(e) The director may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:

(i) Continued operation of the unit will not pose a threat to human health and the environment; and

(ii) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

(f) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit will be:

(i) Approved in accordance with the procedures for agency-initiated permit modifications under WAC 173-303-830(3); or

(ii) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).

(g) The director will document the rationale for designating a temporary unit and for granting time extensions for temporary units and will make such documentation available to the public.

(8) Staging piles. The requirements for staging piles in 40 CFR Part 264.554 are incorporated by reference.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-650 Surface impoundments. (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) Any surface impoundment that is not covered by (j) of this subsection must have a liner for all portions of the impoundment (except for an existing portion of a surface

impoundment). The liner must be designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator must submit an engineering report with their permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report must be certified by an independent, qualified registered professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(g) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(h) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(j) The owner or operator of each new surface impoundment unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992, and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system between such liners. "Construction commences" is as defined in WAC 173-303-040 under "existing TSD facility."

(i) The liner system must include:

(A) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into such liner during the active life and post-closure care period; and

(B) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of dangerous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} /cm/sec.

(ii) The liners must comply with (a)(i)(A), (B), and (C) of this subsection.

(iii) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This leak detection system must be capable of detecting, collecting, and removing leaks of dangerous constituents at the earliest practicable

time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a leak detection system in this paragraph are satisfied by installation of a system that is, at a minimum:

(A) Constructed with a bottom slope of one percent or more;

(B) Constructed of granular drainage materials with a hydraulic conductivity of 1×10^{-1} /cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-4} /m²/sec or more;

(C) Constructed of materials that are chemically resistant to the waste managed in the surface impoundment and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes and any waste cover materials or equipment used at the surface impoundment;

(D) Designed and operated to minimize clogging during the active life and post-closure care period; and

(E) Constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump(s). The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(iv) The owner or operator will collect and remove pumpable liquids in the sumps to minimize the head on the bottom liner.

(v) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of ground water.

(k) The department may approve alternative design or operating practices to those specified in (j) of this subsection if the owner or operator demonstrates to the department that such design and operating practices, together with location characteristics:

(i) Will prevent the migration of any dangerous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal system specified in (j) of this subsection; and

(ii) Will allow detection of leaks of dangerous constituents through the top liner at least as effectively.

(l) The double liner requirement set forth in (j) of this subsection may be waived by the department for any monofill, if:

(i) The monofill contains only dangerous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes dangerous for reasons other than the toxicity characteristic in WAC 173-303-090(8) or the toxicity criteria at WAC 173-303-100(5); and

(ii)(A) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this paragraph, the term "liner" means a liner designed, constructed, installed, and operated to prevent dangerous waste from passing into the liner at any time during the active life of

the facility, or a liner designed, constructed, installed, and operated to prevent dangerous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of (j) of this subsection on the basis of a liner designed, constructed, installed, and operated to prevent dangerous waste from passing beyond the liner, at the closure of such impoundment, the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment will comply with appropriate post-closure requirements, including but not limited to ground water monitoring and corrective action;

(B) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 40 CFR Section 144.3); and

(C) The monofill is in compliance with generally applicable ground water monitoring requirements for facilities with permits under RCRA section 3005(c); or

(iii) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any dangerous constituent into ground water or surface water at any future time.

(m) The owner or operator of any replacement surface impoundment unit is exempt from (j) of this subsection if:

(i) The existing unit was constructed in compliance with the design standards of sections 3004 (o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(ii) There is no reason to believe that the liner is not functioning as designed.

(3) Reserve.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents; and

(iii) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator

must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(d)(i) An owner or operator required to have a leak detection system under subsection (2)(j) or (k) of this section must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(ii) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(iii) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the department based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

(i) Unexpected changes of liquid levels occur; or

(ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures

to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and post-closure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring

throughout the post-closure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsections (2)(j)(ii)(D) and (E), and (4)(d) of this section, and comply with all other applicable leak detection system requirements of this chapter;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and post-closure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

Reserve.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of WAC 173-303-140 (2)(a), and:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) The wastes F020, F021, F022, F023, F026, or F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

(10) Action leakage rate.

(a) The department must approve an action leakage rate for surface impoundment units subject to WAC 173-303-650 (2)(j) or (k). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

(b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under WAC 173-303-650 (4)(d) to an average daily flow rate (gallons per acre per day) for each sump. Unless the department approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and if the unit is closed in accordance with WAC 173-303-650 (6)(b), monthly during the post-closure care period when monthly monitoring is required under WAC 173-303-650 (4)(d).

(11) Response actions.

(a) The owner or operator of surface impoundment units subject to subsection (2)(j) or (k) of this section must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in (b) of this subsection.

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(i) Notify the department in writing of the exceedance within seven days of the determination;

(ii) Submit a preliminary written assessment to the department within fourteen days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(iii) Determine to the extent practicable the location, size, and cause of any leak;

(iv) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(v) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(vi) Within thirty days after the notification that the action leakage rate has been exceeded, submit to the department the results of the analyses specified in (b) (iii), (iv), and (v) of this subsection, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the department a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in (b) (iii), (iv), and (v) of this subsection, the owner or operator must:

(i) Assess the source of liquids and amounts of liquids by source;

(ii) Conduct a fingerprint, dangerous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(iv) Document why such assessments are not needed.

(12) Air emission standards. The owner or operator must manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of 40 CFR Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

(13) Existing and newly regulated surface impoundments. The requirements of 3005 (j)(1) and (6) of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, are incorporated by reference. Surface impoundments regulated for the first time by a listing or characteristic adopted after November 8, 1984, must comply with new unit requirements or stop dangerous waste activity by four years after the date of adoption of the new listing or characteristic.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-680 Miscellaneous units. (1) Applicability. The requirements of this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units, except as WAC 173-303-600 provides otherwise.

(2) Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of dangerous waste or dangerous constituents from the unit. Permit terms and provisions will include those requirements in WAC 173-303-630 through 173-303-670, 40 CFR Subparts AA through CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692, WAC 173-303-800 through 173-303-806, WAC 173-303-800 through 173-303-806, and 40 CFR Part 146 that are appropriate for the miscellaneous units being permitted. Protection of human health and the environment includes, but is not limited to:

(a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of wastes constituents in the ground water or subsurface environment, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(ii) The hydrologic and geologic characteristics of the unit and the surrounding area;

(iii) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water;

(iv) The quantity and direction of ground water flow;

(v) The proximity to and withdrawal rates of current and potential ground water users;

(vi) The patterns of land use in the region;

(vii) The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;

(viii) The potential for health risks caused by human exposure to waste constituents; and

(ix) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(b) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(i) The volume and physical and chemical characteristics of the waste in the unit;

(ii) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(iii) The hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(iv) The patterns of precipitation in the region;

(v) The quantity, quality, and direction of ground water flow;

(vi) The proximity of the unit to surface waters;

(vii) The current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(viii) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(ix) The patterns of land use in the region;

(x) The potential for health risks caused by human exposure to waste constituents; and

(xi) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(c) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;

(ii) The effectiveness and reliability of systems and structures to reduce or prevent emissions of dangerous constituents to the air;

(iii) The operating characteristics of the unit;

(iv) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(v) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(vi) The potential for health risks caused by human exposure to waste constituents; and

(vii) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(3) Monitoring, analysis, inspection, response, reporting, and corrective action. Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies must ensure compliance with subsection (2) of this section, WAC 173-303-320, 173-303-340(1), 173-303-390, and 173-303-646(2) as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

(4) Postclosure care. A miscellaneous unit that is a disposal unit must be maintained in a manner that complied with subsection (2) of this section during the postclosure care period. In addition, if a treatment or storage unit has contaminated soils or ground water that cannot be completely removed or decontaminated during closure, then that unit must also meet the requirements of subsection (2) of this section during postclosure care. The postclosure plan under WAC 173-303-610(8) must specify the procedures that will be used to satisfy this requirement.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-690 Air emission standards for process vents. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except for 40 CFR 264.1034(d) and (e), this section applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10((-) ppmw, if these operations are conducted in one of the following:

(i) A unit(s) that ((are)) is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) ((Hazardous waste recycling units that are located on hazardous waste management facilities otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840.)) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a ninety-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) ((If the owner or operator of process vents subject to the requirements of 40 CFR 264.1032 through 264.1036 has received a permit under section 3005 of RCRA prior to December 21, 1990, the requirements of 264.1032 through 264.1036 must be incorporated when the permit is reissued under WAC 173-303-840(8) or reviewed under WAC 173-303-806(11).)) For the owner and operator of a facility subject to this section and who received a final hazardous waste permit prior to December 6, 1996, the requirements of this section must be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806(11). Until such date when the owner and operator receives a final permit incorporating the requirements of this section, the owner and operator is subject to the requirements of 40 CFR Subpart AA.

Note: The requirements of 40 CFR Parts 264.1032 through 264.1036 apply to process vents on hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(d) The requirements of this section do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this section are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 CFR Part 60, Part 61, or Part 63. The documentation of compliance under regulations at 40 CFR Part 60, Part 61, or Part 63 must be kept with, or made readily available with, the facility operating record.

(2) 40 CFR 264.1031 through 1036 (Subpart AA) is incorporated by reference.

Note: Where the incorporated language refers to 264.1030, refer to subsection (1) of this section. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

AMENDATORY SECTION (Amending Order 94-30, filed 10/19/95, effective 11/19/95)

WAC 173-303-691 Air emission standards for equipment leaks. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except as provided in 40 CFR 1064(k), this section applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

(i) ((Units that are)) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) ((Hazardous waste recycling units that are located on hazardous waste management facilities otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840.)) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a hazardous waste recycling unit that is not a "ninety-day" tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200(1) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) If the owner or operator of equipment subject to the requirements of 40 CFR 264.1052 through 264.1065 has received a permit under section 3005 of RCRA prior to December 21, 1990, the requirements of 40 CFR 264.1052 through 264.1065 must be incorporated when the permit is reissued under WAC 173-303-840(8) or reviewed under WAC 173-303-806(11).

(d) Each piece of equipment to which this section applies must be marked in such a manner that it can be distinguished readily from other pieces of equipment.

(e) Equipment that is in vacuum service is excluded from the requirements of 40 CFR 264.1052 to 264.1060 if it is identified as required in 40 CFR 264.1064 (g)(5).

(f) Equipment that contains or contacts hazardous waste with an organic concentration of at least ten percent by weight for less than three hundred hours per calendar year is excluded from the requirements of 40 CFR Parts 264.1052 through 264.1060 if it is identified, as required in 40 CFR Part 264.1064 (g)(6).

Note: The requirements of 40 CFR Parts 264.1052 through 264.1065 apply to equipment associated with hazardous waste recycling units previously exempt under WAC 173-303-120 (4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(2) 40 CFR 264.1051 through 1065 (Subpart BB) is incorporated by reference.

Note: Where the incorporated language refers to 264.1050, refer to WAC 173-303-691. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

NEW SECTION**WAC 173-303-692 Air emission standards for tanks, surface impoundments, and containers. (1) Applicability.**

(a) The requirements of 40 CFR Part 264 Subpart CC apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either WAC 173-303-630, 173-303-640, or 173-303-650 except as WAC 173-303-600 and (b) of this subsection provide otherwise.

(b) The requirements of 40 CFR Part 264 Subpart CC do not apply to the following waste management units at the facility:

(i) A waste management unit that holds hazardous waste placed in the unit before December 6, 1996, and in which no hazardous waste is added to the unit on or after December 6, 1996.

(ii) A container that has a design capacity less than or equal to 0.1 m³.

(iii) A tank in which an owner or operator has stopped adding hazardous waste and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.

(iv) A surface impoundment in which an owner or operator has stopped adding hazardous waste (except to implement an approved closure plan) and the owner or operator has begun implementing or completed closure pursuant to an approved closure plan.

(v) A waste management unit that is used solely for on-site treatment or storage of hazardous waste that is placed in the unit as a result of implementing remedial activities required under the corrective action authorities of WAC 173-303-646, or RCRA section 3008(h), or CERCLA authorities.

(vi) A waste management unit that is used solely for the management of radioactive mixed waste in accordance with all applicable regulations under the authority of the Atomic Energy Act and the Nuclear Waste Policy Act.

(vii) A hazardous waste management unit that the owner or operator certifies is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation codified under 40 CFR Parts 60, 61, or 63. For the purpose of complying with this paragraph, a tank for which the air emission control includes an enclosure, as opposed to a cover, must be in compliance with the enclosure and control device requirements of 40 CFR Part 264.1084(i), except as provided in 40 CFR Part 264.1082(c)(5).

(viii) A tank that has a process vent as defined in 40 CFR Part 264.1031.

(c) For the owner and operator of a facility subject to this section who received a final permit under the Hazardous Waste Management Act prior to December 6, 1996, the requirements of 40 CFR Part 264 Subpart CC will be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806 (11)(d). Until such date when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806 (11)(d), the owner and operator is subject

to the requirements of 40 CFR Part 265 Subpart CC, which is incorporated by reference at WAC 173-303-400 (3)(a).

(d) The requirements of 40 CFR Part 264 Subpart CC, except for the recordkeeping requirements specified in 40 CFR Part 264.1089(i), are administratively stayed for a tank or a container used for the management of hazardous waste generated by organic peroxide manufacturing and its associated laboratory operations when the owner or operator of the unit meets all of the following conditions:

(i) The owner or operator identifies that the tank or container receives hazardous waste generated by an organic peroxide manufacturing process producing more than one functional family of organic peroxides or multiple organic peroxides within one functional family, that one or more of these organic peroxides could potentially undergo self-accelerating thermal decomposition at or below ambient temperatures, and that organic peroxides are the predominant products manufactured by the process. For the purpose of meeting the conditions of this paragraph, "organic peroxide" means an organic compound that contains the bivalent —O—O— structure and which may be considered to be a structural derivative of hydrogen peroxide where one or both of the hydrogen atoms has been replaced by an organic radical.

(ii) The owner or operator prepares documentation, in accordance with the requirements of 40 CFR Part 264.1089(i) explaining why an undue safety hazard would be created if air emission controls specified in 40 CFR Parts 264.1084 through 264.1087 are installed and operated on the tanks and containers used at the facility to manage the hazardous waste generated by the organic peroxide manufacturing process or processes meeting the conditions of (d)(i) of this subsection.

(iii) The owner or operator notifies the department in writing that hazardous waste generated by an organic peroxide manufacturing process or processes meeting the conditions of (d)(i) of this subsection are managed at the facility in tanks or containers meeting the conditions of (d)(ii) of this subsection. The notification must state the name and address of the facility, and must be signed and dated by an authorized representative of the facility owner or operator.

(2) 40 CFR Parts 264.1081 through 264.1091 (Subpart CC) is incorporated by reference.

Note: Where the incorporated language refers to 264.1050, refer to WAC 173-303-691. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

(3) References within 40 CFR Part 264 Subpart CC to the following parts are incorporated by reference: 40 CFR Parts 60, 61, and 63. This includes Method 25E - Determination of Vapor Phase Organic Concentration in Waste Samples at 40 CFR Part 60 Appendix A.

NEW SECTION

WAC 173-303-693 Dangerous waste munitions and explosives storage. (1) Applicability. The requirements of this section apply to owners or operators who store munitions and explosive dangerous wastes, except as WAC 173-303-600(3) provides otherwise. (NOTE: Depending on explosive hazards, dangerous waste munitions and explosives may also be managed in other types of storage units, including contain-

ment buildings (WAC 173-303-695), tanks (WAC 173-303-640), or containers (WAC 173-303-630). See WAC 173-303-578(4) for storage of waste military munitions.)

(2) Design and operating standards.

(a) Dangerous waste munitions and explosives storage units must be designed and operated with containment systems, controls, and monitoring, that:

(i) Minimize the potential for detonation or other means of release of dangerous waste, dangerous constituents, dangerous decomposition products, or contaminated run-off, to the soil, ground water, surface water, and atmosphere;

(ii) Provide a primary barrier, which may be a container (including a shell) or tank, designed to contain the dangerous waste;

(iii) For wastes stored outdoors, provide that the waste and containers will not be in standing precipitation;

(iv) For liquid wastes, provide a secondary containment system that assures that any released liquids are contained and promptly detected and removed from the waste area, or vapor detection system that assures that any released liquids or vapors are promptly detected and an appropriate response taken (for example, additional containment, such as overpacking, or removal from the waste area); and

(v) Provide monitoring and inspection procedures that assure the controls and containment systems are working as designed and that releases that may adversely impact human health or the environment are not escaping from the unit.

(b) Dangerous waste munitions and explosives stored in accordance with this section may be stored in one of the following:

(i) Earth-covered magazines. Earth-covered magazines must be:

(A) Constructed of waterproofed, reinforced concrete or structural steel arches, with steel doors that are kept closed when not being accessed;

(B) Designed and constructed:

(I) To be of sufficient strength and thickness to support the weight of any explosives or munitions stored and any equipment used in the unit;

(II) To provide working space for personnel and equipment in the unit; and

(III) To withstand movement activities that occur in the unit; and

(C) Located and designed, with walls and earthen covers that direct an explosion in the unit in a safe direction, so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

(ii) Above-ground magazines. Above-ground magazines must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

(iii) Outdoor or open storage areas. Outdoor or open storage areas must be located and designed so as to minimize the propagation of an explosion to adjacent units and to minimize other effects of any explosion.

(c) Dangerous waste munitions and explosives must be stored in accordance with a standard operating procedure specifying procedures to ensure safety, security, and environmental protection. If these procedures serve the same pur-

pose as the security and inspection requirements of WAC 173-303-310, the preparedness and prevention procedures of WAC 173-303-340, and the contingency plan and emergency procedures requirements of WAC 173-303-350, then these procedures will be used to fulfill those requirements.

(d) Dangerous waste munitions and explosives must be packaged to ensure safety in handling and storage.

(e) Dangerous waste munitions and explosives must be inventoried at least annually.

(f) Dangerous waste munitions and explosives and their storage units must be inspected and monitored as necessary to ensure explosives safety and to ensure that there is no migration of contaminants out of the unit.

(3) Closure and post-closure care.

(a) At closure of a magazine or unit that stored dangerous waste in accordance with this section, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components, contaminated subsoils, and structures and equipment contaminated with waste, and manage them as dangerous waste. The closure plan, closure activities, cost estimates for closure, and financial responsibility for magazines or units must meet all of the requirements specified in WAC 173-303-610 and 173-303-620, except that the owner or operator may defer closure of the unit as long as it remains in service as a munitions or explosives magazine or storage unit.

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he or she must close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills (WAC 173-303-665(6)).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-800 Permit requirements for dangerous waste management facilities. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste must, when required by this chapter, obtain a permit in accordance with WAC 173-303-800 through 173-303-840 covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040) or for any facility which at closure does not meet the removal or decontamination limits of WAC 173-303-610 (2)(b), post-closure care period, unless they demonstrate closure by removal or decontamination as provided under WAC 173-303-800 (9) and (10). If a post-closure permit is required, the permit must address applicable ground water monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of this

chapter. The denial of a permit for the active life of a dangerous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC 173-303-282 and 173-303-283 are met.

(4) Permits will be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 have the same meanings as set forth in 40 CFR 270.2.

(7) Exemptions.

(a) A permit for an on-site cleanup action may be exempted as provided in a consent decree or order signed by the department and issued pursuant to chapter 70.105D RCW.

(b) A permit is not required for an on-site cleanup action performed by the department pursuant to chapter 70.105D RCW.

(c) Further exemptions.

(i) A person is not required to obtain a dangerous waste permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;

(B) An imminent and substantial threat of a discharge of dangerous waste;

(C) A discharge of a material that, when discharged, becomes a dangerous waste;

(D) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(E) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(ii) Any person who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(iii) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below are not required to obtain a dangerous waste permit. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2);
((and))

(B) Thermostats as described in WAC 173-303-573(3);
and

(C) Lamps as described in WAC 173-303-573(5).

(8) Each permit issued under this chapter will contain terms and conditions as the department determines necessary to protect human health and the environment.

(9) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under 40 CFR Part 265 standards as referenced by WAC 173-303-400 must obtain a post-closure permit unless they can demonstrate to the department that the closure met the standards for closure by removal or decontamination in WAC 173-303-650(6), 173-303-655(8), or 173-303-660(9), as appropriate, and such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed standards for closure at 40 CFR Part 264.111, as appropriate. The demonstration may be made in the following ways:

(a) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that 40 CFR Part 264.111 standards for closure by removal were met. If the department believes that 40 CFR Part 264.111 standards were met, the department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in subsection (10) of this section.

(b) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the department for a determination that a post-closure permit is not required because the closure met the applicable 40 CFR Part 264.111 closure standards.

(i) The petition must include data demonstrating that standards for closure by removal or decontamination were met, or it must demonstrate that the unit closed under chapter 173-303 WAC requirements that met or exceeded the applicable 40 CFR Part 264.111 closure-by-removal standard.

(ii) The department will approve or deny the petition according to the procedures outline in subsection (10) of this section.

(10) Procedures for closure equivalency determination.

(a) If a facility owner/operator seeks an equivalency demonstration under subsection (9) of this section, the department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within thirty days from the date of the notice. The department will also, in response to a request or at the discretion of the department, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the 40 CFR Part 265 closure, as referenced by WAC 173-303-400, to a 40 CFR Part 264.111 closure. The department will give public notice of the hearing at least thirty days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(b) The department will determine whether the 40 CFR Part 265 closure met 40 CFR Part 264.111 closure by removal or decontamination requirements within ninety days of its receipt. If the department finds that the closure did not meet the applicable 40 CFR Part 264.111 standards, the department will provide the owner/operator with a written

statement of the reasons why the closure failed to meet 40 CFR Part 264.111 standards. The owner/operator may submit additional information in support of an equivalency demonstration within thirty days after receiving such written statement. The department will review any additional information submitted and make a final determination within sixty days.

(c) If the department determines that the facility did not close in accordance with 40 CFR Part 264.111 standards for closure by removal, the facility is subject to post-closure permitting requirements.

(11) The department may require a permittee or an applicant to submit information in order to establish permit conditions under subsection (8) of this section and WAC 173-303-806 (11)(d).

NEW SECTION

WAC 173-303-803 Permit application requirements.

(1) **Applicability.** The requirements in this section apply to both interim and final status facilities. In addition to this section, the applicable provisions of WAC 173-303-800, 173-303-805, and 173-303-806 must be followed. Persons currently authorized with interim status must apply for permits when required by the department (see requirements at WAC 173-303-806).

(2) Existing dangerous waste management facilities and interim status qualifications.

(a) Owners and operators of existing dangerous waste management facilities or of dangerous waste management facilities in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act and RCRA that render the facility subject to the requirement to have a dangerous waste permit must submit part A of their permit application no later than:

(i) Six months after the date of publication of regulations that first require them to comply with the standards set forth in WAC 173-303-400, 173-303-505, 173-303-520, or 173-303-525, or 40 CFR Part 266 Subpart H; or

(ii) Thirty days after the date they first become subject to the standards set forth in WAC 173-303-400, 173-303-505, 173-303-520, or 173-303-525, or 40 CFR Part 266 Subpart H 40 CFR, whichever first occurs;

(iii) For generators generating greater than 220 pounds but less than 2200 pounds of dangerous waste in a calendar month and treats, stores, or disposes of these wastes on-site, by March 24, 1987.

(b) The owner or operator of an existing dangerous waste management facility may be required to submit part B of their permit application. The department may require submission of part B if the department has received interim or final authorization; if not, the EPA Regional Administrator may require submission of part B. Any owner or operator will be allowed at least six months from the date of request to submit part B of the application. Any owner or operator of an existing dangerous waste management facility may voluntarily submit part B of the application at any time. Notwithstanding the above, any owner or operator of an existing dangerous waste management facility must submit a part B permit appli-

cation in accordance with the dates specified in WAC 173-303-805(8). Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act or RCRA that render the facility subject to the requirement to have an RCRA permit must submit a part B application in accordance with the dates specified in WAC 173-303-805(8).

(c) Failure to furnish a requested part B application on time, or to furnish in full the information required by the part B application, is grounds for termination of interim status under WAC 173-303-840.

(3) **Contents of part A of the permit application.** Part A of the final facility permit application must include the following information:

(a) The activities conducted by the applicant that require it to obtain a permit under the Hazardous Waste Management Act;

(b) Name, mailing address, and location, including latitude and longitude of the facility for which the application is submitted;

(c) Up to four SIC codes that best reflect the principal products or services provided by the facility;

(d) The operator's name, address, telephone number, ownership status, and status as federal, state, private, public, or other entity;

(e) The name, address, and phone number of the owner of the facility;

(f) Whether the facility is located on tribal lands;

(g) An indication of whether the facility is new or existing and whether it is a first or revised application;

(h) For existing facilities:

(i) A scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas; and

(ii) Photographs of the facility clearly delineating all existing structures, existing treatment, storage, and disposal areas, and sites of future treatment, storage, and disposal areas;

(i) A description of the processes to be used for treating, storing, and disposing of dangerous waste, and the design capacity of these items;

(j) A specification of the dangerous wastes listed or designated under WAC 173-303-070 to be treated, stored, or disposed of at the facility, an estimate of the quantity of those wastes to be treated, stored, or disposed annually, and a general description of the processes to be used for the wastes;

(k) A listing of all permits or construction approvals received or applied for under any of the following programs:

(i) Hazardous waste management program;

(ii) UIC program under the SWDA;

(iii) NPDES program under the CWA;

(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

(v) Nonattainment program under the Clean Air Act;

(vi) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

(viii) Dredge or fill permits under section 404 of the CWA;

(ix) Other relevant environmental permits, including state permits;

(l) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its dangerous waste treatment, storage, or disposal facilities; each well where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundary;

(m) A brief description of the nature of the business;

(n) For hazardous debris, a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility.

(4) New TSD facilities.

(a) Except as provided in 40 CFR 270.10 (f)(3) for TSCA facilities, no person may begin physical construction of a new TSD facility without having submitted parts A and B of the permit application and having received a finally effective final facility permit.

(b) An application for a permit for a new TSD facility (including both parts A and B) may be filed any time after adoption of those standards in WAC 173-303-630 that apply to such a facility. The application must be filed with the EPA Regional Administrator if at the time of application the state in which the new TSD facility is proposed to be located has not received interim or final authorization for permitting such facility; otherwise it must be filed with the department. Except as provided in paragraph 40 CFR 270.10 (f)(3), all applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(5)(a) Updating permit applications.

(i) If any owner or operator of a dangerous waste management facility has filed part A of a permit application and has not yet filed part B, the owner or operator must file an amended part A application:

(A) With the EPA Regional Administrator if the department has not obtained interim authorization or final authorization, within six months after the adoption of revised regulations under 40 CFR Part 261 listing or identifying additional hazardous wastes, if the facility is treating, storing, or disposing of any of those newly listed or identified wastes;

(B) With the department, if it has obtained interim authorization or final authorization, no later than the effective date of regulatory provisions listing or designating wastes as dangerous in addition to those listed or designated under the previously approved state program, if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or

(C) As necessary to comply with provisions of WAC 173-303-805(7) for changes during interim status. Revised part A applications necessary to comply with the provisions of WAC 173-303-805(7) must be filed with the department.

(b) The owner or operator of a facility who fails to comply with the updating requirements of (a)(i) of this subsection

does not receive interim status as to the wastes not covered by duly filed part A applications.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-804 Emergency permits. Requirements for an emergency permit. In the event the department finds that an imminent and substantial endangerment to human health or the environment exists, the department may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal (TSD) of dangerous waste at a nonpermitted facility, or at a facility covered by an effective permit that does not otherwise allow treatment, storage, or disposal of such dangerous waste. Notice of the issuance of an emergency permit will be given to the fire marshal, police department, and other local emergency service agencies with jurisdiction near the location of the facility. The emergency permit:

(1) May be oral or written. If oral, it will be followed within five days by a written emergency permit;

(2) Will not exceed ninety days in duration for dangerous wastes;

(3) Will not exceed one hundred eighty days in duration for special waste;

(4) Will clearly specify the dangerous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(5) May be terminated by the department at any time without following the decision making procedures of WAC 173-303-840 if the department determines that termination is appropriate to protect public health and the environment;

(6)(a) Will be accompanied by a public notice published under WAC 173-303-840 (3)(d) that includes:

(i) The name and address of the department;

(ii) The name and location of the permitted TSD facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) The duration of the emergency permit; and

(b) Will be given public notice by:

(i) Publication in a daily newspaper within the area affected;

(ii) By radio broadcast within the area affected;

(iii) By mailing a copy of the public notice to the persons described in WAC 173-303-840 (3)(e)(i); and

(iv) Any other method reasonably determined to give actual notice of the emergency permit to persons potentially affected by it; and

(7) Will incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-805 Interim status permits. (1)(a) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty

to qualify for interim status, except that the owner must also sign an interim status application. Prior to submittal of an interim status permit application the requirements of WAC 173-303-281 must be met.

(b) Any person who owns or operates an "existing dangerous TSD facility" or a facility in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act or RCRA that renders the facility subject to the requirement to have a dangerous waste permit will have interim status and will be treated as having been issued a permit to the extent he or she has:

(i) Complied with the requirements of WAC 173-303-060 pertaining to notification of dangerous waste activity.

(Comment: Some existing facilities may not be required to file a notification under WAC 173-303-060. These facilities may qualify for interim status by meeting (b)(ii) of this subsection.)

(ii) Complied with the requirements of WAC 173-303-803 governing submission of part A applications.

(c) This subsection (1) will not apply to any facility that has been previously denied a final facility permit or if authority to operate the facility under the Hazardous Waste Management Act has been previously terminated.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it will notify the owner or operator in writing of the apparent deficiency. Such notice will specify the grounds for the department's belief that the application is deficient. The owner or operator will have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA will be deemed to have an interim status permit under this chapter provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, will be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection will not be deemed to have interim status under section 3005 of RCRA, and may

only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility will be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit must not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Except as provided in (b) of this subsection, the owner or operator of an interim status facility may make the following changes at the facility:

(i) Treatment, storage, or disposal of new dangerous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the dangerous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal (along with a justification detailing the equipment and process or processes that the owner or operator will use to treat, store, or dispose of the new dangerous wastes) and if the department does not explicitly deny the changes within sixty days of receipt of the revised application;

(ii) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change), the requirements of WAC 173-303-281 are met, and the department approves the changes because:

(A) There is a lack of available treatment, storage, or disposal capacity at other dangerous waste management facilities; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iii) Changes in the processes for the treatment, storage, or disposal of dangerous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such change (along with a justification explaining the need for the change) and the department approves the change because:

(A) The change is necessary to prevent a threat to human health and the environment because of an emergency situation; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iv) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator must comply with the interim status financial requirements of 40 CFR Part 265, Subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements, the department will notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) of RCRA or other federal authority, including an order or consent decree issued pursuant to WAC 173-303-646 (2) or (3), by the department under chapter 70.105 RCW or other state authority, or by a court in a judicial action brought by EPA or by the department. Changes under this subsection (7)(a)(v) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Addition of newly regulated units for the treatment, storage, or disposal of dangerous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under this subsection (7)(b), changes listed under (a) of this subsection may not be made if they amount to reconstruction of the dangerous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new dangerous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of WAC 173-303-640(4) for tanks and ancillary equipment.

(ii) If necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely

involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of section 3004(o) of RCRA.

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified dangerous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other federal authority, by the department under chapter 70.105 RCW or other state authority, or by a court in a judicial proceeding brought by EPA or an authorized state, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks, containers, or containment buildings hazardous wastes subject to land disposal restrictions imposed by 40 CFR Part 268 or RCRA section 3004, provided that such changes are made solely for the purpose of complying with 40 CFR Part 268 or RCRA section 3004.

(vii) Addition of newly regulated units under (a)(vi) of this subsection.

(8) Termination of interim status permit. The following are causes for terminating an interim status permit, or for denying a revised permit application:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application;

(d) Violation of applicable interim status standards;

(e) A determination that the permit applicant has failed to satisfy the performance standards of WAC 173-303-283;

(f) For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, interim status terminated on November 8, 1985, unless:

(i) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

(ii) The owner or operator certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(g) For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act that render the facility subject to the requirement to have a final facility permit and which is granted interim status, interim status terminates twelve months after the date on

which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

(i) Submits a Part B application for a final facility permit for such facility before the date twelve months after the date on which the facility first becomes subject to such permit requirement; and

(ii) Certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(h) For owners or operators of any land disposal unit that is granted authority to operate under subsection (7)(a)(i), (ii) or (iii) of this section, interim status terminates on the date twelve months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable ground water monitoring and financial responsibility requirements;

(i) For owners and operators of each incinerator facility which achieved interim status prior to November 8, 1984, interim status terminated on November 8, 1989, unless the owner or operator of the facility submitted a Part B application for a final facility permit for an incinerator facility by November 8, 1986; or

(j) For owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminated on November 8, 1992, unless the owner or operator of the facility submitted a Part B application for a final facility permit for the facility by November 8, 1988.

(9) Reserve.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities; and

(b) Certain recycling facilities that are not exempt from the permit requirements.

(2)(a) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit must complete, sign, and submit an application to the department. An application must consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section. The requirements for the contents of a part A permit application are at WAC 173-303-803(4).

(b) Persons covered by permits by rule (WAC 173-303-802) need not apply. Procedures for applications, issuance and administration of emergency permits are found exclu-

sively in WAC 173-303-804. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in WAC 173-303-809.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application must consist of the information required in (a) through ((H)) (m) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B must be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies must be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680(3), and 40 CFR 264.1033, 264.1035, 264.1052, 264.1053, 264.1058, 264.1064, 264.1067, 264.1084, 264.1085, 264.1086, and 264.1088(, and 264.1091)).

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-640, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(7), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages;

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing); and

(F) Prevent releases to the atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate)); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility must identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator must demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

(A) Map scale and date;

(B) One hundred-year floodplain area;

(C) Surface waters including intermittent streams;

(D) Surrounding land uses (residential, commercial, agricultural, recreational);

(E) A wind rose (i.e., prevailing windspeed and direction);

(F) Orientation of the map (north arrow);

(G) Legal boundaries of the TSD facility site;

(H) Access control (fences, gates);

(I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas) ~~(and~~

~~(M) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required).~~

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in Appendix IX of 40 CFR Part 264, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(xxi) Contingent ground water protection program. The following actions are required for owners or operators of proposed land-based facilities and may be required for owners/operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).

(A) Contingent ground water protection program. The owner or operator must develop a contingent ground water protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor will be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent ground water protection program must at a minimum:

(I) Define the local and regional hydrogeologic characteristics. The contingent ground water protection program must be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization must be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porous media or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; ground water travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models must include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, must be used as guidance in the development of the contingent ground water protection program.

(II) Identify the range of potential release scenarios that could occur during facility operation and the postclosure care period. The scenarios must incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);

(III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions

must be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease ground water travel times. The description of the systems must also provide how the remediation system will achieve cleanup, its efficiency, and the timeframes involved;

(IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);

(V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed ground water protection plan; and

(VI) Include reporting procedures to the department.

(B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) must be activated if the presence of dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and must continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

(C) If the owner/operator does not demonstrate that the ground water protection program will prevent the migration of dangerous waste or its constituents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.

(xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.

(A) Ambient monitoring program. The owner/operator will be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program must, at a minimum:

(I) Include a characterization of facility emission sources and pathways of contaminant transport.

(II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.

(III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste management facilities and their potential human health and environmental effects.

(IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling

and analytical methods, chain of custody procedures, quality assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.

(B) Environmental review procedures. The owner/operator must establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/operator must, at a minimum:

(I) Coordinate this effort with the public and interested local organizations;

(II) Identify the informational needs of the community and develop a public information process which meets these needs; and

(III) Develop procedures allowing full access by the public to all monitoring data required by the permit.

(C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator must submit an impact mitigation plan which demonstrates to the satisfaction of the department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator must use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

(xxiii) Information requirements for solid waste management units.

(A) The following information is required for each solid waste management unit:

(I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.

(II) Designation of type of unit.

(III) General dimensions and structural description (supply any available drawings).

(IV) Time frame over which the unit was operated.

(V) Specification of all wastes that have been managed in the unit, to the extent available.

(B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.

(C) The owner/operator must conduct and provide the results of sampling and analysis of ground water, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

WAC 173-303-806 (4)(a)(xxiv):

(xxiv) Information requirements for known releases.

(A) In order to provide for corrective action necessary to protect human health and the environment, the following information is required for all known significant releases of dangerous waste and dangerous constituents (as defined by WAC 173-303-646 (2)(c)) at, and from, the facility. A significant release is a release which has affected or has the potential to affect human health or the environment at or beyond the facility.

(I) The location of the release on the topographic map required under (a)(xviii) of this subsection.

(II) General dimensions of the release and any relevant structural description. For example, if the release is from a storage tank, provide a structural description of the tank. Supply any available drawings.

(III) Time frame over which the release occurred.

(IV) Specification of all dangerous waste or dangerous constituents (as defined by WAC 173-303-646 (2)(c)) present in the release, to the extent available.

(xxv) A summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under WAC 173-303-281 (3)(c).

(xxvi) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; ~~((and))~~

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c); and

(vi) Information on air emission control equipment as required in (m) of this subsection.

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description

of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks; ~~((and))~~

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW; and

(xiii) Information on air emission control equipment as required in (m) of this subsection.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is designed, and is or will be constructed, operated and maintained to meet the requirements of WAC 173-303-650 (2)(j), (10), (11), and 173-303-335, addressing the following items:

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping;

(C) Structural integrity of dikes;

(D) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of WAC 173-303-650 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-650 (2)(k), (l), or (m), submit appropriate information;

(E) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(F) The construction quality assurance (CQA) plan if required under WAC 173-303-335; and

(G) Proposed action leakage rate, with rationale, if required under WAC 173-303-650(10), and response action plan, if required under WAC 173-303-650(11).

(iii) Reserve.

(iv) A description of how each surface impoundment, including the double liner system, leak detection system, cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a), (b), and (d). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with; ~~(and)~~

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9); and

(xi) Information on air emission control equipment as required in (m) of this subsection.

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the waste pile is designed, and is or will be constructed, operated, and maintained to meet the requirements of WAC 173-303-335, 173-303-660 (2)(j), (11) and (12), addressing the following items:

(A)(I) The liner system (except for an existing portion of a pile) if the waste pile must meet the requirements of WAC 173-303-660(2), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of

any dangerous constituents into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of WAC 173-303-660 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-660 (2)(k), (l), or (m), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-660(3), and response action plan, if required under WAC 173-303-660(4);

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) Reserve.

(v) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, con-

structed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information:

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110 (3)(a), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110 (3)(a); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and
 (II) Residues from the air pollution control devices.
 (iv) The department will approve a permit application without a trial burn if the department finds that:
 (A) The wastes are sufficiently similar; and
 (B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is designed, and is or will be constructed, operated and maintained to comply with the requirements of WAC 173-303-335, 173-303-665 (2), (8) and (9) addressing the following items:

(A)(I) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of WAC 173-303-665 (2)(a), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of WAC 173-303-665 (2)(h). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-665 (2)(j), (k) or (l), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-665(8), and response action plan, if required under 173-303-665(9);

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) Reserve.

(iv) A description of how each landfill, including the double liner system, leachate collection and removal system, cover systems, and appurtenances for control for run-on and run-off will be inspected in order to meet the requirements of WAC 173-303-665(4). This information must be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;

(vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.

(i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(A) Physical characteristics, materials of construction, and dimensions of the unit;

(B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and

(C) For disposal units, a detailed description of the plans to comply with the postclosure requirements of WAC 173-303-680(4).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).

(j) Specific Part B information requirements for process vents. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have process vents to which WAC 173-303-690 applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-690 on the effective date that the facility becomes subject to the provisions of WAC 173-303-690 or 40 CFR 265 Subpart AA incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR section 264.1033 (a)(2).

(ii) Documentation of compliance with the process vent standards in 40 CFR section 264.1032, including:

(A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the dangerous waste management units on a facility plot plan).

(B) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(C) Information and data used to determine whether or not a process vent is subject to the requirements of 40 CFR section 264.1032.

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 40 CFR 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR 264.1035 (b)(3).

(iv) Documentation of compliance with 40 CFR 264.1033, including:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(k).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035 (b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 40 CFR 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(k) Specific Part B information requirements for equipment leaks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have equipment to which WAC 173-303-691 applies must provide the following additional information:

(i) For each piece of equipment to which WAC 173-303-691 applies:

(A) Equipment identification number and dangerous waste management unit identification.

(B) Approximate locations within the facility (e.g., identify the dangerous waste management unit on a facility plot plan).

(C) Type of equipment (e.g., a pump or pipeline valve).

(D) Percent by weight total organics in the hazardous waste stream at the equipment.

(E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-691 on the effective date that the facility becomes subject to the provisions of WAC 173-303-691 or 40 CFR Part 265 Subpart BB incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 CFR 264.1033 (a)(2).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR section 264.1035 (b)(3).

(iv) Documentation that demonstrates compliance with the equipment standards in 40 CFR sections 264.1052 to 264.1059. This documentation will contain the records required under 40 CFR 264.1064. The department may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with 40 CFR section 264.1060 will include the following information:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(j).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035(b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(l) Special Part B information requirements for drip pads.

Except as otherwise provided by WAC 173-303-600(3), owners and operators of dangerous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to WAC 173-303-645, as provided by WAC 173-303-645(1), detailed plans and an engineering report describing how the requirements of WAC 173-303-645 (1)(b) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-675(4), including the as-built drawings and specifications. This submission must address the following items as specified in WAC 173-303-675(2):

(A) The design characteristics of the drip pad;

(B) The liner system;

(C) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(D) Practices designed to maintain drip pads;

(E) The associated collection system;

(F) Control of run-on to the drip pad;

(G) Control of run-off from the drip pad;

(H) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(I) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

(J) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(K) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(L) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(M) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(N) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-675(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection.

(O) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad

design meets the requirements of WAC 173-303-675 (4)(a) through (f).

(P) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under WAC 173-303-675 (6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.

(m) Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers (Subpart CC) at 40 CFR Part 270.27 are incorporated by reference.

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit must submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department will not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit will be judged independently of the status of any other permit application or permit for the same facility or activity. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.

(9) Recordkeeping. Applicants must keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits will contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits will be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit will not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(d) Each permit for a land disposal facility will be reviewed by the department five years after the date of permit issuance or reissuance and will be modified as necessary, as provided in WAC 173-303-830(3).

(12) Reserve.

(13) Grounds for denial. A permit application will be denied pursuant to the procedures in WAC 173-303-840 if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.

(14) Permit changes. All final facility permits will be subject to the requirements of permit changes, WAC 173-303-830.

(15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(16) Other requirements for final recycling facility permits. In lieu of issuing a final recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-807 Trial burns for dangerous waste incinerator final facility permits. (1) Purpose and applicability. For purposes of determining operational readiness and establishing conditions in final facility permits for dangerous waste incinerators, the department may approve trial burns. Trial burns may not exceed seven hundred twenty hours operating time, except that the department may extend the duration of this operational period once, up to seven hundred twenty additional hours, at the request of the owner/operator of the incinerator when good cause is shown. The permit may be modified to reflect the extension according to WAC 173-303-830(4). The procedures for requesting and approving trial burns are described in:

(a) Subsection ~~((10))~~ (11) of this section for existing incinerators with interim status permits; and

(b) Subsection ~~((11))~~ (13) of this section for new incinerators and for incinerators with final facility permits in which the owner/operator wishes to burn new wastes not currently included in the permit.

(2) Trial burn plan. The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then become a condition of the permit and will include the following information:

(a) An analysis of each waste or mixture of waste to be burned which includes:

(i) Heating value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(iii) An analysis identifying any dangerous organic constituents listed in WAC 173-303-9905, and any other dangerous constituents which, although not listed, caused the waste to be regulated as a dangerous waste, which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified or referenced in WAC 173-303-110 (3)(a), or their equivalent;

(iv) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified or referenced in WAC 173-303-110 (3)(a); and

(v) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(b) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

(ii) Type of incinerator;

(iii) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

(iv) Description of the auxiliary fuel system (type/feed);

(v) Capacity of the prime air mover;

(vi) Description of automatic waste feed cutoff system(s);

(vii) Stack gas monitoring and pollution control equipment;

(viii) Nozzle and burner design;

(ix) Construction materials; and

(x) Location and description of temperature, pressure, and flow indicating and control devices;

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of

waste to be burned, and other factors relevant to the department's decision under subsection (5) of this section;

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(f) A description of, and planned operating conditions for, any emission control equipment which will be used;

(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

(h) A detailed test protocol to sample and analyze the following for designation under WAC 173-303-070:

(i) Any incinerator ash residue collected in the incinerator; and

(ii) Any residues collected in the air pollution control devices; and

(i) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this section.

(3) Additional information required. The department, in reviewing the trial burn plan, will evaluate the adequacy of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Trial PODCs. Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic dangerous constituents (trial PODCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial PODCs will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified in WAC 173-303-9905, or identified as causing the waste to be regulated as a dangerous waste.

(5) Approval of the plan. The department will approve a trial burn plan if it finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;

(b) The trial burn itself will not present an imminent hazard to public health or the environment;

(c) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-670(6); and

(d) The information sought in (a), (b), and (c) of this subsection cannot reasonably be developed through other means.

(6) The department must send a notice to all persons on the facility mailing list as set forth in WAC 173-303-840 (3)(e)(i)(D) and to the appropriate units of state and local government as set forth in WAC 173-303-840 (3)(e)(i)(E) announcing the scheduled beginning and completion dates for the trial burn. The applicant may not begin the trial burn until after the department has issued such notice.

(a) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the department.

(b) This notice must contain:

(i) The name and telephone number of the applicant's contact person;

(ii) The name and telephone number of the department's contact office;

(iii) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

(iv) An expected time period for beginning and completion of the trial burn.

(7) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial PODCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial PODCs, O₂, hydrogen chloride (HCl), carbon monoxide (CO) and dangerous combustion byproducts, including the total mass emission rate of byproducts as a percent of the total mass feed rate of PODCs fed to the incinerator;

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial PODCs and whether they are designated according to WAC 173-303-070;

(d) A total mass balance of the trial PODCs in the waste;

(e) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670 (4)(a);

(f) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with WAC 173-303-670 (4)(c)(i);

(g) A computation of particulate emissions, in accordance with WAC 173-303-670 (4)(c)(ii);

(h) An identification of sources of fugitive emissions and their means of control;

(i) A measurement of average, maximum, and minimum temperatures, and combustion gas velocity;

(j) A continuous measurement of carbon monoxide in the exhaust gas;

(k) An identification of any existing air emission standards where a state or local air pollution control authority has established emission standards and such standards are applicable to the incinerator; and

(l) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).

~~((7))~~ (8) Certification. The applicant must submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all determinations required by subsection ~~((6))~~ (7) of this section. This submission must be made within thirty days of the completion of the trial burn, or later if approved by the department.

~~((8))~~ (9) Submission of data. All data collected during any trial burn must be submitted to the department following the completion of the trial burn.

~~((9))~~ (10) Signatures required. All submissions required under this section must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application under WAC 173-303-810(12).

~~((+0))~~ (11) Based on the results of the trial burn, the department will set the operating requirements in the final permit according to WAC 173-303-670(6). The permit modification shall proceed according to WAC 173-303-830(4).

(12) Existing incinerators with interim status permits.

(a) The owner/operator of an existing incinerator currently operating under an interim status permit may, when required by the department (or when he chooses) to apply for a final facility permit, request the department to approve of a trial burn. The trial burn may be requested for the purposes of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and the operating conditions of WAC 173-303-670(6). If a trial burn is requested, the owner/operator must prepare and submit a trial burn plan and, upon approval by the department, perform a trial burn in accordance with subsections (2) through ~~((9))~~ (10) of this section.

(b) If the department approves the trial burn, it will issue a notice of interim status modification granting such approval and specifying the conditions applicable to the trial burn. The notice of modification will be a condition of the interim status permit. Note: The national emission standards for hazardous air pollutants may require review for a notice of construction. Owners and operators should consult chapter 173-400 WAC or local air pollution control agency regulations for applicability.

(c) If the trial burn is approved before submitting a final facility permit application, the owner/operator must complete the trial burn and submit the information described in subsection ~~((6))~~ (7) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of Part B of the final facility permit application, the owner/operator must contact the department to extend the date for submitting the Part B or the trial burn results. If the applicant submits a trial burn plan with Part B of the final facility permit application, the department will specify in the notice of interim status modification issued under (b) of this subsection, a time period for conducting the trial burn and submitting the results. Trial burn results must be submitted prior to the issuance of the permit.

~~((+1))~~ (13) New incinerators and new wastes.

(a)(i) The owner/operator of a new incinerator may submit with Part B of a final facility permit application a request for approval of a trial burn. This request must include a statement of why the trial burn is desirable, and a trial burn plan prepared in accordance with subsection (2) of this section.

(ii) The department will proceed to issue a final facility permit in accordance with WAC 173-303-806. The permit will include the trial burn plan, and will establish operating conditions for the trial burn including but not limited to those described in WAC 173-303-670(6). The time period for conducting the trial burn and submitting the results will also be specified in the permit.

(iii) After the trial burn has been completed and the results submitted to the department, the final facility permit will be modified in accordance with WAC 173-303-830(4) to

establish the final operating requirements and performance standards for the incinerator.

(b) The owner/operator of an incinerator with a final facility permit who wishes to burn new wastes not currently included in his permit may request approval of a trial burn for the new wastes. The request and approval will be handled in the same way as described in (a) of this subsection, except that in lieu of issuing an entirely new final facility permit the department will modify the existing final facility permit in accordance with WAC 173-303-830.

(14) For the purpose of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and of determining adequate operating conditions under WAC 173-303-670(6), the applicant for a permit for an existing dangerous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with WAC 173-303-806 (4)(f) and subsections (2) through (5) and (7) through (10) of this section or, instead, submit other information as specified in WAC 173-303-806 (4)(f)(iii). The department must announce its intention to approve the trial burn plan in accordance with the timing and distribution requirements of subsection (6) of this section. The contents of the notice must include: The name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the department; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for department approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under WAC 173-303-806 (4)(f)(i) are exempt from compliance with WAC 173-303-670 (4) and (6) and, therefore, are exempt from the requirement to conduct a trial burn. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in subsection (7) of this section, with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the department to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the department will specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-810 General permit conditions. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance consti-

tutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee must take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee must at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit.

(a) Compliance with a final facility permit during its term constitutes compliance for the purpose of enforcement with chapter 173-303 WAC except for permit modifications and those requirements not included in the permit (~~which~~) that:

(i) Become effective by statute;

(ii) Are (~~promulgated~~) adopted under 40 CFR Part 268 restricting the placement of dangerous waste in or on the land; (~~or~~)

(iii) Are (~~promulgated~~) adopted under WAC 173-303-650 through 173-303-665 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of WAC 173-303-830 Class *1 permit modifications; or

(iv) Are adopted under 40 CFR Subparts AA, BB, or CC which are incorporated by reference at WAC 173-303-400

(3)(a) limiting air emissions.

(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee must furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee must also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee must allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records.

(a) Reserve.

(b) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

(c) The permittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information must include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee must maintain records from all ground water monitoring wells and associated ground water surface elevations for the active life of the facility, and for disposal facilities for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department must be signed in accordance with this subsection and must be certified according to subsection (13) of this section.

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, then the operator will be the permit applicant and responsible for developing the permit application and all accompanying

materials, except that the owner must also sign and certify the permit application. Permit applications must be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department must be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification.

(a) Except as provided in (b) of this subsection, any person signing the documents required under (a) or (b) of subsection (12) of this section must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information sub-

mitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) When a dangerous waste facility is owned by one person, but is operated by another person, then the permit application must be certified as follows:

(i) The operator must make the certification described under (a) of this subsection; and

(ii) The owner must make the following certification:

"I certify under penalty of law that I own the real property described in, and am aware of the contents of, this permit application, and that I have received a copy of this application. As owner of the real property, I understand that I am responsible for complying with any requirements of chapter 173-303 WAC with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements."

(14) Reporting. The following reports must be provided:

(a) Planned changes. The permittee must give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and either

(Note: In certifying construction or modification, the independent qualified registered professional engineer is responsible only for certifying those portions of the facility which are identified in chapter 173-303 WAC as specifically requiring certification by an independent registered professional engineer.)

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee must give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of dangerous waste; and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the modified portion of the facility except as provided in WAC 173-303-830(4).

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) must be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule must be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee must immediately report any noncompliance which may endanger health or the environment. Information must be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission must also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Information which must be reported immediately must include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee must report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, he must promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(4);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if:

(i) The processes are unique to the owner/operator's business or the owner/operator's competitive position may be adversely affected if the information is released to the public or to a competitor; and

(ii) The director determines that granting the owner/operator's request is not detrimental to the public interest and is in accord with the policies and purposes of chapter 43.21A RCW.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department will place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

(16) General permit conditions. Information repository. The director may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in WAC 173-303-281 (5)(b). The information repository will be governed by the provisions in WAC 173-303-281 (5)(c) through (f).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the director. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under (b) of this subsection or subsection (3) of this section) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the director in accordance with subsection (4) of this section. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the director. When a transfer of ownership or opera-

tional control occurs, the old owner or operator must comply with the requirements of WAC 173-303-620 (Financial requirements) until the new owner or operator has demonstrated that he or she is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the director by the new owner or operator of compliance with the financial requirements, the director will notify the old owner or operator that he or she no longer needs to comply with the financial requirements as of the date of demonstration.

(3) Modification or revocation and reissuance of permits. When the director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for revocation and reissuance, or conducts a review of the permit file), the director may determine whether or not one or more of the causes listed in (a) and (b) of this subsection for modification or revocation and reissuance or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, subject to the limitations of (c) of this subsection, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. All other aspects of the existing permit remain in effect for the duration of the unmodified permit. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. During any revocation and reissuance proceeding, the permittee must comply with all conditions of the existing permit until a new final permit is reissued. If cause does not exist under this subsection, the director will not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the director will approve or deny the request according to the procedures of subsection (4) of this section. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification, but not revocation and reissuance, of permits; the following may be causes for revocation and reissuance, as well as modification, when the permittee requests or agrees:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the director receives information that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of different permit conditions at the time of issuance;

(iii) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through adoption of new or amended standards or regulations or by judicial decision after the permit was issued.

(iv) Compliance schedules. The director determines good cause exists for modification of a compliance schedule,

such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the director under 173-303-806 (11)(d), the director will modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this chapter.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-830(5) for final facility permits, and the director determines that modification or revocation and reissuance is appropriate; or

(ii) The director has received notification of a proposed transfer of the permit.

(c) Reserve.

(4) Permit modification at the request of the permittee.

(a) Class 1 modifications.

(i) Except as provided in (a)(ii) of this subsection, the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:

(A) The permittee must notify the director concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(B) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the director in accordance with WAC 173-303-840 (3)(e)(i)(D), and the appropriate units of state and local government, as specified in WAC 173-303-840 (3)(e)(i)(E). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior director approval, the notification must be made within ninety calendar days after the director approves the request.

(C) Any person may request the director to review, and the director may for cause reject, any Class 1 modification. The director must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(ii) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the director.

(iii) For a Class 1 permit modification, the permittee may elect to follow the procedures in (b) of this subsection for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the director of this decision in the notice required in (b)(i) of this subsection.

(b) Class 2 modifications.

(i) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 2 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(E) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, in accordance with (b)(v) of this subsection, and the name and address of a departmental contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting held in accordance with (b)(iv) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (b)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the public notice.

(vi)(A) No later than ninety days after receipt of the notification request, the director must:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request;

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3;

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days; or

(V) Notify the permittee that he or she will decide on the request within the next thirty days.

(B) If the director notifies the permittee of a thirty-day extension for a decision, the director must, no later than one hundred twenty days after receipt of the modification request:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request; or

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3.

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days.

(C) If the director fails to make one of the decisions specified in (b)(vi)(B) of this subsection by the one hundred twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty days, without formal departmental action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400). If the director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in (b)(vi)(A), (B), or (C) of this subsection, such action cancels the temporary or automatic authorization.

(D)(I) In the case of an automatic authorization under (b)(vi)(C) of this subsection, or a temporary authorization under (b)(vi)(A)(IV) or (B)(IV) of this subsection, if the director has not made a final approval or denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(AA) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

(BB) Unless the director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

(II) If the owner/operator fails to notify the public by the date specified in (b)(vi)(D)(I) of this subsection, the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.

(E) Except as provided in (b)(vi)(G) of this subsection, if the director does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subsection (3) or (4) of this section. The activities authorized under this subsection (b)(vi)(E) must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400).

(F) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the director must consider all written comments submitted during the public comment period and must respond in writing to all significant comments in his or her decision.

(G) With the written consent of the permittee, the director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(vii) The director may deny or change the terms of a Class 2 permit modification request under (b)(6)(i) through (iii) of this subsection for the following reasons:

(A) The modification request is incomplete;

(B) The requested modification does not comply with the appropriate requirements of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680 or other applicable requirements; or

(C) The conditions of the modification fail to protect human health and the environment.

(viii) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the director establishes a later date for commencing construction and informs the permittee in writing before day sixty.

(c) Class 3 modifications.

(i) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the director that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 3 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the director and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published

within seven days before or after the date of submission of the modification request, and the permittee must provide to the director evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, and a name and address of an agency contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with (c)(4) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(ii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (c)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public will be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the notice.

(vi) After the conclusion of the sixty-day comment period, the director must grant or deny the permit modification request according to the permit modification procedures of WAC 173-303-840. In addition, the director must consider and respond to all significant written comments received during the sixty-day comment period.

(d) Other modifications.

(i) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.

(ii) The director will make the determination described in (d)(i) of this subsection as promptly as practicable. In determining the appropriate class for a specific modification, the director will consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:

(A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the per-

mit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the director may require prior approval.

(B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

(I) Common variations in the types and quantities of the wastes managed under the facility permit;

(II) Technological advancements; and

(III) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

(C) Class 3 modifications substantially alter the facility or its operation.

(e) Temporary authorizations.

(i) Upon request of the permittee, the director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one hundred eighty days.

(ii)(A) The permittee may request a temporary authorization for:

(I) Any Class 2 modification meeting the criteria in (e)(iii)(B) of this subsection; and

(II) Any Class 3 modification that meets the criteria in (e)(iii)(B)(I) or (II) of this subsection; or that meets the criteria in (e)(iii)(B)(III) through (V) of this subsection and provides improved management or treatment of a dangerous waste already listed in the facility permit.

(B) The temporary authorization request must include:

(I) A description of the activities to be conducted under the temporary authorization;

(II) An explanation of why the temporary authorization is necessary; and

(III) Sufficient information to ensure compliance with the standards in WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the director and to appropriate units of state and local governments as specified in WAC 173-303-840 (3)(e)(i)(D). This notification must be made within seven days of submission of the authorization request.

(iii) The director will approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the director must find:

(A) The authorized activities are in compliance with the standards of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(I) To facilitate timely implementation of closure or corrective action activities;

(II) To allow treatment or storage in tanks, containers, or in containment buildings in accordance with 40 CFR Part 268;

(III) To prevent disruption of ongoing waste management activities;

(IV) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(V) To facilitate other changes to protect human health and the environment.

(iv) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

(A) The reissued temporary authorization constitutes the director's decision on a Class 2 permit modification in accordance with (b)(vi)(A)(IV) or (B)(IV) of this subsection; or

(B) The director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of (c) of this subsection are conducted.

(f) Public notice and appeals of permit modification decisions.

(i) The director will notify persons on the facility mailing list and appropriate units of state and local government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The director will also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under (b)(vi)(C) or (E) of this subsection.

(ii) The director's decision to grant or deny a Class 2 or 3 permit modification request under this section may be appealed under the permit appeal procedures of WAC 173-303-845.

(iii) An automatic authorization that goes into effect under (b)(vi)(C) or (E) of this subsection may be appealed under the permit appeal procedures of WAC 173-303-845; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to WAC 173-303-845, notwithstanding the provisions of WAC 173-303-840 (8)(b).

(g) Newly regulated wastes and units.

(i) The permittee is authorized to continue to manage wastes listed or identified as dangerous under WAC 173-303-070, or to continue to manage dangerous waste in units newly regulated as dangerous waste management units, if:

(A) The unit was in existence as a dangerous waste facility with respect to the newly listed or identified waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

(B) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

(C) The permittee is in compliance with the applicable standards of 40 CFR Part 265 (as referenced in WAC 173-303-400) and Part 266 (as referenced in WAC 173-303-510);

(D) The permittee also submits a complete Class 2 or 3 permit modification request within one hundred eighty days of the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards under this chapter; and

(E) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of 40 CFR Part 265 for ground water monitoring and financial responsibility (as referenced in WAC 173-303-400) on the date twelve months after the effective date of the rule identifying or listing the waste as dangerous, or regulating the unit as a dangerous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under this section.

(ii) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.

(h) Military dangerous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if:

(i) The facility was in existence as a dangerous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to dangerous waste regulatory requirements;

(ii) On or before the date when the waste military munitions become subject to dangerous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

(iii) The permittee submits a complete Class 2 modification request within one hundred eighty days of the date when the waste military munitions became subject to dangerous waste regulatory requirements.

(i) Permit modification list. The director must maintain a list of all approved permit modifications and must publish a notice once a year in a state-wide newspaper that an updated list is available for review.

APPENDIX I

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the director	1
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the director	1

7. Changes in ownership or operational control of a facility, provided the procedures of subsection (2)(b) of this section are followed 1

B. General Facility Standards

1. Changes to waste sampling or analysis methods:	
a. To conform with agency guidance or regulations	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods	1
c. To incorporate changes associated with underlying dangerous constituents in ignitable or corrosive wastes	1
d. Other changes	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures (i.e., spill or release response procedures)	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	1
c. Removal of equipment from emergency equipment list	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specification	1
b. Other changes	2

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change will be reviewed under the same procedures as the permit modification.

C. Ground Water Protection

1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system	2

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- b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well 1
- 2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the director 11
- 3. Changes in statistical procedure for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred, with prior approval of the director 11
- 4. Changes in point of compliance 12
- 5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):
 - a. As specified in the ground water protection standard 3
 - b. As specified in the detection monitoring program 2
- 6. Changes to a detection monitoring program as required by WAC 173-303-645 (9)(j), unless otherwise specified in this appendix 2
- 7. Compliance monitoring program:
 - a. Addition of compliance monitoring program as required by WAC 173-303-645 (9)(h)(iv) and (10) 3
 - b. Changes to a compliance monitoring program as required by WAC 173-303-645 (10)(k), unless otherwise specified in this appendix 2
- 8. Corrective action program:
 - a. Addition of a corrective action program as required by WAC 173-303-645 (10)(i)(ii) and (11) 3
 - b. Changes to a corrective action program as required by WAC 173-303-645 (11)(h), unless otherwise specified in this appendix 2
- D. Closure
 - 1. Changes to the closure plan:
 - a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the director 11
 - b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the director 11
 - c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the director 11
 - d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the director 11
 - e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix 2

- f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive nondangerous wastes after final receipt of dangerous wastes under WAC 173-303-610 (4)(d) and (e) 2
- 2. Creation of a new landfill unit as part of closure 3
- 3. Addition of the following new units to be used temporarily for closure activities:
 - a. Surface impoundments 3
 - b. Incinerators 3
 - c. Waste piles that do not comply with WAC 173-303-660 (1)(c) 3
 - d. Waste piles that comply with WAC 173-303-660 (1)(c) 2
 - e. Tanks or containers (other than specified below) 2
 - f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the director 11
 - g. Staging piles 2
- E. Post-Closure
 - 1. Changes in name, address, or phone number of contact in post-closure plan 1
 - 2. Extension of post-closure care period 2
 - 3. Reduction in the post-closure care period 3
 - 4. Changes to the expected year of final closure, where other permit conditions are not changed 1
 - 5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure 2
- F. Containers
 - 1. Modification or addition of container units:
 - a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 3
 - b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 2
 - c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 11
 - 2:
 - a. Modification of a container unit without increasing the capacity of the unit 2

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b. Addition of a roof to a container unit without alteration of the containment system 1

3. Storage of different wastes in containers:

a. That require additional or different management practices from those authorized in the permit, except as provided in F(4) below 3

b. That do not require additional or different management practices from those authorized in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage or treatment of different wastes in containers:

a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

G. Tanks

1:

a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G (1)(c), G (1)(d), and G (1)(e) below 3

b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G (1)(d) and G (1)(e) below 2

c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation 2

d. After prior approval of the director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: Neutralization, dewatering, phase separation, or component separation 1

e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit 2

3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided 1

-The capacity difference is no more than 1500 gallons,

-The facility's permitted tank capacity is not increased, and

-The replacement tank meets the same conditions in the permit.

4. Modification of a tank management practice 2

5. Management of different wastes in tanks:

a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in G (5)(c) below 3

b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in G (5)(d) 2

c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

(d) That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received waste of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity 3

2. Replacement of a surface impoundment unit 3

3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system 2

4. Modification of a surface impoundment management practice 2

5. Treatment, storage, or disposal of different wastes in surface impoundments:

a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 3

b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

6. Modifications of unconstructed units to comply with WAC 173-303-650 (2)(j), (10), (11), and (4)(d) *1

7. Changes in response action plan:

a. Increase in action leakage rate 3

b. Change in a specific response reducing its frequency or effectiveness 3

c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles except those complying with WAC 173-303-660 (1)(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with WAC 173-303-660 (1)(c).

1. Modification or addition of waste pile units:

a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity 3

b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity 2

2. Modification of waste pile unit without increasing the capacity of the unit 2

3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit 1

4. Modification of a waste pile management practice 2

5. Storage or treatment of different wastes in waste piles:

a. That require additional or different management practices or different design of the unit 3

b. That do not require additional or different management practices or different design of the unit 2

6. Conversion of an enclosed waste pile to a containment building unit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

1. Modification or addition of landfill units that result in increasing the facility's disposal capacity 3

2. Replacement of a landfill 3

3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system 3

4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system 2

5. Modification of a landfill management practice 2

6. Landfill different wastes:

a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 3

b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

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d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

7. Modifications of unconstructed units to comply with WAC 173-303-660 (2)(j), (11), (12), (5)(c), 173-303-665 (2)(h), (8), (4)(c), and (9) *1

- 8. Changes in response action plan:
 - a. Increase in action leakage rate 3
 - b. Change in a specific response reducing its frequency or effectiveness. 3
 - c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

- 1. Lateral expansion of or other modification of a land treatment unit to increase areal extent 3
- 2. Modification of run-on control system 2
- 3. Modify run-off control system 3
- 4. Other modifications of land treatment unit component specifications or standards required in permit 2
- 5. Management of different wastes in land treatment units:
 - a. That require a change in permit operating conditions or unit design specifications 3
 - b. That do not require a change in permit operating conditions or unit design specifications 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

- 6. Modification of a land treatment unit management practice to:
 - a. Increase rate or change method of waste application 3
 - b. Decrease rate of waste application 2
- 7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions 2
- 8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops 3
- 9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to WAC 173-303-655 (6)(g)(ii) 3

10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements 3

11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements 2

12. Changes in background values for hazardous constituents in soil and soil-pore liquid 2

13. Changes in sampling, analysis, or statistical procedure 2

14. Changes in land treatment demonstration program prior to or during the demonstration 2

15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the director's prior approval has been received 2

16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the director 2

17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration 3

18. Changes in vegetative cover requirements for closure 2

L. Incinerators, Boilers, and Industrial Furnaces

1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 2

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3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/C1₂, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The director may require a new trial burn to demonstrate compliance with the regulatory performance standards 2

5. Operating requirements:

a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls 3

c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit 2

6. Burning different wastes:

a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit . . . 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn 2

b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the director 11

c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the director 11

d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the director 11

8. Substitution of an alternate type of nondangerous fuel that is not specified in the permit 1

M. Containment Buildings

1. Modification or addition of containment building units:

a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity. 3

b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity. 2

2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit. 2

3. Replacement of a containment building with a containment building that meets the same design standards provided:

a. The unit capacity is not increased. 1

b. The replacement containment building meets the same conditions in the permit. 1

4. Modification of a containment building management practice. 2

5. Storage or treatment of different wastes in containment buildings:

a. That require additional or different management practices. 3

b. That do not require additional or different management practices. 2

N. Corrective Action

1. Approval of a corrective action management unit pursuant to WAC 173-303-646 (4), (5), and (6) 3

2. Approval of a temporary unit or time extension for a temporary unit pursuant to WAC 173-303-646(7) 2

3. Approval of a staging pile or staging pile operating term extension 2

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4. Modification to incorporate a corrective action order issued pursuant to MTCA 3

((4-)) 5. Modification or amendment of a corrective action order issued pursuant to MTCA when the MTCA public participation requirements are met and order has already been incorporated by reference into the permit 1

¹Class I modifications requiring prior Agency approval

(5) Permit termination. The director will follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

- (a) Noncompliance by the permittee with any condition of the permit;
- (b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-840 Procedures for decision making.

(1) Application and completeness.

(a) The department will not begin the processing of a permit until the applicant has fully complied with the application requirements for the permit. Permit applications must comply with the signature and certification requirements of WAC 173-303-810 (12) and (13).

(b) The department will review for completeness each application for a permit under this chapter. Each application for a permit should be reviewed for completeness within sixty days of its receipt. Upon completing the review, the department will notify the applicant in writing whether or not the application is complete. If the application is incomplete, the department will list the information necessary to make the application complete, and will specify in the notice of deficiency a date for submitting the necessary information. After the application is completed, the department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(c) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under chapter 70.105 RCW.

(d) If the department decides that a site visit is necessary for any reason in conjunction with the processing of an application, then the department will notify the applicant and a date will be scheduled.

(e) The effective date of an application is the date on which the department notifies the applicant that the application is complete as provided in (b) of this subsection.

(2) Draft permits.

(a) A draft permit is a document prepared by the department indicating the tentative decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) When an application is complete, the department will tentatively decide whether to prepare a draft permit, or to deny the application.

(c) If the department tentatively decides to deny the permit application, then the department will issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this subsection. If the department's final decision is that the tentative decision to deny was incorrect, then the department will withdraw the notice of intent to deny and proceed to prepare a draft permit under this subsection.

(d) If the department decides to prepare a draft permit, it will contain the following information:

- (i) All conditions applicable to permits under WAC 173-303-810 and 173-303-815 including compliance and monitoring requirements;
- (ii) Applicable conditions under WAC 173-303-830 and 173-303-815; and
- (iii) All applicable standards for storage, treatment and disposal, and other permit conditions.

(e) All draft permits must be accompanied by a fact sheet that is supported by administrative record and made available for public comment.

(f) Fact sheet; statement of basis.

(i) A fact sheet will be prepared for every draft permit for a major dangerous waste management facility, and for every draft permit which the department finds is the subject of wide-spread public interest or raises major issues.

(ii) The fact sheet will briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The department will send this fact sheet to the applicant and, on request, to any other person.

(iii) The fact sheet will include, when applicable:

- (A) A brief description of the type of facility or activity which is the subject of the draft permit;
- (B) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged;
- (C) A brief summary of the basis for the draft permit conditions including supporting references;
- (D) Reasons why any requested variances or alternatives to required standards do or do not appear justified; and
- (E) A description of the procedures for reaching a final decision on the draft permit including:

- (I) The beginning and ending dates of the comment period and the address where comments will be received;
- (II) Procedures for requesting a hearing and the nature of that hearing;
- (III) Any other procedures by which the public may participate in the final decision; and
- (IV) Name and telephone number of a person to contact for additional information.

(iv) The department will prepare a statement of basis for every draft permit for which a fact sheet is not prepared. The

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statement of basis will briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis will be sent to the applicant and, on request, to any other person.

(3) Public notice and involvement.

(a) The department will give public notice that the following actions have occurred:

(i) A draft permit has been prepared or an application is tentatively being denied;

(ii) A hearing on a permit has been scheduled; or

(iii) An appeal on a permit has been filed with the pollution control hearings board.

Note: Additional public notice requirements for permitting at the preapplication and application stages are at WAC 173-303-281 (3) through (5).

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. A written notice of the denial will be given to the person who requested the permit change and to the permittee.

(c) The public notice may describe more than one permit or permit action.

(d) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application will allow at least forty-five days for public comment. Public notice of a public hearing will be given at least thirty days before the hearing.

(e) Public notice of activities described in this subsection will be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(A) The applicant;

(B) Any other agency which the department knows has issued or is required to issue a permit for the same activity or facility;

(C) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the advisory council on historic preservation, state historic preservation officers, including any affected states (Indian tribes) (for purposes of this paragraph and in the context of the Underground Injection Control Program only, the term state includes Indian tribes treated as states);

(D) Persons on the mailing list developed by:

(I) Including those who request in writing to be on the list;

(II) Soliciting persons for an area list from participants in past permit proceedings in that area; and

(III) Notifying the public of the opportunity to be put on the mailing list through periodic publications in the public press and in appropriate publications of the department;

(E) Any unit of local government having jurisdiction over the area where the facility is proposed to be located, and each state agency having any authority under state law with respect to construction or operation of such facility;

(ii) For major permits, by publication of a notice in a daily or weekly newspaper within the area affected by the facility;

(iii) For all permits, by publication of notice in a daily or weekly major local newspaper of general circulation, and local radio broadcast of the public notice; and

(iv) By any other method reasonably calculated to give notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) Contents of the public notice.

(a) All public notices issued will contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet or statement of basis, and the application;

(v) A brief description of the comment procedures and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(vi) And any additional information considered necessary or proper.

(b) In addition to the general public notice described in (a) of this subsection, public notice of a hearing under subsection (5) of this section will contain the following information:

(i) Date, time, and place of the hearing;

(ii) Reference to the date of the previous public notice relating to the permit; and

(iii) A brief description of the nature and purpose of the hearing including the applicable rules and procedures.

(c) In addition to the general public notice all persons identified in WAC 173-303-840 (3)(e)(i)(A), (B), and (C) will be mailed a copy of the fact sheet, the permit application (if any), and the draft permit (if any).

(d) Public comments and request for public hearings. During the public comment period any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised in the hearing. All comments will be considered in making the final decision and will be answered according to WAC 173-303-840(9).

(5) Public hearings.

(a) The department will hold a public hearing whenever, on the basis of requests, there is a significant degree of public interest in a draft permit or there is written notice of opposition and the director receives a request for a hearing during the forty-five day comment period. The department also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing will be given as specified in WAC 173-303-840(3). Whenever possible,

the department will schedule a public hearing under this subsection at a location convenient to the nearest population center to the proposed facility.

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under WAC 173-303-840(3) will automatically be extended to the close of any public hearing under this subsection. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing will be made available to the public.

(6) Obligation to raise issues and provide information during the public comment period.

(a) All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under WAC 173-303-840(3).

(b) All supporting materials will be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters must make supporting material not already included in the administrative record available to the department. A comment period longer than forty-five days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this subsection. Commenters may request a longer comment period.

(7) Reopening of the public comment period. If any data, information, or arguments submitted during the public comment period, including information or arguments required under subsection (6) of this section, appear to raise substantial new questions concerning a permit, the department may take one or more of the following actions:

(a) Prepare a new draft permit, appropriately modified;

(b) Prepare a revised statement of basis, a fact sheet or revised fact sheet, and reopen the comment period; or

(c) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

Comments filed during the reopened comment period will be limited to the substantial new questions that caused its reopening. The public notice will define the scope of the reopening.

(8) Issuance and effective date of permit.

(a) After the close of the public comment period under WAC 173-303-840(5) on a draft permit, the department will issue a final permit decision (or a decision to deny a permit for the active life of a RCRA dangerous waste facility or unit under WAC 173-303-840). The department will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For

purposes of this section, a final permit means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision will become effective thirty days after the service of notice of the decision, unless:

(i) A later effective date is specified in the decision; or

(ii) No comments requested a change in the draft permit, in which case the permit will become effective immediately upon issuance; or

(iii) Review is requested under chapter 43.21B RCW or an evidentiary hearing is requested under RCW 43.21B.160.

(9) Response to comments. At the time that any final permit is issued, the department will issue a response to comments. This response will specify which provisions, if any, of the draft permit have been changed in the final permit decision and the reason for the change, and briefly describe and respond to all significant comments of the draft permit raised during the public comment period or during any hearing. The response to comments shall be available to the public.

(10) Decision-making procedure for modification, revocation and reissuance, or termination of permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in WAC 173-303-830(3), or terminated for the reasons specified in WAC 173-303-805 or 173-303-830(5). All requests must be in writing and must contain facts or reasons supporting the request.

(b) If the department tentatively decides to modify or revoke and reissue a permit under WAC 173-303-830 (3) or (4)(c), it will prepare the draft permit under WAC 173-303-840(2), incorporating the proposed changes. The department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the department will require the submission of a new application.

(c) In a permit modification under this subsection, only those conditions to be modified will be reopened when a new draft permit is prepared. All other aspects of the existing permit will remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee must comply with all conditions of the existing permit until a new final permit is reissued.

(d) "Class 1 and class 2 modifications" as defined in WAC 173-303-830 (4)(a) and (b) are not subject to the requirements of this subsection.

(e) If the department tentatively decides to terminate an interim status permit under WAC 173-303-805 or a final permit under WAC 173-303-806, it will issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under WAC 173-303-840(2).

AMENDATORY SECTION (Amending Order 97-03, filed 1/12/98, effective 2/12/98)

WAC 173-303-9904 Dangerous waste sources list.

The following Hazard Codes are used to indicate the basis EPA used for listing the classes or types of wastes listed in this section:

- Ignitable Waste (I)
- Corrosive Waste (C)
- Reactive Waste (R)
- Toxicity Characteristic Waste (E)
- Acute Hazardous Waste (H)
- Toxic Waste (T)

DANGEROUS WASTE SOURCES LIST

Dangerous Waste No.	Sources
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Nonspecific Sources

Generic:

- F001 The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)
- F002 The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2 trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)
- F003 The following spent non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use,

Dangerous Waste No.	Sources
	one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I)
F004	The following spent non-halogenated solvents: Cresols and cresylic acid, nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)
F005	The following spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I,T)
F006	Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. (T)
F007	Spent cyanide plating bath solutions from electroplating operations. (R,T)
F008	Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process. (R,T)
F009	Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process. (R,T)
F010	Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process. (R,T)
F011	Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations. (R,T)

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Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
F012	Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process. (T)	F024	Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in this section.) (T)
F019	Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. (T)	F025	Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (T)
F020	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (See footnote 1, below.) (H)	F026	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. (See footnote 1, below.) (H)
F021	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. (See footnote 1, below.) (H)	F027	Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (See footnote 1, below.) (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.) (H)
F022	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. (See footnote 1, below.) (H)	F028	Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027. (T)
F023	Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (See footnote 1, below.) (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (H)	F032	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drip-page, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with

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Dangerous Waste No.	Sources
	WAC 173-303-083 or potentially cross-contaminated wastes that are otherwise currently regulated as dangerous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)
F034	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drip-page, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)
F035	Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drip-page, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)
F037	Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: Oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in footnote 2, below (including sludges generated in one or more additional units after wastewaters have been treated in

Dangerous Waste No.	Sources
	aggressive biological treatment units) and K051 wastes are not included in this listing. <u>This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under WAC 173-303-071 (3)(cc)(i), if those residuals are to be disposed of.</u> (See footnote 2, below.) (T)
F038	Petroleum refinery secondary (emulsified) oil/water/solids separation sludge-Any sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: Induced air flotation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from non-contact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in footnote 2, below (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing. (See footnote 2, below.) (T)
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as dangerous under WAC 173-303-9903, 173-303-9904, and 173-303-9905. (Leachate resulting from the disposal of one or more of the following dangerous wastes, and no other dangerous wastes, retains its Dangerous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.) (T)

Specific Sources

Wood Preservation:

K001	Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (T)
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Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
Inorganic Pigments:			
K002	Wastewater treatment sludge from the production of chrome yellow and orange pigments. (T)	K023	Distillation light ends from the production of phthalic anhydride from naphthalene. (T)
K003	Wastewater treatment sludge from the production of molybdate orange pigments. (T)	K024	Distillation bottoms from the production of phthalic anhydride from naphthalene. (T)
K004	Wastewater treatment sludge from the production of zinc yellow pigments. (T)	K093	Distillation light ends from the production of phthalic anhydride from ortho-xylene. (T)
K005	Wastewater treatment sludge from the production of chrome green pigments. (T)	K094	Distillation bottoms from the production of phthalic anhydride from ortho-xylene. (T)
K006	Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated). (T)	K025	Distillation bottoms from the production of nitrobenzene by the nitration of benzene. (T)
K007	Wastewater treatment sludge from the production of iron blue pigments. (T)	K026	Stripping still tails from the production of methyl ethyl pyridines. (T)
K008	Oven residue from the production of chrome oxide green pigments. (T)	K027	Centrifuge and distillation residues from toluene diisocyanate production. (R,T)
Organic Chemicals:		K028	Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (T)
K009	Distillation bottoms from the production of acetaldehyde from ethylene. (T)	K029	Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (T)
K010	Distillation side cuts from the production of acetaldehyde from ethylene. (T)	K095	Distillation bottoms from the production of 1,1,1-trichloroethane. (T)
K011	Bottom stream from the wastewater stripper in the production of acrylonitrile. (R,T)	K096	Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (T)
K013	Bottom stream from the acetonitrile column in the production of acrylonitrile. (R,T)	K030	Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (T)
K014	Bottoms from the acetonitrile purification column in the production of acrylonitrile. (T)	K083	Distillation bottoms from aniline production. (T)
K015	Still bottoms from the distillation of benzyl chloride. (T)	K103	Process residues from aniline extraction from the production of aniline. (T)
K016	Heavy ends or distillation residues from the production of carbon tetrachloride. (T)	K104	Combined wastewater streams generated from nitrobenzene/aniline production. (T)
K017	Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (T)	K085	Distillation of fractionation column bottoms from the production of chlorobenzenes. (T)
K018	Heavy ends from the fractionation column in ethyl chloride production. (T)	K105	Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (T)
K019	Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (T)	K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazines. (C,T)
K020	Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (T)	K108	Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from the carboxylic acid hydrazides. (I,T)
K021	Aqueous spent antimony catalyst waste from fluoromethanes production. (T)		
K022	Distillation bottom tars from the production of phenol/acetone from cumene. (T)		

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
K109	Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)	K150	Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)
K110	Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)	K151	Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)
K111	Product washwaters from the production of dinitrotoluene via nitration of toluene. (C,T)	K156	Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)
K112	Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)	K157	Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)
K113	Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)	K158	Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)
K114	Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)	K159	Organics from the treatment of thiocarbamate wastes. (T)
K115	Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)	K161	Purification solids (including filtration, evaporation, and centrifugation solids), bag house dust and floor sweepings from the production of dithiocarbamate acids and their salts. (R,T)
K116	Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine. (T)	Explosives:	
K117	Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene. (T)	K044	Wastewater treatment sludges from the manufacturing and processing of explosives. (R)
K118	Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)	K045	Spent carbon from the treatment of wastewater containing explosives. (R)
K136	Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)	K046	Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds. (T)
K149	Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillation of benzyl chloride.) (T)	K047	Pink/red water from TNT operations. (R)

Dangerous Waste No.	Sources	Dangerous Waste No.	Sources
Inorganic Chemicals:		K033	Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (T)
K071	Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. (T)	K034	Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (T)
K073	Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (T)	K097	Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (T)
K106	Wastewater treatment sludge from the mercury cell process in chlorine production. (T)	K035	Wastewater treatment sludges generated in the production of creosote. (T)
Petroleum Refining:		K036	Still bottoms from toluene reclamation distillation in the production of disulfoton. (T)
K048	Dissolved air flotation (DAF) float from the petroleum refining industry. (T)	K037	Wastewater treatment sludges from the production of disulfoton. (T)
K049	Slop oil emulsion solids from the petroleum refining industry. (T)	K038	Wastewater from the washing and stripping of phorate production. (T)
K050	Heat exchanger bundle cleaning sludge from the petroleum refining industry. (T)	K039	Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (T)
K051	API separator sludge from the petroleum refining industry. (T)	K040	Wastewater treatment sludge from the production of phorate. (T)
K052	Tank bottoms (leaded) from the petroleum refining industry. (T)	K041	Wastewater treatment sludge from the production of toxaphene. (T)
<u>K169</u>	<u>Crude oil storage tank sediment from petroleum refining operations. (T)</u>	K098	Untreated process wastewater from the production of toxaphene. (T)
<u>K170</u>	<u>Clarified slurry oil tank sediment and/or inline filter/separation solids from petroleum refining operations. (T)</u>	K042	Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (T)
<u>K171</u>	<u>Spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media). (I,T)</u>	K043	2,6-Dichlorophenol waste from the production of 2,4-D. (T)
<u>K172</u>	<u>Spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media). (I,T)</u>	K099	Untreated wastewater from the production of 2,4-D. (T)
Iron and Steel:		K123	Process wastewater (including supernates, filtrates, and wastewaters) from the production of ethylenebisdithiocarbamic acid and its salts. (T)
K061	Emission control dust/sludge from the primary production of steel in electric furnaces. (T)	K124	Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts. (C,T)
K062	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332). (C,T)	K125	Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts. (T)
Pesticides:		K126	Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts. (T)
K031	Byproduct salts generated in the production of MSMA and cacodylic acid. (T)	K131	Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide. (C,T)
K032	Wastewater treatment sludge from the production of chlordane. (T)		

Dangerous Waste No.	Sources
K132	Spent absorbent and wastewater separator solids from the production of methyl bromide. (T)
Primary Copper:	
K064	Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production. (T)
Primary Lead:	
K065	Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities. (T)
Primary Zinc:	
K066	Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production. (T)
Primary Aluminum:	
K088	Spent potliners from primary aluminum reduction. (T)
Ferroalloys:	
K090	Emission control dust or sludge from ferrochromium-silicon production. (T)
K091	Emission control dust or sludge from ferrochromium production. (T)
Secondary Lead:	
K069	Emission control dust/sludge from secondary lead smelting. (T)
K100	Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (T)
Veterinary Pharmaceuticals:	
K084	Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)
K101	Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)
K102	Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)
Ink Formulation:	
K086	Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. (T)

Dangerous Waste No.	Sources
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Coking:

K060	Ammonia still-lime sludge from coking operations. (T)
K087	Decanter tank tar sludge from coking operations. (T)
K141	Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke from coal or the recovery of coke by-products produced from coal. This listing does not include K087 (decanter tank tar sludges from coking operations).
K142	Tar storage tank residues from the production of coke from coal or from the recovery of coke by-products produced from coal.
K143	Process residues from the recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke by-products produced from coal.
K144	Wastewater sump residues from light oil refining, including, but not limited to, intercepting or contamination sump sludges from the recover of coke by-products produced from coal.
K145	Residues from naphthalene collection and recovery operations from the recovery of coke by-products produced from coal.
K147	Tar storage tank residues from coal tar refining.
K148	Residues from coal tar distillation, including but not limited to, still bottoms.

Footnotes

- 1 For wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027 the quantity exclusion limit is 2.2 lbs. (1 kg) per month or per batch.
- 2 Listing Specific Definitions:
 - a For the purposes of the F037 and F038 listings, oil/water/solids is defined as oil and/or water and/or solids.
 - b(i) For the purposes of the F037 and F038 listings, aggressive biological treatment units are defined as units which employ one of the following four treatment methods: Activated sludge; trickling filter; rotating biological contactor for the continuous accelerated biological oxidation of wastewaters; or high-rate aeration. High-rate aeration is a system of surface impoundments or tanks, in which intense mechanical aeration is used to

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completely mix the wastes, enhance biological activity, and (A) the unit employs a minimum of 6 hp per million gallons of treatment volume; and either (B) the hydraulic retention time of the unit is no longer than 5 days; or (C) the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is a dangerous waste by the Toxicity Characteristic.

- (ii) Generators and treatment, storage and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage and disposal facilities must maintain, in their operating or other on-site records, documents and data sufficient to prove that: (A) The unit is an aggressive biological treatment unit as defined in this subsection; and (B) the sludges sought to be exempted from the definitions of F037 and/or F038 were actually treated in the aggressive biological treatment unit.
- c(i) For the purposes of the F037 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement.
- (ii) For the purposes of the F038 listing,
 - (A) Sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement and
 - (B) Floats are considered to be generated at the moment they are formed in the top of the unit.

State Sources

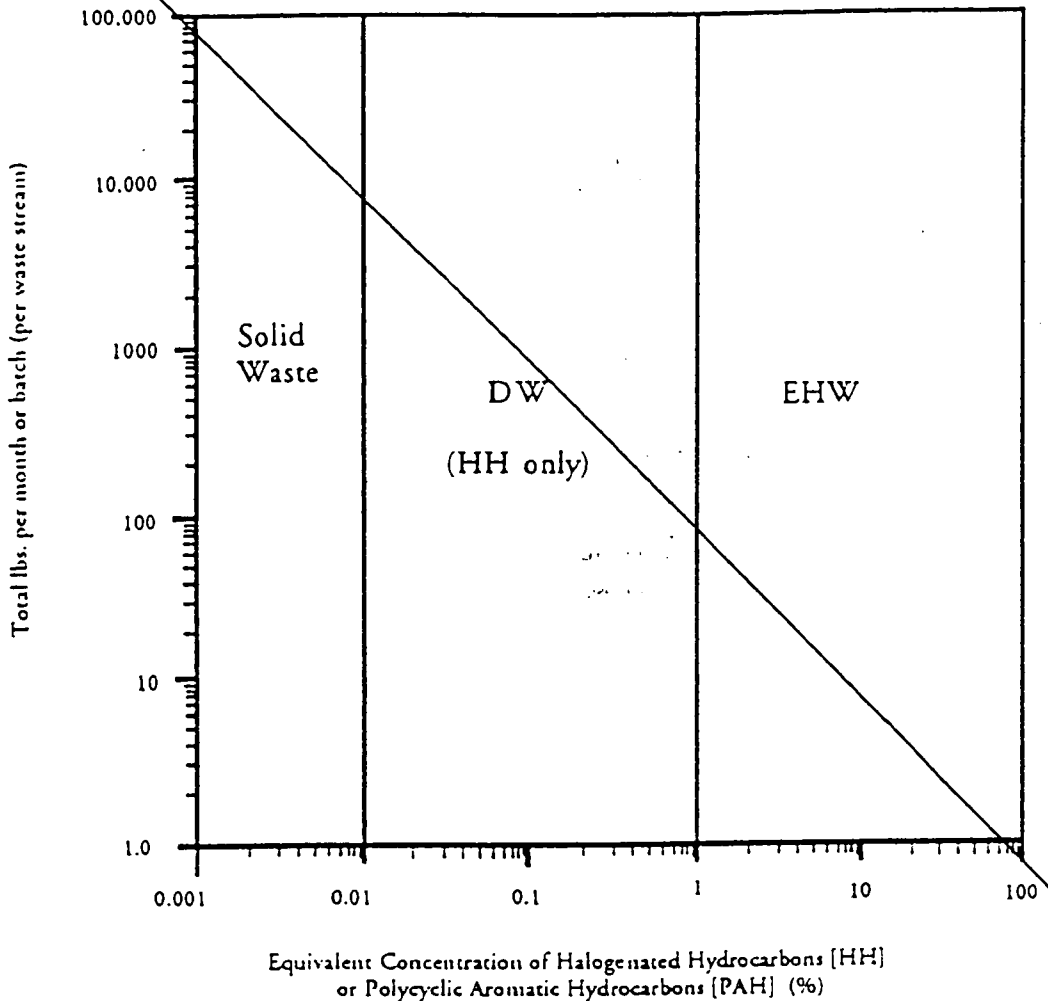
- W001 Discarded transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater (except when drained of all free flowing liquid) and the following wastes generated from the salvaging, rebuilding, or discarding of transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater: Cooling and insulating fluids and cores, including core papers. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if their PCB waste is excluded from the requirements of chapter 173-303 WAC.)

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AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-9907 (~~(Persistent dangerous waste mixtures graph)~~) **Reserved.**

WAC 173-303-9907 : Persistent Dangerous Waste Graph



WSR 00-11-042
PERMANENT RULES
SECRETARY OF STATE
 [Filed May 11, 2000, 1:23 p.m.]

Date of Adoption: May 11, 2000.

Purpose: To create a framework for designating political party abbreviations to be placed on the ballot.

Citation of Existing Rules Affected by this Order: Amending WAC 434-230-170 and 434-230-210.

Statutory Authority for Adoption: RCW 29.04.210 and 29.30.020.

Adopted under notice filed as WSR 00-07-052 on March 8, 2000.

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 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 11, 2000

Tracy Guerin

Deputy Secretary of State

PERMANENT

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-170 Electronic voting devices—Ballot form. Each office on the ballot shall be identified, along with a statement designating how many candidates are to be voted on for such office (e.g., vote for, with the words, "one," "two," or a spelled number). The office term shall be included on the ballot if such term is other than a full term (e.g., short/full term, two-year unexpired term, etc.). Each office shall be listed on the ballot in the manner prescribed by law or administrative rule. Following the office designation the names of all candidates for that position shall be listed together with political party designation certified by the secretary of state as provided in RCW 29.27.020 or the word "nonpartisan," or "NP" as applicable. Each office listed on the ballot shall be separated by a bold line. In a year in which a President of the United States is to be elected, the names of all candidates for President and Vice-President for each party shall be grouped together. Each group shall be enclosed in brackets with one vote response position for each party, where the voter may indicate their choice.

Candidate names shall be printed in a type style and point size which is easily read. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include using a smaller point size, a different type style, or setting the name in upper/lower case letters, rather than upper case, if appropriate.

Each position, with the candidates running for that office, shall be clearly delineated from the following one by a bold line. Following each listing of candidates shall be a blank space for writing in the name of any candidate, if desired, on the ballot card, or a write-in space provided on the ballot envelope.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-230-210 Paper ballots—Ballot form. Following ballot measures, each office to be elected shall be identified along with a statement designating how many candidates are to be voted on for such office (e.g., vote for, with the words, "one," "two," or a spelled number). Office term shall be included on the ballot if such term is other than a full term (e.g., short/full term, two-year unexpired term, etc.). Offices shall be arranged in the manner described in RCW 29.30.020. Immediately following shall be the names of all candidates for that position, together with the political party designation certified by the secretary of state as provided in RCW 29.27.020 or the word "nonpartisan" or "NP." Each office to be elected shall be separated by a bold line. In a year in which a President of the United States is to be elected, the names of all candidates for President and Vice-President for each party shall be grouped together. Each group shall be enclosed in brackets with a single square to either the left or right in which the voter indicates their choice.

Candidates names shall be printed in a type style and point size which is easily read. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include using a smaller point size, a different type style, or setting the name in upper/lower case letters, rather than upper case, if appropriate.

There shall be a box at either the left or right of the name of each candidate so that a voter may clearly indicate the candidate or candidates for whom they wish to cast their vote.

Immediately following the list of candidates for a given position shall appear a blank space or spaces for writing in the name of a candidate, followed by a box to the right of the blank space.

NEW SECTION

WAC 434-230-220 Same party designations used for primary and general elections. The party designations certified by the secretary of state in RCW 29.27.020 for primary elections shall be used on all general election ballots.

WSR 00-11-047

PERMANENT RULES

DEPARTMENT OF LICENSING

(Sellers of Travel)

[Filed May 12, 2000, 9:59 a.m.]

Date of Adoption: May 12, 2000.

Purpose: To allow the department to clarify by rule, criminal violation reporting requirements, surety bonding requirements and to eliminate duplicating of statute in rule for advertising as determined by legislative mandate.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-129-230; and amending WAC 308-129-100.

Statutory Authority for Adoption: RCW 19.138.170(1).

Adopted under notice filed as WSR 00-08-005 on March 22, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 May 12, 2000
 Alan E. Rathbun
 Assistant Director

WSR 00-11-052
PERMANENT RULES
SENTENCING GUIDELINES COMMISSION
 [Filed May 12, 2000, 1:30 p.m., effective July 1, 2000]

Date of Adoption: May 12, 2000.

Purpose: Establish community custody ranges included in sentences for eligible felonies committed on or after July 1, 2000.

Statutory Authority for Adoption: RCW 9.94A.040(6) (rule-making authority under chapter 34.05 RCW).

Adopted under notice filed as WSR 99-22-094 on November 2, 1999, and continued as WSR 00-11-051 on May 12, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2000.

May 12, 2000
 Ida Rudolph Leggett
 Executive Director

Chapter 437-20 WAC

COMMUNITY CUSTODY RANGES

NEW SECTION

WAC 437-20-010 Community custody ranges.

COMMUNITY CUSTODY RANGES

Offense Type	Community Custody Range
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months
Serious Violent Offenses	24 to 48 months
Violent Offenses	18 to 36 months
Crimes Against Persons (As defined in RCW 9.94A.440(2))	9 to 18 months
Offenses under chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(6))	9 to 12 months

AMENDATORY SECTION (Amending WSR 96-14-092, filed 7/2/96, effective 8/2/96)

WAC 308-129-100 Applications—Conditions. Any person desiring to be registered as a seller of travel shall submit with the application form:

(1) If the applicant, within the past (~~five~~) ten years, has been found guilty of a felony involving moral turpitude, a misdemeanor concerning fraud or conversion, or suffers a judgment in a civil action involving willful fraud, misrepresentation, or conversion, a copy of such conviction or judgment shall be included.

(2) In lieu of the CPA/LPA/bank officer report required by RCW 19.138.110(5), an applicant may submit an affidavit or declaration signed under penalty of perjury setting out the information required by RCW 19.138.110(5).

(3) Applicants who certify under penalty of perjury that they do not hold for more than five business days any non-exempt funds received from any person or entity for retail travel services shall not be required to report or maintain a trust account or other approved account under RCW 19.138.110(5).

(4) A seller of travel applying to be licensed under chapter 19.138 RCW may submit a surety bond as described in RCW 19.138.140 (7)(a)(i) or other instrument approved by the department as described in RCW 19.138.140 (7)(a)(iv). The amount of the surety bond or other approved instrument shall be based upon the prior year's annual gross income of business conducted as outlined in the following scale:

<u>Annual Gross Income of Business Conducted:</u>	<u>Amount of Surety Bond or other instrument approved by the department:</u>
\$199,999 and under	\$10,000
\$200,000 through \$499,999	\$20,000
\$500,000 through \$749,999	\$30,000
\$750,000 through \$999,999	\$40,000
\$1,000,000 and above	\$50,000

(5) Sellers of travel companies upon application and renewal shall attest to their gross annual income of business conducted on a form provided by the department.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-129-230 Advertising.

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The ranges specified in this section are not intended to affect or limit the authority to impose exceptional community custody ranges, either above or below the standard community custody range as authorized by RCW 9.94A.120(2) and pursuant to guidelines specified in RCW 9.94A.390. The community custody range for offenders with multiple convictions must be based on the offense that dictates the longest term of community custody. The community custody range for offenders convicted of an offense that falls into more than one of the five categories of offense types listed in this section must be based on the offense type that dictates the longest term of community custody.

WSR 00-11-053
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed May 12, 2000, 3:28 p.m.]

Date of Adoption: May 11, 2000.

Purpose: To amend the department's rules implementing the law codified in chapter 41.32 RCW in order to make those rules consistent with 1999 statutory amendments to RCW 41.32.570.

Citation of Existing Rules Affected by this Order: Amending WAC 415-112-540 and 415-112-545.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 99-23-013 on November 5, 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 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 11, 2000

John Charles

Director

AMENDATORY SECTION (Amending WSR 97-01-015, filed 12/6/96, effective 1/6/97)

WAC 415-112-540 How will returning to work affect my TRS ((#)) Plan 1 monthly pension? This section implements RCW 41.32.570(((+))) which limits employment for TRS ((#)) Plan 1 retirees with public educational institutions to five hundred twenty-five hours regardless of the nature of

service. In certain circumstances RCW 41.32.570 (((2) and)) (3), (4) and (5) allow additional service without suspension of your TRS ((#)) Plan 1 pension. Those limitations are discussed in WAC 415-112-545.

(1) **You may return to any type of service with a public educational institution for up to five hundred twenty-five hours per school year without affecting your TRS ((#)) Plan 1 monthly pension((-)) under RCW 41.32.-570(((+)))**.

(a) Your employer must notify the department when you return to work. Your employer must notify the department if you work more than five hundred twenty-five hours for a public educational institution during a school year, unless you qualify for additional service under RCW 41.32.570 (((2) or)) (3), (4) or (5), see WAC 415-112-545.

(b) If you are a TRS Plan ((#)) 1 retiree, you may elect to return to membership if you are employed by a public school. If you ((se elect)) return to membership, the department will suspend your monthly pension effective from the first of the month during which you return to employment.

(c) If you are a TRS Plan ((#)) 1 retiree working for a public educational institution as a bona fide independent contractor as determined under WAC 415-02-110, you are not considered an employee of the institution and are not subject to the work limitations of RCW 41.32.570.

(2) **If you work for more than five hundred twenty-five hours during a school year the department will suspend your monthly pension.** In some cases you may be able to work an additional ((one hundred five)) three hundred fifteen hours, see WAC 415-112-545.

(a) If you return to any type of service with a public educational institution ((pursuant to)) under a written contract or ((either)) continuing employment relationship, and you work for more than five hundred twenty-five hours during a school year, the department will suspend your monthly pension beginning with the five hundred twenty-sixth hour of employment.

(b) If you serve as ((#)) an on-call substitute teacher for more than five hundred twenty-five hours during a school year, the department will reduce your monthly pension by five percent for each day you work beyond the five hundred twenty-five hour limit until your monthly pension is reduced to zero.

(3) **You must repay any monthly pension payment that you receive in excess of the amounts allowed under this section or WAC 415-112-545.**

(4) **The department will reinstate your pension at the end of the school year or after you terminate your employment.** If the department suspends or reduces your monthly pension due to your reemployment, the department will reinstate the original amount of your pension, less deductions to ((recapture)) recover any overpayment, effective the day following your termination of employment, or at the end of the school year, whichever comes first.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) ((“Day”; “five hundred twenty-five hours”—WAC 415-112-0152.

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~~(b))~~ "Public educational institution" - WAC 415-112-0157.

~~((e))~~ (b) "School year" - WAC 415-112-0161.

~~((f))~~ (c) "Substitute teacher" - RCW 41.32.010(36).

AMENDATORY SECTION (Amending WSR 97-01-015, filed 12/6/96, effective 1/6/97)

WAC 415-112-545 How can I qualify for an additional ~~((one hundred five))~~ three hundred fifteen hours of service without having my TRS ~~((F))~~ Plan 1 monthly pension reduced? In addition to the five hundred twenty-five hours of service permitted for TRS ~~((F))~~ Plan 1 retirees under RCW 41.32.570~~((f))~~ (2), you are eligible to also serve for up to ~~((one hundred five))~~ three hundred fifteen more hours as ~~((a))~~ an on-call substitute teacher or substitute ~~((administrator))~~ principal without affecting your pension if you meet each of the following criteria~~((:))~~; See RCW 41.32.570 ~~((f))~~ and (3) and (5).

(1) **You must be employed by a school district.** The option for TRS ~~((F))~~ Plan 1 retirees to work an additional ~~((one hundred five))~~ three hundred fifteen hours during a school year without affecting their pension is only available to school district employees. An employee of a school district participating in a multidistrict substitute cooperative is also covered. An employee of an educational service district, the State Schools For the Deaf or Blind, or an institution of higher education is not covered.

(2) **You must be employed as a substitute teacher or substitute ~~((administrator))~~ principal.**

~~((a))~~ The term "substitute teacher" as used in RCW 41.32.570~~((f))~~ (3) is limited to classroom teachers serving on an on-call basis. A person working under a contract with a guaranteed number of hours or days does not qualify as a substitute teacher, see RCW 41.32.010(36).

Example 1: A school district employs a retiree as a substitute teacher under a contract for ninety days. Because the retiree is employed under a contract and not on an on-call basis, she may not serve for more than five hundred twenty-five hours as a substitute teacher without having her monthly pension suspended.

(3)(a) You may be employed as a substitute administrator other than a principal for an additional one hundred five hours of service in addition to the five hundred twenty-five hours, see RCW 41.32.570(4).

(b) A substitute administrator is a person who fills in for an absent administrator on a temporary basis. A substitute administrator can be employed under a contract with a guaranteed number of hours. Substitute administrator positions include but are not limited to:

- (i) Principal and assistant principal;
- (ii) Superintendent and assistant superintendent;
- (iii) Personnel manager;
- (iv) Business manager; and
- (v) School librarian.

~~((f))~~ (4) **Your school district employer must adopt a resolution.** Before a school district can employ a TRS Plan ~~((F))~~ 1 retiree for ~~((an))~~ additional ~~((one hundred five))~~ hours in a ~~((fiscal))~~ school year without affecting ~~((his or her))~~ the retiree's TRS ~~((F))~~ Plan 1 pension, the district must adopt a resolution establishing the need for the additional employment. Each resolution is valid only for the school year in which it is adopted. The resolution authorizes additional employment only on or after the date it has been adopted and cannot be applied retroactively.

(a) Authorizing additional hours for substitute teachers: To authorize a TRS Plan ~~((F))~~ 1 retiree to work an additional ~~((one hundred five))~~ three hundred fifteen hours in a ~~((fiscal))~~ school year as a substitute teacher, a school district must adopt a resolution stating that it has exhausted or can reasonably anticipate exhausting its list of qualified and available substitutes, and therefore, the services of retired teachers or administrators are necessary to address that shortage.

(i) If a school district is a member of a multidistrict cooperative, the board of each school district in the cooperative must adopt such a resolution.

(ii) After a resolution has been adopted, a school district may employ a TRS Plan ~~((F))~~ 1 retiree as a substitute teacher for up to an additional ~~((one hundred five))~~ three hundred fifteen hours once its list of other qualified and available substitutes has been exhausted.

(b) Authorizing additional hours for substitute administrators: To authorize a TRS Plan ~~((F))~~ 1 retiree to work an additional one hundred five hours in a ~~((fiscal))~~ school year as a substitute administrator, a school district must adopt a resolution stating that an emergency exists and the services of a retired administrator or retired teacher are required because the school district cannot find a replacement administrator to fill a vacancy.

~~((f))~~ (c) **Authorizing additional hours for substitute principals:** To authorize a TRS Plan 1 retiree to work an additional two hundred ten hours above the additional one hundred five hours in a school year as a substitute principal, a school district must adopt a resolution stating that an emergency exists and the services of a retired principal or retired teacher are required because the school district cannot find a replacement principal to fill the vacancy.

(5) Your school district must provide information to the department. If your school district employer is not a member of a multidistrict substitute cooperative, the district must:

(a) Within thirty days after a resolution is adopted:
(i) Send a copy of the resolution; and
(ii) If the resolution is for substitute teaching, send a list of all TRS Plan ~~((F))~~ 1 retirees working for the school district as substitute teachers.

(b) During the ~~((fiscal))~~ school year:
(i) Send a copy of any amendments to the resolution or to the list of TRS Plan ~~((F))~~ 1 retirees working as substitutes;

(ii) Send written notice immediately if any TRS Plan ~~((F))~~ 1 retiree works beyond ~~((six hundred thirty))~~ eight hundred forty hours.

(c) At the end of the ~~((fiscal))~~ school year: Send a letter indicating the total number of hours worked by each TRS

Plan ((F)) 1 retiree that exceeded the ((six hundred thirty)) eight hundred forty hours.

((5)) (6) If your employer is a member of a multidistrict substitute cooperative, the cooperative must provide the information.

If you are employed by a school district which is a member of a multidistrict substitute cooperative, the cooperative must provide the information specified in subsection ((4)) (5) of this section on behalf of each participating school district.

((6)) (7) If you serve as a substitute teacher or substitute administrator for the additional ((one hundred five)) hours but you are not eligible to do so, the department will reduce your monthly pension.

(a) If you and your school district employer do not meet each of the criteria under this section, you are not eligible to serve as a substitute teacher for the additional ((one hundred five)) three hundred fifteen hours under RCW 41.32.570 ((2) or) (3).

(b) If you or your school district employer do not meet each of the criteria under this section, you are not eligible to serve as:

(i) A substitute administrator for an additional one hundred five hours under RCW 41.32.570(4); or

(ii) As a substitute principal for an additional two hundred ten hours for a total of three hundred fifteen hours under RCW 41.32.570(5).

(c) If you are not eligible to work additional hours, and you serve for more than five hundred twenty-five hours during a school year, the department will reduce your monthly pension as provided under WAC 415-112-540((3)).

Example 2: Sarah is a TRS 1 retiree who has worked as both a principal and classroom teacher. The local school district hires her as an on-call substitute classroom teacher for the 1999-2000 school year. She can work up to five hundred twenty-five hours in this capacity per school year under WAC 415-112-540. Sarah works up to this hour limit as a substitute teacher.

However, the school district still needs her services. They adopt a resolution establishing the need for the additional employment of substitute teachers.

In the middle of the school year, a neighboring school district needs to recruit a principal on an emergency basis. The district adopts a resolution demonstrating this need, stating that they need Sarah's services to fill the position because they cannot otherwise fill the vacancy.

Sarah can work three hundred fifteen hours total under WAC 415-112-545 in addition to five hundred twenty-five hours per school year under WAC 415-112-540. For example, she can work an additional one hundred five hours as a substitute teacher, plus two hundred ten hours as a substitute

principal. Sarah can work up to eight hundred forty hours during this school year without affecting her retirement benefit. She could also work up to a total of eight hundred forty hours as a substitute teacher.

She may not work an additional two hundred hours as a substitute teacher and two hundred ten additional hours as a substitute principal without affecting her retirement benefit, since the total hours combined would exceed the three hundred fifteen-hour limit for additional hours under WAC 415-112-545.

NOTE:

:

It is not the position that you retired from but the position you are filling as a retiree that determines how many additional hours, if any, you can work.

:

The school district resolutions are only good for one school year. If Sarah's services as a substitute principal are still needed the following school year, the district will need to adopt a new resolution.

Example 3:

Pete is a TRS 1 retiree who has worked as a school administrator and principal. The local school district hires him as a substitute administrator for the 1999-2000 school year. He can work up to a total of five hundred twenty-five hours in this capacity under WAC 415-112-540. During the year in question, Pete works up to this hour limit.

However, the school district still needs his services. They adopt a resolution establishing the need for the additional employment of substitute administrators.

Pete can work as a substitute administrator for up to one hundred five hours under WAC 415-112-545 in addition to five hundred twenty-five hours under WAC 415-112-540 during this school year without affecting his retirement benefit.

The only way he can work an additional two hundred ten hours is if he is hired as a substitute principal after the school district adopts a resolution. The resolution must demonstrate the need for a substitute principal, and state that the district needs Pete's services to fill the position because they cannot otherwise fill the vacancy. The resolution does not apply retroactively.

NOTE:

:

It is not the position that you retired from but the position you are filling as a retiree that determines how many additional hours, if any, you can work.

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The school district resolutions are only good for one school year. If Pete's services as a substitute principal are still needed the following school year, the district will need to adopt a new resolution.

((7)) (8) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) ("~~Day~~"; "~~one hundred five hours~~"; "~~five hundred twenty five hours~~" - WAC 415-112-0152.

(~~b~~)) "School year" - WAC 415-112-0161.

((e)) (b) "Substitute teacher" - RCW 41.32.010(36).

WSR 00-11-054

PERMANENT RULES

GAMBLING COMMISSION

[Order 384—Filed May 12, 2000, 3:32 p.m.]

Date of Adoption: May 12, 2000.

Purpose: This amendment allows Class F and house-banked card room licensees to conduct a card tournament for a fee without obtaining a card tournament license and house-keeping changes.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-055.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 00-07-139 on March 22, 2000, with a publication of April 5, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 12, 2000

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 250, filed 3/16/94, effective 4/16/94)

WAC 230-40-055 Card tournaments for fee and prizes—Reporting requirements. (1) A card tournament wherein a fee is charged to the participants and prizes are awarded to the winning players shall be licensed by the commission. Card room licensees with a Class A, B, ((e)) E, For house-banked license may conduct a card tournament for a

fee without obtaining a card tournament license: Provided, That ((Class B)) licensees are limited to only those card games authorized under their ((licensing)) license class. Card room licensees with a Class D or R license must first obtain a card tournament license before they can conduct a card tournament in which the players are charged a fee to enter. The licensee shall notify the commission ten days in advance of any card tournament where the single or multiple buy-in exceeds fifty dollars. A card tournament shall not exceed ten consecutive calendar days.

(2) The fee for a player to enter a card tournament for prizes shall not exceed fifty dollars, including all separate fees which might be paid by a player for various phases, events of the tournament, food and drink offerings, and promotional material. The fee to enter a tournament and a description of all goods and services to be provided as a part of the tournament must be fully disclosed to each entrant prior to their paying such fee. Such disclosure must be posted conspicuously on the premises at the time payment is received and remain posted until the tournament is complete. This same information must be included in all advertisements for said tournament. Operators may offer "free roll" or customer appreciation tournaments: Provided, That the pretournament play requirements do not exceed the fifty-dollar entry fee limitation. Entrants in such tournaments must initially be provided with the same number of chips or points and the same opportunity for re-buys. All prizes awarded for free roll or customer appreciation tournaments may be deducted as prizes for determining adjusted net gambling receipts for compliance with WAC 230-12-075.

(3) All fees paid to enter a tournament shall be reported as gross gambling receipts: Provided, That if an operator prepares and provides food and drink items to all tournament entrants on the licensed premises as a part of their entry fee, the fair market value of the food and drink provided, not to exceed twenty-five dollars or fifty percent of the entry fee, which ever is greater, shall be treated as sales of food and drink for on premises consumption and not included as gross gambling receipts. Such sales, must be properly supported by records: Provided further, That if an operator provides items promoting the tournament or licensed business, such as hats, t-shirts, etc., to all participants as a part of their entry fee, the actual cost of such items, supported by invoices and other such records, shall be deducted as prizes in determining adjusted net gambling receipts for compliance with WAC 230-12-075.

(4) In addition to the entry fee, a minimum buy-in of chips may be required. The total buy-in per player shall not exceed two hundred dollars per tournament and may be either a single or multiple buy-in during the course of the tournament. A record of the buy-ins for each participant will be maintained by the licensee in a format provided by the commission. All buy-ins of chips are not gross gambling receipts and shall be returned to the participants in the form of prizes. Prizes from buy-ins are not deductible for commercial stimulant purposes.

(5) The chips used in card tournaments shall have no monetary value and may be redeemed only for prizes established by the licensee. The licensee may award prizes in excess of those entry fees collected as authorized in subsec-

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tion (2) of this section. The licensee's actual cost for prizes awarded to the players may be deducted as prizes for determining adjusted net gambling receipts generated by the entry fees.

(6) The licensee shall adopt tournament rules to facilitate the operation of card tournaments: Provided, That all tournament rules for tournaments where the single or multiple buy-in exceeds fifty dollars must be submitted to the commission for approval. All tournament rules must be posted where all tournament participants can see and read the rules.

(7) The licensee shall maintain a record of all such fees collected and the number of participant for each tournament conducted. This information shall be entered in a format approved by the commission. The total gross gambling receipts for the tournament shall be entered on the card room daily control sheet for the time and date the tournament begins and the record of participants shall be attached and maintained with that daily control sheet.

(8) The licensee shall maintain a record of all prizes awarded to include the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant: Provided, That the name and address of each participant receiving promotional items as set forth in subsection (3) of this section shall not be required on the prize record. The record shall be attached to the daily control sheet used on the date the majority of the prizes are awarded.

need to enroll all of my businesses or can I enroll some and not others?, 296-17-91208 Is there a requirement for employer members of an organization to be engaged in substantially similar businesses to participate in the organization's group plan?, 296-17-91209 Do all organization members enrolled in a retrospective rating group plan have to report within one classification?, 296-17-91210 Can you tell me how the authorized classifications for a retrospective rating group plan are determined?, 296-17-91211 After a retrospective rating group plan has been authorized a classification or classifications, can an organization be allowed additional classifications at a later date?, 296-17-91212 Does an organization have to reapply each year for authorized classifications applicable to their retrospective rating group plan?, 296-17-91213 The department has approved our organization to sponsor a retrospective rating group. Is there an application process that we must follow?, 296-17-91214 What is the next step after the organization has submitted this application?, 296-17-91215 Is there an application process to enroll in an individual retrospective rating plan?, 296-17-91216 Can you tell me what happens at the end of a coverage period?, 296-17-91219 If I am successful in reducing my workers' compensation insurance costs, and you inform me that I am entitled to a refund, when will I get the refund?, 296-17-91220 Do you establish how the refund is to be distributed to members of a group?, 296-17-91221 If a group is subject to an additional assessment, does the department bill each member of the group for their share?, 296-17-91222 If a group or individually enrolled employer owes money related to a retrospective-rating adjustment when is it due?, 296-17-91223 If I am in a dispute with the department over an assessment, claim cost or moneys alleged to be owed to the department, can I participate in the retrospective rating program?, 296-17-91224 Are employers required to share retrospective rating refunds with their employees?, 296-17-91225 Can an organization be disqualified from sponsoring a retrospective rating group?, 296-17-91250 Limitation of liability indemnification, 296-17-91402 Table II, 296-17-91403 Table III, 296-17-91404 Table IV, 296-17-91405 Table V, and 296-17-91406 Table VI.

Statutory Authority for Adoption: RCW 51.18.010.

Adopted under notice filed as WSR 99-22-110 on November 3, 1999.

Changes Other than Editing from Proposed to Adopted Version: Labor and industries is modifying from the proposed rules the number of mandatory evaluations for each coverage period and the effective dates of WAC 296-17-90402 and 296-17-90466.

Changes to the number of annual evaluations are covered in two sections. These two sections are modified and adopted as follows:

WAC 296-17-90402 Definitions.

Evaluation date: The date selected by the department in which incurred losses for applicable claims are measured and captured for the purpose of calculating retrospective premium. Changes in incurred losses that occur after an evaluation date will not be considered until the next applicable evaluation date. The first evaluation date is between nine and ten months after the coverage period ends. ~~The next three~~ All

WSR 00-11-060

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed May 12, 2000, 4:59 p.m., effective July 1, 2000]

Date of Adoption: May 12, 2000.

Purpose: Adoption of rules applicable to labor and industries retrospective rating program. These rules are designed to implement SB 6048 (chapter 7, Laws of 1999) and certain provisions of the Joint Legislative Audit Review Committee's (JLARC) performance audit relative to the retrospective rating program.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-17-91201 Introduction, 296-17-91202 Definitions, 296-17-91203 Can you give me an overview of the retrospective-rating program?, 296-17-91204 I understand that there are specific requirements that an employer must meet before they can participate in either individual or group retrospective rating. Can you tell me what these requirements are?, 296-17-91205 I understand that there are specific prerequisites that an organization must meet to sponsor a retrospective rating group plan. Can you tell me what these requirements are?, 296-17-91206 Are there other qualifying requirements that an organization must satisfy once the preliminary requirements have been met?, 296-17-91207 I have several businesses that been combined for experience rating purposes because of common majority ownership. They still report and pay premiums using separate subaccounts. If I want to participate in retrospective rating, do I

subsequent evaluations will occur in twelve-month intervals. Beginning with the coverage period October 1, 2000, and all coverage periods thereafter, the number of mandatory evaluations will change from two to three.

WAC 296-17-90445 Can you tell me what happens at the end of a coverage period? (1) Between nine and ten months after the coverage period has ended we will do an initial evaluation of the losses for each employer and group participating in retrospective rating. All future evaluation dates for a coverage period will take place approximately twelve months after the initial evaluation date.

Example: Assume that your coverage period began July 1, 1998, and ended June 30, 1999, (twelve calendar months). Our first evaluation date would occur mid-April 2000. This is roughly nine and one-half months from the last day of the coverage period. Because all retrospective rating plans have ~~four~~ three mandatory evaluations, each subsequent evaluation will occur at twelve-month intervals.

The effective dates of WAC 296-17-90402 and 296-17-90466(1) have been changed from the proposed July 1, 2000 to October 1, 2000. The adopted text for WAC 296-17-90402 is contained above. The adopted text for WAC 296-17-90466 is as follows:

WAC 296-17-90466 Do you establish how the refund is to be distributed to members of a group? (1) No. We are not involved in how the premium refund is distributed. The distribution of any refund is determined by the organization that sponsored the group. A sponsoring organization, however, cannot withhold a member's refund for not reenrolling in their retrospective rating group during the next or any future coverage year. Effective with the coverage period beginning October 1, 2000, and all coverage periods thereafter, a sponsoring organization must distribute ~~In addition,~~ at least ninety percent of any retrospective rating group refund ~~must be distributed~~ to members of the group.

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 37, Amended 0, Repealed 31.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 37, Amended 0, Repealed 31.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2000.

May 12, 2000

Gary Moore

Director

NEW SECTION

WAC 296-17-90401 Introduction. Retrospective rating is a program designed to encourage workplace safety and accident prevention for employers that insure their workers' compensation obligations with the state fund. The 1999 session of the legislature finding that the goal of workplace safety has been enhanced by retrospective rating determined that the plan provided for in RCW 51.16.035 should be formalized in its own section of law (RCW 51.18.005). By legislative policy (RCW 51.18.010) retrospective rating should encourage broad participation by employers and organizations that sponsor retrospective rating groups.

To implement the retrospective rating plan provided for in RCW 51.18.010 we have developed a series of formal rules found in the Washington Administrative Code (WAC). As required by law these rules are based on recognized principles of insurance. WAC 296-17-90401 through 296-17-90497 contains the general and special rules and rating plan tables applicable to the department's voluntary retrospective rating program. We refer to the individual rules (WACs) as sections and the complete body of sections as the retrospective rating manual. The retrospective rating manual contains sections (WACs) that define or explain:

- Words or phrases that we use;
- The steps you must take to participate in the program;
- How group plans are authorized;
- Why members of a group must be involved in similar business operations;
- The need to have an insurance account with the department and keep it in good standing in order to participate in this voluntary rating plan;
- Workplace safety requirements of the plan;
- Contract restrictions and refund requirements;
- Formulas used to establish retrospective premium;
- Premium size tables;
- Plan tables.

NEW SECTION

WAC 296-17-90402 Definitions. In developing the general reporting rules and tables for retrospective rating, we have used certain words or phrases that could have several meanings. Appendix A of this manual contains a list of words or phrases defined by law (Title 51 RCW). To reduce misunderstandings which can result by our use of certain words or phrases not defined in law (Title 51 RCW), we have developed definitions which will govern what these words or phrases mean for purposes of the retrospective rating program.

Account: The term "account" means an individual employer's industrial insurance account and related subaccounts, or in the case of a retrospective rating group it means the sponsoring organization's industrial insurance account. For purposes of RCW 51.08.015, the term "retrospective rating account" and "industrial insurance account" shall have the same status.

Account in good standing: For an account to be in good standing, the employer and/or group must have:

(a) Submitted all of the required reports and paid all industrial insurance premium payments, assessments, penalties and interest when due and on time. This requirement also includes the payment of other fees, fines, penalties and assessments established by the department such as safety violations and computer access fees. An account may be deemed to be in good standing if the employer or group (organization) is current with a repayment agreement with the department; and

(b) Not participated in the activities described in WAC 296-17-90484 concerning the direct payment of medical services.

A sponsoring organization in addition to the requirements described in (a) and (b) of this subsection must also file the safety plan and reports required in WAC 296-17-90412 and comply with the contract and refund distribution requirements of WAC 296-17-90466 for the group account to be in good standing.

Adjustment: The process of calculating retrospective premium, and any resulting refunds or assessments. For the first adjustment of a coverage period, retrospective premium is compared to the standard premium due. The difference will be refunded if the retrospective premium is lower than the standard premium due. You will be assessed the difference if the retrospective premium is higher than the standard premium due. In subsequent adjustments of the coverage period, the new retrospective premium is compared to the prior retrospective premium to determine the amount of refund or assessment.

Basic premium ratio (BPR): A component of the retrospective rating premium formula, the BPR represents a charge for administrative costs (except claims handling) and an insurance charge which covers the cost of having retrospective premium limited by the selected maximum premium ratio.

Case reserve: The department's estimate of cost associated with a specific claim over the lifetime of the claim.

Coverage period: A twelve-month period beginning January 1 and ending December 31, or April 1 through March 31, or July 1 through June 30, or October 1 through September 30. Only claims with a date-of-injury within the selected coverage period and standard premium due for the same coverage period are used to calculate retrospective premium. The coverage period is selected by the group or individually enrolled employer.

Developed losses, a.k.a. total incurred losses (developed): A component of the retrospective rating premium formula. Based on historical trends we know that the total incurred losses for claims in a coverage period tend to increase over time. This can be the result of claim reopenings, changes in time loss duration, increased medical utilization, etc. The developed losses computation anticipates and distributes these increases among all the participants in a coverage period. Developed losses for pension claims are determined by multiplying their incurred losses by the applicable performance adjustment factor. For nonpension claims, developed losses are determined by multiplying their incurred losses by the applicable loss development factors.

Evaluation date: The date selected by the department in which incurred losses for applicable claims are measured and captured for the purpose of calculating retrospective premium. Changes in incurred losses that occur after an evaluation date will not be considered until the next applicable evaluation date. The first evaluation date is between nine and ten months after the coverage period ends. All subsequent evaluations will occur in twelve-month intervals. Beginning with the coverage period October 1, 2000, and all coverage periods thereafter, the number of mandatory evaluations will change from two to three.

Freeze date: See evaluation date.

Group: Employer members of an organization who have agreed to have their retrospective premium calculated using the combined applicable standard premium and related loss data of the participants as a whole.

Homogeneity: An insurance term used to denote a similarity between two or more business risks. Although it is rare that any two businesses will be identical, similar businesses have similar exposure to occupational injury and disease.

Incurred losses: A term we use to denote a cost component of a claim. For open claims, incurred losses are the total of costs paid-to-date which have been assigned to a given employer account, or the case reserve established by the department, whichever is greater. For closed claims, incurred losses are the total of costs paid-to-date which have been assigned to a given employer account, regardless of any case reserve that may have been established.

Loss conversion factor (LCF): A component of the retrospective premium formula, the LCF represents an expense charge for claims handling and the present value of developed losses. LCFs can be found in WAC 296-17-90493 through 296-17-90497.

Loss development factor (LDF): LDFs are actuarially determined factors that are multiplied by incurred losses of nonpension retro claims to produce developed losses. LDFs are unique to each coverage period, but are the same for every nonpension retro claim in the coverage period. They are periodically recalculated. LDFs shown on retro reports have already been adjusted by the applicable performance adjustment factor.

Loss ratio: The numerical result when dividing developed losses by standard premium. The retrospective premium calculation will generate a net refund if the Basic premium ratio (BPR) + (Loss Ratio X the Loss conversion factor (LCF)) is less than 1. The BPR and LCF are determined by the plan picked by the individual enrollee, or in the case of a group by the sponsoring organization and the premium size of the individual enrollee or the group. Once these are picked the group can only influence the loss ratio to determine the amount of refund. The department suggests an evaluation of each claim to determine if there are trends and patterns and that the sponsoring organization implement workplace safety measures to eliminate or reduce loss regardless of the loss ratio.

Maximum premium ratio (MPR): A factor prescribed by the organization (group) or individually enrolled employer that determines the maximum retrospective pre-

mium requirement for a given coverage period. MPRs can be found in WAC 296-17-90493 through 296-17-90497.

Member of a group: A term used by the department to describe the individual employers that participate in a group plan of a sponsoring organization.

Minimum premium ratio (MnPR): For plans A1, A2 and A3, an actuarially determined factor that determines the minimum retrospective premium requirement for a given coverage period. MnPRs can be found in WAC 296-17-90493 through 296-17-90497.

Pension claim: A claim designated as a fatality or total permanent disability.

Performance adjustment factor (PAF): An actuarially determined factor unique to each retro coverage period which ensures that aggregate refunds reflect the relative performance of retro versus nonretro state fund employers plus an investment credit.

Plan: A numeric table developed by the department used to calculate the retrospective premium requirement of a group or individually enrolled employer. A group or individually enrolled employer preselects from one of five plans (A, A1, A2, A3 or B). The selected plan (along with the MPR and standard premium volume) determine the minimum premium, basic premium and the loss conversion factor which is applied to the developed losses used in the retrospective premium calculation.

Premium: Money paid (due) from an employer for workers' compensation insurance. It does not include money paid as fees, fines, penalties or deposits.

Qualified employer: A term used by the department to describe an employer that has an industrial insurance account and that the account is in good standing at the time of enrollment.

Retrospective premium: The net premium for a group or individually enrolled employer after an adjustment for a given coverage period, using the formulas and provisions found in WAC 296-17-90491 through 296-17-90497.

Retrospective rating account: A term used by the department to describe the industrial insurance account of an employer or a sponsoring organization that participates in retrospective rating.

Standard premium: The total accident fund and medical aid fund premiums paid (due) by a group or individually enrolled employer for a given coverage period. The supplemental pension assessment portion of total premiums due (paid) is not included. If the group includes employers subject to the staggered enrollment provision of the retrospective rating rules, the standard premium is the total premiums due (paid) for the calendar months in which they have been accepted into a group.

NEW SECTION

WAC 296-17-90403 Can you give me an overview of the retrospective rating program? Retrospective rating is a voluntary program offered by the department to a qualified employer or group of employers who insure their workers' compensation insurance obligations with the state fund. Retrospective rating offers premium refunds to participants that

help control their workers' compensation claim costs. Reductions in workers' compensation claim costs are accomplished in part through employer or group sponsored safety and accident prevention programs and employer cooperation with the department's claims management activities. The criteria that must be met to be considered a "qualified employer" can be found in WAC 296-17-90406. A qualified employer who enrolls in an individual plan, selects the plan and coverage period. Any employer in an individual plan must participate in the plan for the entire coverage period unless they become a self insured employer or their industrial insurance account is closed. An organization that sponsors a retrospective rating group selects the plan and coverage period for its members and must participate in the program through the end of a coverage period if their account remains active. The department will allow an organization sponsoring a group to enroll new employer members into their retrospective rating group on a quarterly basis. We refer to this as a staggered enrollment. Because of this feature, participation for employers in a group plan can be as short as three months or as long as twelve months. All retrospective rating participants agree to be subject to the provisions of the rules contained in the retrospective rating manual. Final determination of employer or group eligibility, account in good standing, evaluation of incurred losses and such other matters covered by the rules contained in the retrospective rating manual rest with the department. Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90406 I understand that there are specific requirements that an employer must meet before they can participate in either individual or group retrospective rating. Can you tell me what these requirements are? (1) To be a qualified employer you must have:

- (a) An industrial insurance account with the department; and
- (b) Your industrial insurance account must be in good standing at the time of enrollment.

(2) The department may require the posting of a surety bond or an assignment of savings. If so, it will be executed on forms authorized by the department and in one thousand dollar increments. The surety bond or assignment of savings requirement will be based on the difference between the participants' estimated standard premium and the maximum premium due under the applicable retrospective rating plan. In the event that surety bond or assignment of savings requirement falls within two increment ranges, the bond will be at the next higher thousand dollar increment. The surety bond or assignment of savings must be in full force and effect for the entire coverage and the related adjustment periods.

NEW SECTION

WAC 296-17-90408 Can all organizations sponsor a retro group? (1) No, only organizations with members can sponsor a retro group. This requirement is intended to pro-

vide a distinction between a business enterprise with clients that are not permitted to sponsor a retrospective rating group and an organization with members that can sponsor one or more retrospective rating groups.

(2) In addition, the sponsoring organization must have been formed for purposes other than that of obtaining or offering insurance coverage or insurance services or sponsoring a group plan and participating in the department's retrospective rating program.

(a) The department will verify the purpose(s) of the organization from the information contained in the articles of incorporation, bylaws, contracts and/or advertising material of the organization.

(b) Since the enhancement of workplace safety for the group is a principal requirement of the retrospective rating program, an organization, which at the time of a request for sponsorship offers services which are primarily related to risk management, safety, loss control, claims administration or insurance will be deemed to be set up for the sole purpose of participating in the retrospective rating program and will not qualify to participate in this program.

(3) In addition to these prohibitions, an insurer, insurance broker, insurance agent or insurance solicitor may not:

(a) Participate in the formation of a retrospective rating group; or

(b) Sponsor a retrospective rating group.

NEW SECTION

WAC 296-17-90409 I understand that there are specific prerequisites that an organization must meet to sponsor a retrospective rating group plan. Can you tell me what these requirements are? Yes. Before we can consider an organization's request to sponsor a retrospective rating group plan they must meet all the following requirements:

(1) The sponsoring organization must have been in existence for at least four years prior to sponsoring a retrospective rating group.

(a) To validate this, the sponsoring organization must provide the department with copies of its articles of incorporation, bylaws and marketing/membership applications or similar material, accompanied with an affidavit certifying that the documents are true and the information contained in the documents is accurate as of the date of submittal.

(b) The department will verify this information through contacts with various state, local and federal agencies and other businesses.

(2) The sponsoring organization must have been formed for purposes other than that of obtaining or offering insurance coverage or insurance services described in WAC 296-17-90408.

(3) Employer members of the proposed retrospective rating group must be dues paying members of the organization. We recognize that some organizations may be funded through member donations and not dues. The intent of this requirement is to ensure that the members of the organization are current members as opposed to potential members. Where an organization's members do not pay dues the orga-

nization must provide a list of its current members and a written explanation of how member contributions are determined.

(a) An organization seeking to sponsor a group retrospective rating plan must submit a complete list of its current membership to the department that details the effective date of membership accompanied with an affidavit certifying the list to be true and accurate as of the date of submittal.

(b) Each employer member who wants to participate in the organization's retrospective rating group plan must have an industrial insurance account in good standing with the department.

(c) Each employer member who wants to participate in the proposed sponsoring organization's retrospective rating group must provide us with a written request/release. This is to be done on a form provided by the sponsoring organization and approved by the department. Sample forms can be found in Appendix A of this manual. Completion and submission of this application to the department signifies the employer's desire to participate in the organization's retrospective rating group if it is approved. The proposed retrospective rating group membership list must be submitted with the group application of the organization and the other material listed in this section.

(d) All employers in the retrospective rating group must be members of the sponsoring entity.

(e) Fifty percent of the members of the proposed retrospective rating group must have been members of the sponsoring organization for one year prior to the group's entrance into the retrospective rating program. We will verify this from the membership information provided to the department in (a) of this subsection.

(4) The sponsoring organization must have an industrial insurance account and the account must be in good standing at all times, including the application process and the coverage and adjustment periods.

(5) The initial premium level of the proposed retrospective rating group must be at least one million five hundred thousand dollars. This will be based on the standard premium of the proposed group members' most current fiscal year (four quarters) of reporting.

(6) The requirements contained in this rule are in addition to any other requirements contained in the retrospective rating manual such as those found in WAC 296-17-90412(2) applicable to an annual safety report and WAC 296-17-90421(2) applicable to selection of an industry group by the sponsoring organization.

NEW SECTION

WAC 296-17-90412 Are there safety, accident prevention and claim cooperation requirements that an organization must satisfy once the preliminary requirements have been met? (1) Yes. An organization seeking to sponsor a retrospective rating group must submit a written workplace safety and accident prevention plan that demonstrates to the department's satisfaction that the formation of the group will substantially improve workplace safety and accident prevention. At a minimum the plan must be tailored to the business

and industry grouping selected by the organization. The written plan must include identification and evaluation of the common hazards found in the business and industry grouping selected, disclosure of services to be provided by the organization to each member, if the services are fee based or free and meeting and workshop attendance requirements. In addition, the sponsoring organization must explain how the formation of the group will result in enhanced cooperation with the department's claims management activities.

(2) An organization seeking to continue sponsorship of an existing retrospective rating group must provide annually a written report that highlights workplace safety accomplishments of the group during the past coverage year and identifies areas that the group has targeted for improvement during the next coverage period. This might include a focus on a specific type of injury, special attention to employers with high loss ratios, or employers identified by the organization as needing special services. The written report is due at the time of the group reenrollment. Failure to submit the required report will result in group disqualification at the time of reenrollment.

(3) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90415 Can an organization lose the right to sponsor a retrospective rating group if workplace safety for their members is not improved? (1) Yes. A retrospective rating group required to pay additional net premium assessments in two consecutive coverage periods will be immediately placed on probationary status. Once a group is placed on probationary status, the department will review the group's workplace safety and accident prevention plan and its methods for cooperation with department claims management activities. Following the review, the department will make recommendations for corrective steps that may be taken to improve the group's performance.

(2) In the event that the group's performance is not improved and the same retrospective rating group is required to pay an additional net premium assessment in the third consecutive coverage period, that group shall be denied future enrollment in the state's retrospective rating plan at the next enrollment. In addition, the sponsoring entity of the failed group may not sponsor another group in the same business or industry category for five coverage periods (sixty months) from the ending date of the failed group's last coverage.

(3) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90418 I have several businesses that report and pay premiums using separate subaccounts. If I want to participate in retrospective rating, do I need to enroll all of my businesses or can I enroll some and not the others? (1) Because an employer might manipulate their

company's safety record by use of multiple industrial insurance accounts, employers enrolling a particular account in either an individual or group plan must enroll all businesses that they own or have a controlling interest whose nature of business is substantially the same. A controlling interest is defined as more than fifty percent ownership by one or more owners.

(2) If you have several businesses which are dissimilar to each other when the nature of the service is considered, you may elect to have all of the businesses covered under a retrospective rating plan or just one or more of the businesses.

Example: You operate a chain of ten grocery stores. Each store is operated at a different location. You have requested that each store be assigned a special account. In addition to the ten stores, your company also has a separate administrative office. This office reports under the clerical classification. Under subsection (1) of this section you must enroll all of your store locations if you are to participate in a retrospective rating plan. You may elect to include your administrative office under subsection (2) of this section.

NEW SECTION

WAC 296-17-90421 Is there a requirement for employer members of an organization to be engaged in substantially similar businesses to participate in the organization's group plan? (1) Yes, Washington law (RCW 51.18.040) requires all retrospective rating groups to be made up of employer members who are engaged in substantially similar business operations when the nature of their services or work activities of employees is considered.

(2) The first step in this process is for the sponsoring organization to select the single retrospective rating group it wishes to sponsor. This is done at the time the application for group is submitted to the department from the broad industry or business category from the table below:

Industry/business group table

- Agriculture and related services.
- Automotive, truck and boat, manufacturing, sales, repair and related services.
- Construction and related services.
- Distillation, chemicals, food and related services.
- Facilities, property management, maintenance and related services.
- Government, utilities, schools, healthcare and related services.
- Healthcare, pharmaceutical, laboratories and related services.
- Logging and wood products manufacturing and related services.
- Manufacturing, processing, mining, quarrying, and related services.
- Retail and wholesale stores and professional services such as banks and law firms and related services.
- Temporary help and related services.

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- Transportation, recycle, warehousing, facility maintenance and related services.

The intent of this process is to ensure that the homogeneity requirement of RCW 51.18.040 is met.

Example: An organization that was formed to advance the interests of apple growers would select the agriculture and related services business/industry group plan. This organization could sponsor a single group for all its grower members or could offer different performance groups for its grower members.

(3) To simplify administration and keep the administrative costs associated with devising a different classification system for the retrospective rating plan to a minimum, the retrospective rating program follows the same classification procedure established by the department to assign workers' compensation insurance classifications to an employer (WAC 296-17-31012). This procedure requires employers to be assigned a classification or series of classifications based on the nature of their business, not the occupations or duties of the workers they employ. Only those members whose business undertakings are substantially similar to the industry/business group selected by the organization will be permitted to participate. This grouping technique is fundamental to workers' compensation insurance and is referred to as "homogeneity of risk."

Example: Having selected the agriculture and related services business/industry grouping the department would verify that the employer members of the apple grower organization were either apple growers or were involved in a related service such as an apple processing operation owned by the grower.

NEW SECTION

WAC 296-17-90424 Does the homogeneity requirement applicable to a group mean that members of the group have to report in the same risk classification? No. Although it might be desirable for all members of the retrospective rating group to report under a single common classification, that approach would not be practical. Most employers are assigned more than one classification for reporting and paying premiums. We do, however, require that the members of the organization participating in the group be engaged in substantially similar businesses. In some cases an employer may report and pay premiums in other classifications not authorized for the group. This employer's business may still qualify to participate in the group provided the employer is assigned and reports in a classification assigned to the group and the approved classification represents the primary business of the employer. This assumes that the organization agrees to the added risks as a part of their group plan. Under no circumstance does this provision allow an organization to market their plan to existing members and/or prospective members that report only in these heterogeneous classifications.

Example: An employer operates an apple orchard and is assigned an agricultural risk classification for purposes of

reporting and paying premium. This same employer also has an auto repair service and is assigned a separate risk classification for this business. Both businesses report under a single industrial insurance account. An organization sponsoring a retro group for agricultural businesses could allow this employer to participate in their retro group. This same organization could not, however, allow an employer engaged in an auto repair business to participate in their retro group if the employer did not have an agricultural business enrolled in the organization's retro plan.

NEW SECTION

WAC 296-17-90427 Can you tell me how the authorized classifications for a retrospective rating group plan are determined? Yes, the authorized classification or classifications of a group is determined from an analysis of an organization's current dues paying membership that have submitted applications to participate in the plan. This analysis consists of evaluating the nature of each current dues paying member's business. The nature of business will be determined from information provided by the employer, information contained in department's files and/or information obtained from applicable field audit and/or classification inspection reports. Only those individual current dues paying members of an organization or members described in WAC 296-17-90409(3) that are homogeneous (substantially similar) will be considered in determining the classifications authorized for the organization's retrospective rating group. This analysis ensures compliance with the requirement (RCW 51.18.040) that the industries of employers in an organization are substantially similar.

NEW SECTION

WAC 296-17-90430 After a retrospective rating group plan has been authorized a classification or classifications, can an organization be allowed additional classifications at a later date? The department may authorize an existing retrospective rating group to obtain additional classifications.

To request additional classifications, the organization must petition the department for the additional classification(s). The request must be in writing and include the name of the member reporting in the requested classification, the member's industrial insurance account number and an explanation of how the new classification(s) are substantially similar to others currently assigned to the group. Final approval of classifications rests with the department. Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90433 Does sponsoring organization have to reapply each year for authorized classifications applicable to their retrospective rating group? (1) Once the department approves a classification or a series of classifications for an organization's retrospective rating group, no

further reapplication is necessary. Exceptions to this policy are noted in subsections (2) and (3) of this section.

(2) The department will review the past reporting of an organization's retrospective rating group members annually. If we discover a classification or series of classifications under which no worker hours were reported during the prior fiscal year (ending June 30) by the group members, we will remove the classification from the group. The organization can apply to have the classification reinstated if they have members reporting in the classification or classifications in the previous and current year.

(3) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90434 Can an organization sponsor more than one retro group? Yes, an organization can sponsor more than one group. (1) Under Washington law (RCW 51.18.030), an organization that sponsored a retrospective rating group prior to July 25, 1999, will have to wait until January 1, 2003, before they can sponsor an additional retrospective rating group in a new business or industry. At that time a sponsoring organization could propose to sponsor one additional group every five years. Each new group must meet the requirements found in WAC 296-17-90409.

(2) A sponsoring organization that had a retrospective rating group approved by the department on or after July 25, 1999, may not propose another retrospective rating group in a new business or industry category until the minimum mandatory adjustment periods required by the department for first two coverage periods of the last formed retrospective rating group are completed. At that time a sponsoring organization could propose to sponsor one additional group every five years. Each new group must meet the requirements found in WAC 296-17-90409.

(3) Subsections (1) and (2) of this section do not prohibit a sponsoring organization from proposing to:

(a) Divide an existing retrospective rating group into two or more groups provided that the proposed new groups fall within the same business or industry category as the group that is proposed to be divided; or

(b) Merge existing retrospective rating groups into one business or industry category provided that the proposed merged groups fall within the same business or industry category as the groups that are proposed to be merged.

(4) Under no circumstance may a sponsoring organization propose more than one retrospective rating group or multiple business or industry categories in the same application to the department.

(5) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90436 We have been approved to sponsor a retrospective rating group. Is there an application

process that we must follow? Yes. Your next step would be to complete an application for group retrospective rating on forms provided by the department for the proposed group. A copy of this application can be found in Appendix A of this manual.

The application must be received by the department by the close of business 5:00 p.m. (Pacific time) on or before:

- April 30 for the coverage period beginning the following July 1;
- July 31 for the coverage period beginning the following October 1;
- October 31 for the coverage period beginning the following January 1; and
- January 31 for the coverage period beginning the following April 1.

When you complete this application you will need to select the single industry or business category that will be applicable to your group, the maximum premium ratio and plan (A, A1, A2, A3, or B) that will apply to the group for the coverage period. You should consider the benefits and risk of each plan and maximum premium ratio in making this selection. Plan and maximum premium ratio choices can not be changed after the deadline listed above. A copy of the signed agreement bearing an original signature must be received in our Tumwater office by the deadline indicated above. We will accept a faxed copy of the agreement provided it is received in our Tumwater office by the deadline and a copy of the signed agreement bearing original signatures is received before the coverage period begins. In the event that an application with an original signature is not received by the beginning of the coverage period you will not be enrolled in the program.

NEW SECTION

WAC 296-17-90439 Does each member of the group have to complete an application? (1) To initially enroll, each dues-paying employer member of your organization who completed a written request provided for in WAC 296-17-90409 (3)(c) must complete a group membership application/employer's authorization and release of insurance data. A copy of the application can be found in Appendix A of this manual. Other qualifying members of your organization who want to enroll in your group must complete the same application. The completed application/releases for the accounts the organization wishes to enroll in the group bearing original signatures must be received by the department by the close of business 5:00 p.m. (Pacific time) the 15th calendar day of the month prior to the selected coverage period.

Example: You have selected the coverage period beginning July 1. We must receive all group membership applications bearing original signatures on or before June 15.

(2) An officer or designated representative of your organization must complete, sign and forward to us an original retrospective rating group agreement. A copy of this agreement can be found in Appendix A of this manual. This completed form must be received by us by the close of business

5:00 p.m. (Pacific time) the 15th calendar day of the month prior to the selected coverage period.

(3) For each subsequent coverage period the sponsoring organization must secure authorization from their members that want to continue to participate in their retrospective rating group. The sponsoring organization must keep these records on file for the selected coverage year and subsequent adjustment periods. These records are to be made available for department inspection upon request. Group members will be reenrolled if their account is in good standing unless they or the sponsoring organization provide the department written notification of withdrawal by the close of business 5:00 p.m. (Pacific time) the 15th calendar day of the month preceding their coverage period. This process is intended to reduce the administrative burden of submitting applications to the department for members reenrolling in the group plan.

NEW SECTION

WAC 296-17-90442 Is there an application process to enroll in an individual retrospective rating plan? Yes. You must complete a retrospective rating plan agreement on forms provided by the department, listing each account or subaccount to be enrolled. A copy of this agreement can be found in Appendix A of this manual. The completed form must be received at our Tumwater office by the close of business 5:00 p.m. (Pacific time) on or before the 15th calendar day of the month prior to the selected coverage period. If the agreement is submitted by fax by the deadline, an agreement with an original signature must be received by the department prior to the beginning of the coverage period. In the event that an application with an original signature is not received by the beginning of the coverage period you will not be enrolled in the program. When you complete this agreement you will need to select the maximum premium ratio and plan (A, A1, A2, A3, or B) that you wish to participate in. You should consider the benefits and risk of each plan and maximum premium ratio in making this selection. Plan and maximum premium ratio choices can not be changed after the coverage period begins.

NEW SECTION

WAC 296-17-90445 Can you tell me what happens at the end of a coverage period? (1) Between nine and ten months after the coverage period has ended we will do an initial evaluation of the losses for each employer and group participating in retrospective rating. All future evaluation dates for a coverage period will take place approximately twelve months after the initial evaluation date.

Example: Assume that your coverage period began July 1, 1998, and ended June 30, 1999, (twelve calendar months). Our first evaluation date would occur mid-April 2000. This is roughly nine and one-half months from the last day of the coverage period. Because all retrospective rating plans have three mandatory evaluations, each subsequent evaluation will occur at twelve-month intervals.

(2) On the evaluation date, all claims with a date-of-injury within the coverage period are evaluated and the incurred losses which have been established for these claims are "captured" or "frozen."

(3) Because our evaluation is limited to claim status and type, and not the adjudicative decisions surrounding a claim such as, but not limited to, claim allowance, case reserve, wage determination and dependent status; retrospective rating program appeals that concern claims are limited to the open or closed status of a claim on the evaluation date. If you are in disagreement with the department over an adjudicative or reserving issue you must appeal that decision at the appropriate time. We can not provide relief in the computation of the retrospective premium unless the disagreement (protest or appeal) produces relief prior to the evaluation date. Ideally, your workplace safety and accident prevention program has been successful and none of your workers were injured during the coverage period. In the event that one or more of your employees were injured you should be working cooperatively with us and their medical caregiver to help the worker recover from the injury and return to the workforce as soon as possible.

(4) In the adjustment process, captured incurred losses are translated into developed losses using the appropriate loss development and performance adjustment factors. Retrospective premium is then calculated using the requisite formulas and tables in the retrospective rating manual.

(5) For a given coverage period, each group or individually enrolled employer is subject to three mandatory adjustments. The initial adjustment will occur approximately ten months after the coverage period has ended, with any subsequent adjustment occurring in twelve-month intervals.

(6) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90448 Is there a maximum loss value for each claim? The loss value for any one claim or group of claims arising from a single accident is limited to a maximum of five hundred thousand dollars prior to the application of the performance adjustment factor.

NEW SECTION

WAC 296-17-90451 If I disagree with the open status of a claim and ask, will you review the status? Yes, there are two ways that you can do this.

(1) Every month we will send you a report that details the claims activity related to your individual or group account. If you discover a claim that you believe has been closed and is not reflected as such on the report or you believe the information needed to close the claim is available to the department you should bring it to our attention.

(2) Approximately one year after the coverage period has ended we will notify you of the amount of refund or additional assessment. This notification will be on a legal document referred to as an "order and notice." A copy of this document can be found in Appendix A of this manual. Included

with the order and notice will be an adjustment report that details the status of each claim and their related cost. If you are in disagreement with the status of any claim that appears on the report you must send us a written request within the time specified on the order and notice. Upon receipt of your request, we will review the open status of a specific claim. In the event that we determine that all of the information necessary to close the claim was in the department's possession at the time of the evaluation date, we will recalculate the retrospective premium requirement. We will refund the additional premium or reduce the assessment as applicable.

(3) If you wish to request a review, send the request to:

Labor and Industries, Attention: Retrospective Rating,
P.O. Box 44180, Olympia, Washington 98504-4180.

(4) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90463 **If I am successful in reducing my workers' compensation insurance costs, and you inform me that I am entitled to a refund, when will I get the refund?** (1) If you are enrolled in an individual employer plan, approximately eleven months after the coverage period has ended we will notify you if you are entitled to a refund of premium or owe us additional premium.

(2) If you participate as a member of retrospective rating group, approximately eleven months after the coverage period has ended we will notify the sponsoring organization of the group refund or amount owing. It is the responsibility of the sponsoring organization to notify each member of the amount of refund to each member. The sponsoring organization will provide the department with a detail of the refund or assessment distribution to its members.

(3) Our notification will also include instructions on how to request reconsideration of the amount of the refund or assessment.

(4) We will not issue a refund check if it is less than ten dollars. If a refund is less than ten dollars we will credit the amount to your industrial insurance account and you can deduct the amount from your next premium payment.

NEW SECTION

WAC 296-17-90466 **Do you establish how the refund is to be distributed to members of a group?** (1) No. We are not involved in how the premium refund is distributed. The distribution of any refund is determined by the organization that sponsored the group. A sponsoring organization, however, cannot withhold a member's refund for not reenrolling in their retrospective rating group during the next or any future coverage year. Effective with the coverage period beginning October 1, 2000, and all coverage periods thereafter, a sponsoring organization must distribute at least ninety percent of any retrospective rating group refund to members of the group.

(2) We will, however, withhold the pro rata share of any member whose account is not in good standing, with unre-

solved debt remaining from their coverage period up to the amount owed by the member for the coverage period. Any moneys withheld will be deposited into the insurance trust funds and credited to the member's industrial insurance account. If you are enrolled individually and owe us money, we will apply your refund to the amount you owe. In the event that your refund is greater than the amount you owe us, we will refund the difference to you.

NEW SECTION

WAC 296-17-90469 **If a group is subject to an additional assessment, does the department bill each member of the group for their share?** No. Just as we do not determine how a refund is to be distributed to members of a group, we are not concerned with how an additional assessment is distributed to members of a group. We hold the organization responsible for any additional assessment.

NEW SECTION

WAC 296-17-90472 **If a group or individually enrolled employer owes money related to a retrospective rating adjustment, when is it due?** All additional assessments resulting from a retrospective rating adjustment are due within thirty days of the date we communicate the decision to you. If a group is assessed an additional premium on a coverage year and a refund is calculated on a subsequent coverage year and the amount owed has not been satisfied, we will apply the refund to the amount owed. In the event that the refund is greater than the amount owed, we will refund the difference to the group. If you disagree with the assessment you should either protest or appeal the decision. Make sure you do this in writing within thirty days of the date we communicate the decision to you. If you fail to do so our decision is final and binding on you.

NEW SECTION

WAC 296-17-90475 **If I am in a dispute with the department over an assessment, claim cost or moneys alleged to be owed to the department, can I participate in the retrospective rating program?** If you are in a dispute with the department over an assessment, a claim cost or owe the department any moneys, you cannot participate in the retrospective rating program unless you pay the amount in dispute, or provide a surety bond or an assignment of savings in lieu of the payment pending the outcome of the disagreement. If you have paid the amount covered by the disagreement and it is resolved in your favor, we will refund these moneys. We will not pay interest on this money.

NEW SECTION

WAC 296-17-90478 **Are employers required to share retrospective rating refunds with their workers?** No. Retrospective rating refunds are paid out of the accident fund. Accident fund premiums are paid exclusively by employers. Since employees do not pay or contribute towards accident

fund premiums employers are not obligated to return any of the retro refund to workers. Similarly, employers cannot charge retrospective rating assessments to their workers.

NEW SECTION

WAC 296-17-90481 If a member of a group changes their legal structure or sells their business does the new entity or owner automatically become a member of the group? (1) If the change is limited to a change in legal structure we may allow the new entity to continue to be a member of the group without a new application.

Example: A business operated as a sole proprietorship changes their legal structure to a corporation. Assuming the sole proprietor owner owns more than fifty percent of the stock in the corporation we would allow this business to continue to be a member of the group without a new application.

(2) If the change results in new ownership the new owner(s) will need to reapply if they want to participate in the group plan.

NEW SECTION

WAC 296-17-90484 Can we pay a medical provider directly for medical services provided to one of our workers? (1) Washington workers' compensation laws do not distinguish first-aid treatment from any other form of medical treatment. Employers that insure their workers' compensation insurance obligations with the state fund are not permitted to pay a medical service provider directly for any work-related injury or illness sustained by one of their workers. Payment of medical services on behalf of state fund insured employers is the sole responsibility of labor and industries.

(2) If you insure your workers' compensation insurance obligations with the state fund and pay a medical provider directly for services and we discover this, we will remove you from the retrospective rating program effective the date of our notification to you.

(3) Any employer that has been removed for this practice will be barred from ever participating in the retro program.

(4) A sponsoring organization that engages in this practice or encourages their members to engage in this practice will be barred from ever sponsoring a retro group and any groups that they currently sponsor will be terminated effective the date of our notification to you.

(5) In the event that a terminated group or a member of the group was entitled to a refund it will be forfeited.

(6) Members of a terminated group that owe additional premium will be held responsible for their pro-rata share of the premium assessment.

(7) Department determinations applicable to the retrospective rating program are subject to review under RCW 51.52.060.

NEW SECTION

WAC 296-17-90490 Limitation of liability indemnification. With the exception of the provisions found in WAC

296-17-90466 and the required authorization for release of insurance data and group membership enrollment application for each employer account to be enrolled, the department disclaims interest in contracts executed between employer groups and participating group members. The department neither approves nor disapproves of any language contained therein and shall be held harmless for misrepresentation of fact(s) or errors of omission or commission stated in the terms of said contract. The department is released and exempt from liability for any dispute or cause of action between an employer group and participating group members or amongst participating group members arising under the contract.

NEW SECTION

WAC 296-17-90491 How is retrospective premium calculated? (1) Retrospective premium for a group or individually enrolled employer is calculated using the formula:

$$\text{Retrospective Premium} = (\text{Basic Premium Ratio} \times \text{Standard Premium}) + (\text{Loss Conversion Factor} \times \text{Developed Losses}).$$

Applicable basic premium ratios and loss conversion factors are found in WAC 296-17-90493 through 296-17-90497, depending on the preselected plan, maximum premium ratio and standard premium.

(2) The maximum retrospective premium is the product of the maximum premium ratio times the standard premium. If the retrospective premium formula produces a value greater than the maximum retrospective premium, the retrospective premium shall be reduced to the maximum retrospective premium.

(3) For plans A1, A2, and A3, the minimum retrospective premium is the product of the minimum premium ratio times the standard premium. If the retrospective premium formula produces a value less than the minimum retrospective premium, the retrospective premium shall be increased to the minimum retrospective premium.

(4) Under plan A, an employer enrolled in an individual plan or an organization sponsoring a group may elect to forego the protection of a maximum premium ratio if its financial condition is sufficiently strong and stable so that it could qualify as a self-insurer under the department's certification guidelines. The basic premium ratio will be .058 if the employer/group selects and qualifies for an unlimited maximum retrospective premium.

NEW SECTION

WAC 296-17-90492 Table I.

RETROSPECTIVE RATING PLANS A, A1, A2, A3, AND B
STANDARD PREMIUM SIZE RANGES
Effective January 1, 2000

Size Group Number	Standard Premium Range
63	\$ 3,182 - \$ 3,844

PERMANENT

Size Group Number	Standard Premium Range		Size Group Number	Standard Premium Range	
62	3,845	-	4,616	18	505,333 - 588,552
61	4,617	-	5,493	17	588,553 - 692,359
60	5,494	-	6,500	16	692,360 - 820,806
59	6,501	-	7,650	15	820,807 - 1,048,546
58	7,651	-	8,946	14	1,048,547 - 1,339,476
57	8,947	-	10,418	13	1,339,477 - 1,711,128
56	10,419	-	12,088	12	1,711,129 - 2,185,897
55	12,089	-	13,949	11	2,185,898 - 2,792,375
54	13,950	-	16,048	10	2,792,376 - 4,013,945
53	16,049	-	18,409	9	4,013,946 - 5,890,979
52	18,410	-	20,423	8	5,890,980 - 8,375,803
51	20,424	-	22,162	7	8,375,804 - 12,341,084
50	22,163	-	23,851	6	12,341,085 - 19,194,022
49	23,852	-	25,697	5	19,194,023 - 30,299,109
48	25,698	-	27,737	4	30,299,110 & Over
47	27,738	-	29,992		
46	29,993	-	32,469		
45	32,470	-	35,226		
44	35,227	-	38,295		
43	38,296	-	41,689		
42	41,690	-	45,490		
41	45,491	-	49,759		
40	49,760	-	54,514		
39	54,515	-	59,885		
38	59,886	-	65,973		
37	65,974	-	72,812		
36	72,813	-	80,093		
35	80,094	-	88,103		
34	88,104	-	96,913		
33	96,914	-	106,605		
32	106,606	-	117,265		
31	117,266	-	128,402		
30	128,403	-	140,685		
29	140,686	-	154,684		
28	154,685	-	170,517		
27	170,518	-	188,740		
26	188,741	-	209,820		
25	209,821	-	234,009		
24	234,010	-	262,330		
23	262,331	-	295,711		
22	295,712	-	334,726		
21	334,727	-	381,426		
20	381,427	-	437,817		
19	437,818	-	505,332		

PERMANENT

NEW SECTION

WAC 296-17-90493 Table II.

RETROSPECTIVE RATING PLAN A
 BASIC PREMIUM RATIOS
 LOSS CONVERSION FACTOR=.729
 Effective January 1, 2000

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
63	.907	.856	.820	.791	.766	.745	.725	.708	.692	.677	.649	.625	.602	.563
62	.902	.850	.813	.783	.757	.735	.715	.698	.681	.666	.638	.612	.590	.550
61	.897	.844	.805	.774	.748	.726	.705	.687	.670	.654	.625	.600	.577	.536
60	.892	.838	.798	.766	.739	.716	.695	.676	.658	.642	.613	.587	.563	.522
59	.888	.831	.790	.758	.730	.706	.684	.665	.647	.630	.600	.574	.550	.508
58	.883	.825	.783	.749	.720	.696	.674	.654	.635	.618	.588	.561	.537	.495
57	.878	.818	.775	.740	.711	.686	.663	.643	.624	.607	.576	.548	.524	.482
56	.872	.810	.766	.731	.701	.675	.652	.631	.612	.594	.563	.535	.511	.468
55	.865	.802	.757	.721	.690	.664	.640	.619	.599	.582	.550	.522	.497	.455
54	.858	.794	.747	.710	.679	.652	.628	.607	.587	.569	.537	.509	.484	.442
53	.851	.785	.738	.700	.668	.641	.616	.595	.575	.556	.524	.496	.471	.429
52	.843	.776	.728	.690	.657	.629	.605	.582	.562	.544	.511	.483	.458	.417
51	.836	.767	.718	.679	.646	.618	.592	.570	.550	.531	.498	.470	.446	.405
50	.828	.758	.708	.668	.634	.605	.580	.557	.537	.518	.485	.457	.432	.392
49	.821	.748	.697	.656	.622	.593	.567	.544	.524	.505	.472	.444	.419	.379
48	.813	.739	.686	.645	.610	.581	.555	.531	.511	.492	.459	.431	.406	.367
47	.804	.729	.675	.633	.598	.568	.542	.519	.498	.479	.446	.418	.394	.355
46	.796	.718	.663	.620	.584	.554	.528	.505	.484	.465	.433	.406	.382	.344
45	.787	.707	.650	.607	.571	.541	.514	.491	.471	.452	.420	.394	.371	.334
44	.778	.695	.638	.594	.557	.527	.501	.478	.458	.440	.408	.382	.360	.324
43	.768	.683	.625	.580	.544	.514	.488	.465	.445	.427	.396	.371	.349	.314
42	.758	.671	.612	.567	.530	.500	.474	.451	.431	.413	.383	.357	.336	.301
41	.748	.659	.599	.554	.517	.486	.460	.437	.417	.399	.368	.343	.322	.288
40	.737	.647	.586	.540	.503	.472	.446	.423	.403	.385	.355	.330	.309	.276
39	.726	.635	.573	.526	.489	.458	.432	.409	.389	.372	.342	.317	.296	.264
38	.714	.622	.560	.513	.476	.445	.418	.396	.376	.359	.329	.305	.284	.252
37	.702	.608	.546	.499	.462	.431	.405	.383	.363	.346	.317	.293	.273	.242
36	.688	.594	.532	.485	.448	.417	.392	.369	.350	.333	.304	.281	.262	.231
35	.673	.578	.516	.469	.433	.402	.377	.355	.336	.320	.292	.269	.250	.221
34	.657	.562	.500	.454	.418	.388	.363	.342	.323	.307	.280	.258	.240	.211
33	.640	.546	.484	.439	.403	.374	.349	.329	.310	.295	.268	.247	.229	.202
32	.623	.529	.468	.424	.389	.360	.336	.316	.298	.283	.257	.237	.220	.193
31	.607	.512	.452	.408	.373	.345	.322	.302	.285	.270	.246	.226	.210	.185
30	.589	.495	.435	.392	.358	.331	.308	.289	.273	.259	.235	.216	.201	.178
29	.571	.478	.419	.377	.344	.317	.295	.277	.261	.247	.225	.207	.193	.171
28	.553	.461	.403	.361	.329	.303	.282	.264	.248	.235	.213	.195	.181	.160
27	.537	.446	.388	.346	.314	.288	.267	.248	.233	.219	.197	.179	.165	.143
26	.521	.430	.373	.331	.299	.273	.252	.234	.218	.205	.183	.165	.151	.129
25	.504	.414	.358	.317	.285	.259	.238	.220	.205	.192	.170	.152	.138	.117
24	.482	.394	.339	.300	.269	.245	.225	.208	.194	.181	.161	.145	.132	.113
23	.460	.374	.321	.283	.254	.231	.213	.197	.184	.172	.153	.138	.127	.109
22	.437	.355	.304	.268	.241	.219	.201	.187	.174	.163	.146	.132	.121	.105
21	.414	.336	.288	.254	.228	.208	.191	.177	.166	.156	.139	.127	.117	.102
20	.394	.318	.272	.239	.214	.194	.179	.166	.155	.145	.130	.119	.110	.096
19	.377	.301	.254	.222	.198	.179	.164	.152	.142	.133	.120	.109	.101	.089

PERMANENT

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
18	.358	.283	.238	.207	.184	.166	.152	.140	.131	.123	.110	.101	.094	.083
17	.339	.266	.222	.192	.171	.154	.140	.130	.121	.114	.103	.094	.088	.079
16	.320	.249	.208	.179	.159	.143	.131	.121	.113	.106	.096	.088	.083	.075
15	.303	.234	.194	.168	.148	.134	.122	.113	.106	.100	.091	.084	.079	.072
14	.293	.220	.180	.157	.141	.128	.117	.109	.103	.097	.089	.082	.078	.071
13	.281	.204	.167	.148	.133	.122	.112	.105	.099	.094	.086	.081	.076	.070
12	.269	.187	.156	.139	.126	.116	.108	.101	.096	.091	.084	.079	.075	.069
11	.254	.167	.145	.130	.119	.110	.103	.097	.092	.088	.082	.077	.073	.068
10	.238	.150	.135	.122	.113	.105	.098	.093	.089	.085	.079	.075	.072	.067
9	.219	.138	.125	.115	.106	.100	.094	.089	.085	.082	.077	.073	.071	.066
8	.197	.127	.116	.107	.100	.094	.090	.086	.082	.079	.075	.072	.069	.065
7	.170	.117	.108	.100	.094	.089	.085	.082	.079	.077	.073	.070	.068	.064
6	.137	.107	.100	.094	.089	.085	.081	.078	.076	.074	.071	.068	.066	.064
5	.105	.098	.092	.087	.083	.080	.077	.075	.073	.071	.068	.066	.065	.063
4	.096	.089	.084	.081	.078	.076	.074	.072	.070	.068	.066	.065	.064	.063

NEW SECTION

WAC 296-17-90494 Table III.

RETROSPECTIVE RATING PLAN A I
 MINIMUM PREMIUM RATIOS
 BASIC PREMIUM RATIO=.058
 LOSS CONVERSION FACTOR=.729
 Effective January 1, 2000

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
63	.987	.975	.963	.951	.940	.928	.918	.907	.897	.887	.868	.850	.833	.801
62	.987	.974	.961	.949	.938	.926	.915	.904	.894	.884	.864	.845	.828	.795
61	.986	.973	.960	.948	.936	.924	.912	.901	.890	.880	.860	.841	.823	.789
60	.986	.972	.959	.946	.933	.921	.909	.898	.887	.876	.855	.836	.817	.783
59	.985	.971	.958	.944	.931	.919	.907	.895	.883	.872	.851	.831	.812	.777
58	.985	.970	.956	.943	.929	.917	.904	.892	.880	.869	.847	.826	.807	.771
57	.985	.970	.955	.941	.927	.914	.901	.889	.877	.865	.843	.822	.802	.765
56	.984	.969	.954	.939	.925	.912	.899	.886	.874	.862	.839	.818	.797	.760
55	.984	.968	.953	.938	.924	.910	.896	.884	.871	.859	.836	.814	.793	.756
54	.983	.967	.951	.936	.922	.908	.894	.881	.868	.856	.832	.810	.790	.752
53	.983	.966	.950	.935	.920	.906	.892	.878	.866	.853	.829	.807	.786	.748
52	.982	.965	.949	.933	.918	.904	.890	.876	.863	.850	.826	.804	.783	.744
51	.982	.965	.948	.932	.917	.902	.887	.874	.860	.847	.823	.800	.779	.740
50	.982	.964	.947	.930	.915	.899	.885	.871	.857	.844	.819	.796	.775	.735
49	.981	.963	.946	.929	.913	.897	.882	.868	.854	.841	.816	.792	.770	.731
48	.981	.962	.945	.927	.911	.895	.880	.866	.852	.838	.812	.789	.767	.727
47	.980	.962	.944	.926	.910	.894	.878	.864	.849	.836	.810	.786	.764	.723
46	.980	.961	.943	.925	.909	.893	.877	.863	.848	.835	.809	.785	.763	.723
45	.980	.961	.942	.925	.908	.892	.877	.862	.848	.834	.808	.784	.762	.722
44	.980	.960	.942	.924	.907	.891	.876	.861	.847	.833	.808	.784	.762	.722
43	.980	.960	.941	.924	.907	.891	.875	.861	.846	.833	.807	.784	.762	.722
42	.979	.959	.940	.922	.905	.888	.872	.857	.843	.829	.803	.779	.757	.717
41	.978	.958	.938	.920	.902	.885	.869	.853	.839	.825	.798	.774	.751	.710

PERMANENT

Maximum
Premium
Ratio:

1.05 1.10 1.15 1.20 1.25 1.30 1.35 1.40 1.45 1.50 1.60 1.70 1.80 2.00

Size
Group

40	.978	.957	.937	.918	.899	.882	.866	.850	.835	.820	.793	.768	.745	.704
39	.977	.956	.935	.916	.897	.879	.863	.846	.831	.816	.789	.764	.741	.699
38	.977	.955	.934	.914	.895	.877	.860	.843	.828	.813	.785	.760	.736	.694
37	.976	.954	.933	.912	.893	.875	.857	.841	.825	.810	.782	.756	.732	.690
36	.976	.953	.932	.911	.891	.873	.855	.838	.822	.807	.779	.753	.729	.686
35	.976	.953	.931	.910	.890	.871	.854	.837	.821	.805	.777	.751	.727	.684
34	.975	.952	.930	.909	.889	.870	.852	.835	.819	.804	.775	.749	.725	.683
33	.975	.951	.929	.908	.888	.869	.851	.834	.818	.802	.774	.748	.724	.682
32	.975	.951	.929	.907	.887	.868	.850	.833	.817	.802	.773	.747	.724	.682
31	.975	.951	.928	.907	.886	.867	.849	.832	.816	.801	.773	.747	.724	.682
30	.974	.950	.927	.906	.886	.867	.849	.832	.816	.801	.773	.747	.724	.682
29	.974	.950	.927	.906	.886	.867	.849	.832	.816	.801	.773	.747	.724	.682
28	.974	.949	.926	.904	.883	.864	.846	.828	.812	.797	.769	.744	.721	.682
27	.973	.947	.922	.899	.877	.857	.837	.819	.802	.785	.754	.727	.701	.657
26	.972	.945	.919	.895	.872	.851	.830	.811	.792	.775	.742	.712	.685	.636
25	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
24	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
23	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
22	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
21	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
20	.971	.943	.917	.892	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
19	.970	.941	.915	.891	.868	.846	.824	.804	.785	.766	.732	.701	.672	.620
18	.969	.940	.912	.887	.864	.843	.823	.804	.785	.766	.732	.701	.672	.620
17	.968	.938	.911	.885	.862	.840	.820	.801	.784	.766	.732	.701	.672	.620
16	.968	.937	.910	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
15	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
14	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
13	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
12	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
11	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
10	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
9	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
8	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
7	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
6	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
5	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620
4	.967	.937	.909	.884	.860	.838	.818	.800	.783	.766	.732	.701	.672	.620

PERMANENT

NEW SECTION

WAC 296-17-90495 Table IV.

**RETROSPECTIVE RATING PLAN A2
MINIMUM PREMIUM RATIOS
AND BASIC PREMIUM RATIOS
LOSS CONVERSION FACTOR=.729
Effective January 1, 2000**

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
63	Basic Premium Ratio	.483	.457	.439	.425	.412	.402	.392	.383	.375	.368	.354	.342	.330	.311
	Minimum Premium Ratio	.979	.960	.943	.927	.912	.898	.884	.871	.859	.846	.823	.802	.782	.745
62	Basic Premium Ratio	.480	.454	.436	.421	.408	.397	.387	.378	.370	.362	.348	.335	.324	.304
	Minimum Premium Ratio	.978	.959	.941	.925	.909	.894	.880	.867	.854	.841	.818	.796	.775	.738
61	Basic Premium Ratio	.478	.451	.432	.416	.403	.392	.382	.373	.364	.356	.342	.329	.318	.297
	Minimum Premium Ratio	.977	.957	.939	.922	.906	.891	.876	.862	.849	.836	.811	.789	.768	.730
60	Basic Premium Ratio	.475	.448	.428	.412	.399	.387	.377	.367	.358	.350	.336	.323	.311	.290
	Minimum Premium Ratio	.976	.955	.936	.919	.902	.886	.871	.857	.843	.830	.805	.781	.760	.721
59	Basic Premium Ratio	.473	.445	.424	.408	.394	.382	.371	.362	.353	.344	.329	.316	.304	.283
	Minimum Premium Ratio	.975	.954	.934	.916	.898	.882	.867	.852	.837	.824	.798	.774	.752	.713
58	Basic Premium Ratio	.471	.442	.421	.404	.389	.377	.366	.356	.347	.338	.323	.310	.298	.277
	Minimum Premium Ratio	.974	.952	.931	.912	.895	.878	.862	.847	.832	.818	.792	.767	.745	.704
57	Basic Premium Ratio	.468	.438	.417	.399	.385	.372	.361	.351	.341	.333	.317	.303	.291	.270
	Minimum Premium Ratio	.973	.950	.929	.909	.891	.874	.857	.842	.827	.813	.786	.761	.738	.697
56	Basic Premium Ratio	.465	.434	.412	.395	.380	.367	.355	.345	.335	.326	.311	.297	.285	.263
	Minimum Premium Ratio	.972	.948	.926	.906	.887	.870	.853	.837	.822	.807	.780	.755	.731	.690
55	Basic Premium Ratio	.462	.430	.408	.390	.374	.361	.349	.339	.329	.320	.304	.290	.278	.257
	Minimum Premium Ratio	.971	.946	.924	.903	.884	.866	.849	.832	.817	.802	.774	.749	.725	.683
54	Basic Premium Ratio	.458	.426	.403	.384	.369	.355	.343	.333	.323	.314	.298	.284	.271	.250
	Minimum Premium Ratio	.970	.945	.922	.900	.880	.862	.844	.827	.812	.797	.768	.743	.719	.677
53	Basic Premium Ratio	.455	.422	.398	.379	.363	.350	.337	.327	.317	.307	.291	.277	.265	.244
	Minimum Premium Ratio	.969	.943	.919	.897	.877	.858	.840	.823	.807	.792	.763	.737	.713	.671
52	Basic Premium Ratio	.451	.417	.393	.374	.358	.344	.332	.320	.310	.301	.285	.271	.258	.238
	Minimum Premium Ratio	.968	.941	.917	.895	.874	.854	.836	.819	.803	.787	.758	.732	.709	.666
51	Basic Premium Ratio	.447	.413	.388	.369	.352	.338	.325	.314	.304	.295	.278	.264	.252	.232
	Minimum Premium Ratio	.967	.939	.914	.891	.870	.851	.832	.815	.798	.782	.753	.727	.703	.660
50	Basic Premium Ratio	.443	.408	.383	.363	.346	.332	.319	.308	.298	.288	.272	.258	.245	.225
	Minimum Premium Ratio	.966	.937	.912	.888	.867	.846	.828	.810	.793	.777	.747	.721	.697	.654
49	Basic Premium Ratio	.440	.403	.378	.357	.340	.326	.313	.301	.291	.282	.265	.251	.239	.219
	Minimum Premium Ratio	.965	.935	.909	.885	.863	.842	.823	.805	.788	.772	.742	.715	.690	.647
48	Basic Premium Ratio	.436	.399	.372	.352	.334	.320	.307	.295	.285	.275	.259	.245	.232	.213
	Minimum Premium Ratio	.964	.933	.907	.882	.860	.839	.819	.801	.783	.767	.737	.710	.685	.641

PERMANENT

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
47	Basic Premium Ratio	.431	.394	.367	.346	.328	.313	.300	.289	.278	.269	.252	.238	.226	.207
	Minimum Premium Ratio	.962	.931	.904	.879	.856	.835	.816	.797	.780	.763	.733	.706	.681	.637
46	Basic Premium Ratio	.427	.388	.361	.339	.321	.306	.293	.282	.271	.262	.246	.232	.220	.201
	Minimum Premium Ratio	.961	.929	.901	.876	.853	.832	.812	.793	.776	.760	.729	.702	.678	.635
45	Basic Premium Ratio	.423	.383	.354	.333	.315	.300	.286	.275	.265	.255	.239	.226	.215	.196
	Minimum Premium Ratio	.960	.927	.899	.873	.850	.829	.809	.790	.773	.757	.727	.700	.675	.633
44	Basic Premium Ratio	.418	.377	.348	.326	.308	.293	.280	.268	.258	.249	.233	.220	.209	.191
	Minimum Premium Ratio	.958	.925	.897	.871	.848	.826	.806	.788	.771	.754	.725	.698	.674	.631
43	Basic Premium Ratio	.413	.371	.342	.319	.301	.286	.273	.262	.252	.243	.227	.215	.204	.186
	Minimum Premium Ratio	.957	.924	.895	.869	.846	.824	.804	.786	.768	.752	.723	.696	.672	.630
42	Basic Premium Ratio	.408	.365	.335	.313	.294	.279	.266	.255	.245	.236	.221	.208	.197	.180
	Minimum Premium Ratio	.956	.921	.892	.865	.842	.820	.799	.781	.763	.747	.716	.690	.666	.623
41	Basic Premium Ratio	.403	.359	.329	.306	.288	.272	.259	.248	.238	.229	.213	.201	.190	.173
	Minimum Premium Ratio	.954	.919	.889	.862	.837	.815	.794	.775	.757	.740	.710	.683	.659	.616
40	Basic Premium Ratio	.398	.353	.322	.299	.281	.265	.252	.241	.231	.222	.207	.194	.184	.167
	Minimum Premium Ratio	.953	.917	.886	.858	.833	.810	.789	.770	.752	.735	.704	.677	.651	.609
39	Basic Premium Ratio	.392	.347	.316	.292	.274	.258	.245	.234	.224	.215	.200	.188	.177	.161
	Minimum Premium Ratio	.951	.914	.883	.855	.829	.806	.785	.765	.747	.730	.699	.671	.646	.603
38	Basic Premium Ratio	.386	.340	.309	.286	.267	.252	.238	.227	.217	.209	.194	.182	.171	.155
	Minimum Premium Ratio	.950	.913	.880	.852	.826	.802	.781	.761	.743	.725	.694	.666	.641	.598
37	Basic Premium Ratio	.380	.333	.302	.279	.260	.245	.232	.221	.211	.202	.188	.176	.166	.150
	Minimum Premium Ratio	.949	.911	.878	.849	.823	.800	.778	.757	.739	.722	.690	.661	.636	.593
36	Basic Premium Ratio	.373	.326	.295	.272	.253	.238	.225	.214	.204	.196	.181	.170	.160	.145
	Minimum Premium Ratio	.948	.909	.876	.847	.821	.797	.775	.755	.736	.718	.687	.658	.634	.590
35	Basic Premium Ratio	.366	.318	.287	.264	.246	.230	.218	.207	.197	.189	.175	.164	.154	.140
	Minimum Premium Ratio	.947	.908	.874	.845	.818	.795	.773	.752	.734	.716	.685	.656	.632	.588
34	Basic Premium Ratio	.358	.310	.279	.256	.238	.223	.211	.200	.191	.183	.169	.158	.149	.135
	Minimum Premium Ratio	.946	.906	.873	.844	.817	.793	.771	.751	.732	.714	.683	.655	.630	.587
33	Basic Premium Ratio	.349	.302	.271	.249	.231	.216	.204	.194	.184	.177	.163	.153	.144	.130
	Minimum Premium Ratio	.945	.906	.872	.842	.816	.792	.770	.750	.732	.714	.683	.655	.630	.588
32	Basic Premium Ratio	.341	.294	.263	.241	.224	.209	.197	.187	.178	.171	.158	.148	.139	.126
	Minimum Premium Ratio	.945	.905	.872	.842	.816	.792	.770	.750	.732	.714	.683	.655	.631	.589
31	Basic Premium Ratio	.333	.285	.255	.233	.216	.202	.190	.180	.172	.164	.152	.142	.134	.122
	Minimum Premium Ratio	.944	.904	.870	.841	.814	.790	.769	.749	.730	.714	.683	.656	.633	.591
30	Basic Premium Ratio	.324	.277	.247	.225	.208	.195	.183	.174	.166	.159	.147	.137	.130	.118
	Minimum Premium Ratio	.943	.902	.869	.840	.814	.790	.769	.748	.730	.713	.683	.658	.634	.595
29	Basic Premium Ratio	.315	.268	.239	.218	.201	.188	.177	.168	.160	.153	.142	.133	.126	.115

PERMANENT

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
Minimum Premium Ratio	.942	.902	.868	.839	.813	.790	.769	.749	.731	.715	.685	.659	.637	.599
28 Basic Premium Ratio	.306	.260	.231	.210	.194	.181	.170	.161	.153	.147	.136	.127	.120	.109
Minimum Premium Ratio	.942	.901	.867	.838	.811	.788	.766	.747	.729	.711	.681	.655	.632	.593
27 Basic Premium Ratio	.298	.252	.223	.202	.186	.173	.163	.153	.146	.139	.128	.119	.112	.101
Minimum Premium Ratio	.940	.898	.864	.833	.806	.781	.758	.738	.718	.700	.668	.640	.614	.571
26 Basic Premium Ratio	.290	.244	.216	.195	.179	.166	.155	.146	.138	.132	.121	.112	.105	.094
Minimum Premium Ratio	.939	.896	.860	.829	.801	.775	.752	.731	.711	.691	.657	.627	.599	.553
25 Basic Premium Ratio	.281	.236	.208	.188	.172	.159	.148	.139	.132	.125	.114	.105	.098	.088
Minimum Premium Ratio	.938	.895	.858	.826	.797	.771	.747	.725	.704	.685	.650	.619	.592	.542
24 Basic Premium Ratio	.270	.226	.199	.179	.164	.152	.142	.133	.126	.120	.110	.102	.095	.086
Minimum Premium Ratio	.938	.894	.858	.827	.798	.773	.749	.729	.708	.689	.655	.625	.600	.551
23 Basic Premium Ratio	.259	.216	.190	.171	.156	.145	.136	.128	.121	.115	.106	.098	.093	.084
Minimum Premium Ratio	.938	.895	.860	.829	.802	.777	.753	.733	.714	.697	.663	.636	.608	.564
22 Basic Premium Ratio	.248	.207	.181	.163	.150	.139	.130	.123	.116	.111	.102	.095	.090	.082
Minimum Premium Ratio	.938	.896	.862	.832	.805	.781	.760	.739	.722	.704	.674	.648	.622	.580
21 Basic Premium Ratio	.236	.197	.173	.156	.143	.133	.125	.118	.112	.107	.099	.093	.088	.080
Minimum Premium Ratio	.940	.899	.865	.836	.811	.787	.766	.747	.730	.714	.685	.659	.636	.599
20 Basic Premium Ratio	.226	.188	.165	.149	.136	.126	.119	.112	.107	.102	.094	.089	.084	.077
Minimum Premium Ratio	.939	.898	.865	.835	.810	.788	.766	.748	.730	.715	.689	.662	.642	.607
19 Basic Premium Ratio	.218	.180	.156	.140	.128	.119	.111	.105	.100	.096	.089	.084	.080	.074
Minimum Premium Ratio	.937	.894	.860	.830	.804	.781	.761	.742	.724	.708	.680	.655	.633	.597
18 Basic Premium Ratio	.208	.171	.148	.133	.121	.112	.105	.099	.095	.091	.084	.080	.076	.071
Minimum Premium Ratio	.935	.892	.857	.826	.800	.777	.756	.737	.718	.703	.677	.651	.631	.594
17 Basic Premium Ratio	.199	.162	.140	.125	.115	.106	.099	.094	.090	.086	.081	.076	.073	.069
Minimum Premium Ratio	.934	.891	.856	.826	.798	.775	.755	.736	.717	.703	.673	.653	.631	.592
16 Basic Premium Ratio	.189	.154	.133	.119	.109	.101	.095	.090	.086	.082	.077	.073	.071	.067
Minimum Premium Ratio	.934	.890	.855	.825	.798	.775	.754	.736	.719	.706	.679	.658	.633	.598
15 Basic Premium Ratio	.181	.146	.126	.113	.103	.096	.090	.086	.082	.079	.075	.071	.069	.065
Minimum Premium Ratio	.933	.889	.855	.826	.801	.778	.759	.739	.724	.710	.682	.663	.641	.613
14 Basic Premium Ratio	.176	.139	.119	.108	.100	.093	.088	.084	.081	.078	.074	.070	.068	.065
Minimum Premium Ratio	.924	.878	.850	.821	.796	.775	.755	.737	.720	.706	.679	.663	.642	.608
13 Basic Premium Ratio	.170	.131	.113	.103	.096	.090	.085	.082	.079	.076	.072	.070	.067	.064
Minimum Premium Ratio	.915	.868	.844	.818	.793	.772	.754	.735	.719	.706	.682	.656	.643	.612
12 Basic Premium Ratio	.164	.123	.107	.099	.092	.087	.083	.080	.077	.075	.071	.069	.067	.064
Minimum Premium Ratio	.904	.860	.839	.812	.791	.770	.751	.732	.718	.702	.680	.655	.637	.606
11 Basic Premium Ratio	.156	.113	.102	.094	.089	.084	.081	.078	.075	.073	.070	.068	.066	.063
Minimum Premium Ratio	.892	.859	.834	.811	.786	.768	.747	.730	.718	.704	.678	.655	.638	.612

PERMANENT

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
<u>Size Group</u>															
10	Basic Premium Ratio	.148	.104	.097	.090	.086	.082	.078	.076	.074	.072	.069	.067	.065	.063
	Minimum Premium Ratio	.876	.858	.829	.807	.782	.762	.748	.728	.712	.699	.676	.654	.640	.605
9	Basic Premium Ratio	.139	.098	.092	.087	.082	.079	.076	.074	.072	.070	.068	.066	.065	.062
	Minimum Premium Ratio	.856	.853	.825	.800	.782	.761	.744	.727	.712	.702	.674	.654	.631	.612
8	Basic Premium Ratio	.106	.093	.087	.083	.079	.076	.074	.072	.070	.069	.067	.065	.064	.062
	Minimum Premium Ratio	.855	.846	.823	.798	.779	.761	.741	.725	.713	.697	.671	.654	.633	.604
7	Basic Premium Ratio	.097	.088	.083	.079	.076	.074	.072	.070	.069	.068	.066	.064	.063	.061
	Minimum Premium Ratio	.855	.840	.818	.797	.777	.756	.738	.725	.707	.691	.668	.655	.636	.613
6	Basic Premium Ratio	.089	.083	.079	.076	.074	.072	.070	.068	.067	.066	.065	.063	.062	.061
	Minimum Premium Ratio	.855	.836	.814	.792	.768	.749	.735	.725	.709	.696	.664	.656	.640	.602
5	Basic Premium Ratio	.082	.078	.075	.073	.071	.069	.068	.067	.066	.065	.063	.062	.062	.061
	Minimum Premium Ratio	.855	.833	.811	.787	.767	.752	.732	.714	.700	.689	.677	.658	.624	.586
4	Basic Premium Ratio	.077	.074	.071	.070	.068	.067	.066	.065	.064	.063	.062	.062	.061	.061
	Minimum Premium Ratio	.855	.830	.811	.782	.767	.752	.729	.714	.700	.689	.677	.658	.624	.586

NEW SECTION

WAC 296-17-90496 Table V.

RETROSPECTIVE RATING PLAN A3
 MINIMUM PREMIUM RATIOS
 AND BASIC PREMIUM RATIOS
 LOSS CONVERSION FACTOR=.729
 Effective January 1, 2000

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
<u>Size Group</u>															
63	Basic Premium Ratio	.818	.762	.722	.692	.666	.642	.622	.603	.586	.571	.543	.517	.495	.458
	Minimum Premium Ratio	.947	.916	.892	.871	.853	.837	.822	.808	.795	.782	.759	.738	.718	.682
62	Basic Premium Ratio	.814	.760	.719	.687	.659	.636	.616	.596	.578	.562	.534	.509	.486	.448
	Minimum Premium Ratio	.945	.912	.887	.866	.848	.831	.815	.801	.788	.775	.751	.729	.709	.673
61	Basic Premium Ratio	.813	.754	.713	.680	.652	.628	.606	.587	.570	.553	.524	.497	.475	.437
	Minimum Premium Ratio	.942	.909	.883	.861	.842	.825	.809	.794	.780	.767	.743	.721	.700	.663
60	Basic Premium Ratio	.811	.749	.705	.672	.644	.618	.597	.577	.558	.543	.513	.486	.464	.425
	Minimum Premium Ratio	.939	.905	.879	.856	.836	.819	.802	.787	.773	.759	.734	.712	.690	.653
59	Basic Premium Ratio	.805	.744	.699	.664	.634	.608	.586	.567	.549	.532	.501	.475	.452	.413
	Minimum Premium Ratio	.937	.901	.874	.851	.831	.813	.796	.780	.765	.751	.726	.703	.681	.643
58	Basic Premium Ratio	.802	.737	.691	.655	.626	.599	.577	.557	.538	.521	.490	.464	.441	.403
	Minimum Premium Ratio	.934	.898	.870	.846	.825	.807	.789	.773	.758	.744	.718	.694	.672	.633
57	Basic Premium Ratio	.796	.731	.685	.647	.618	.591	.568	.547	.528	.511	.480	.454	.431	.392
	Minimum Premium Ratio	.932	.894	.865	.841	.819	.800	.782	.766	.751	.736	.710	.685	.663	.624

PERMANENT

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
56	Basic Premium Ratio	.794	.725	.678	.640	.609	.581	.558	.537	.518	.501	.470	.443	.421	.382
	Minimum Premium Ratio	.928	.890	.860	.835	.813	.794	.776	.759	.743	.728	.701	.677	.654	.614
55	Basic Premium Ratio	.790	.721	.671	.632	.601	.573	.550	.527	.509	.490	.460	.433	.411	.371
	Minimum Premium Ratio	.925	.885	.855	.830	.807	.787	.768	.752	.735	.721	.693	.668	.645	.606
54	Basic Premium Ratio	.787	.714	.666	.626	.592	.565	.541	.518	.499	.481	.450	.423	.400	.363
	Minimum Premium Ratio	.921	.881	.849	.823	.801	.780	.761	.744	.728	.713	.685	.660	.637	.597
53	Basic Premium Ratio	.784	.709	.659	.617	.585	.555	.532	.509	.489	.472	.440	.414	.391	.353
	Minimum Premium Ratio	.917	.876	.844	.818	.794	.774	.754	.737	.721	.705	.677	.652	.629	.589
52	Basic Premium Ratio	.780	.704	.651	.610	.577	.548	.522	.501	.481	.463	.431	.405	.382	.345
	Minimum Premium Ratio	.913	.871	.839	.812	.788	.767	.748	.729	.713	.697	.669	.644	.621	.581
51	Basic Premium Ratio	.775	.698	.644	.602	.567	.539	.514	.491	.471	.454	.422	.396	.372	.336
	Minimum Premium Ratio	.909	.866	.833	.806	.782	.760	.740	.722	.705	.689	.661	.635	.613	.573
50	Basic Premium Ratio	.769	.690	.634	.593	.557	.529	.502	.480	.460	.442	.411	.384	.362	.325
	Minimum Premium Ratio	.905	.861	.828	.799	.775	.752	.733	.714	.697	.681	.652	.627	.604	.564
49	Basic Premium Ratio	.763	.682	.626	.583	.548	.519	.493	.470	.450	.432	.400	.374	.352	.316
	Minimum Premium Ratio	.901	.856	.822	.793	.768	.745	.725	.706	.689	.673	.644	.618	.595	.555
48	Basic Premium Ratio	.756	.674	.617	.574	.538	.509	.482	.460	.439	.422	.390	.365	.342	.307
	Minimum Premium Ratio	.897	.851	.816	.786	.761	.738	.718	.699	.682	.665	.636	.610	.587	.547
47	Basic Premium Ratio	.750	.665	.607	.564	.528	.498	.472	.449	.429	.411	.381	.355	.333	.298
	Minimum Premium Ratio	.892	.846	.810	.780	.754	.731	.710	.692	.674	.658	.628	.602	.579	.539
46	Basic Premium Ratio	.741	.654	.596	.552	.516	.485	.460	.437	.418	.400	.370	.345	.323	.289
	Minimum Premium Ratio	.888	.840	.803	.773	.747	.724	.703	.684	.666	.650	.621	.596	.573	.534
45	Basic Premium Ratio	.731	.643	.585	.540	.503	.473	.448	.426	.406	.389	.360	.335	.315	.282
	Minimum Premium Ratio	.884	.834	.796	.766	.740	.717	.696	.677	.660	.643	.614	.589	.567	.528
44	Basic Premium Ratio	.722	.633	.573	.528	.493	.463	.437	.415	.396	.379	.350	.326	.306	.274
	Minimum Premium Ratio	.879	.828	.790	.759	.732	.709	.689	.670	.653	.637	.608	.583	.561	.523
43	Basic Premium Ratio	.712	.622	.562	.517	.481	.451	.426	.405	.386	.370	.341	.318	.298	.267
	Minimum Premium Ratio	.874	.822	.783	.752	.726	.703	.682	.663	.646	.630	.602	.578	.556	.518
42	Basic Premium Ratio	.703	.612	.551	.506	.470	.440	.415	.394	.375	.358	.330	.307	.288	.257
	Minimum Premium Ratio	.869	.815	.776	.745	.718	.694	.673	.654	.637	.621	.593	.568	.547	.509
41	Basic Premium Ratio	.696	.602	.541	.495	.458	.429	.403	.382	.363	.347	.319	.296	.277	.247
	Minimum Premium Ratio	.863	.809	.769	.737	.710	.686	.665	.645	.628	.612	.583	.559	.537	.499
40	Basic Premium Ratio	.686	.592	.530	.484	.448	.418	.392	.371	.352	.336	.308	.286	.267	.237
	Minimum Premium Ratio	.858	.802	.762	.729	.701	.677	.656	.637	.619	.603	.574	.549	.527	.490
39	Basic Premium Ratio	.677	.581	.520	.473	.437	.407	.382	.360	.342	.325	.298	.275	.257	.228
	Minimum Premium Ratio	.852	.796	.754	.721	.693	.669	.648	.628	.610	.594	.566	.541	.519	.482

PERMANENT

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
38	Basic Premium Ratio	.668	.571	.509	.463	.426	.396	.372	.350	.332	.315	.288	.266	.248	.220
	Minimum Premium Ratio	.846	.789	.747	.714	.686	.661	.639	.620	.602	.586	.557	.533	.510	.473
37	Basic Premium Ratio	.659	.562	.499	.453	.416	.387	.362	.340	.322	.306	.279	.257	.240	.212
	Minimum Premium Ratio	.839	.781	.740	.706	.678	.653	.631	.612	.594	.578	.550	.525	.503	.466
36	Basic Premium Ratio	.649	.551	.488	.442	.405	.376	.351	.330	.312	.297	.270	.249	.231	.204
	Minimum Premium Ratio	.832	.774	.732	.698	.670	.645	.624	.604	.586	.570	.542	.517	.496	.459
35	Basic Premium Ratio	.635	.538	.475	.429	.393	.365	.340	.320	.302	.286	.260	.240	.223	.196
	Minimum Premium Ratio	.825	.766	.724	.690	.662	.637	.616	.596	.579	.563	.535	.510	.489	.453
34	Basic Premium Ratio	.623	.525	.463	.418	.382	.354	.330	.309	.292	.277	.252	.231	.215	.189
	Minimum Premium Ratio	.816	.757	.715	.682	.654	.629	.608	.589	.571	.556	.528	.504	.483	.447
33	Basic Premium Ratio	.610	.513	.451	.406	.371	.343	.320	.300	.283	.268	.244	.224	.208	.183
	Minimum Premium Ratio	.808	.749	.707	.674	.646	.622	.600	.582	.564	.549	.521	.498	.477	.442
32	Basic Premium Ratio	.597	.501	.440	.395	.361	.334	.311	.291	.274	.260	.236	.217	.201	.177
	Minimum Premium Ratio	.799	.740	.699	.666	.638	.614	.593	.575	.558	.543	.515	.492	.472	.438
31	Basic Premium Ratio	.582	.486	.425	.382	.348	.321	.299	.280	.264	.250	.226	.208	.193	.171
	Minimum Premium Ratio	.791	.732	.690	.658	.630	.606	.586	.567	.551	.536	.510	.487	.467	.434
30	Basic Premium Ratio	.567	.471	.412	.369	.336	.309	.288	.269	.254	.240	.218	.201	.187	.165
	Minimum Premium Ratio	.782	.723	.681	.649	.622	.599	.579	.561	.545	.530	.504	.482	.463	.430
29	Basic Premium Ratio	.551	.457	.398	.356	.324	.299	.277	.260	.245	.232	.210	.194	.180	.160
	Minimum Premium Ratio	.773	.714	.673	.642	.615	.592	.572	.555	.539	.524	.499	.477	.459	.427
28	Basic Premium Ratio	.537	.444	.386	.344	.313	.287	.266	.249	.234	.221	.200	.184	.171	.151
	Minimum Premium Ratio	.764	.705	.665	.633	.606	.584	.564	.546	.530	.516	.491	.470	.451	.421
27	Basic Premium Ratio	.524	.431	.373	.332	.300	.275	.254	.236	.221	.208	.187	.170	.157	.136
	Minimum Premium Ratio	.755	.697	.655	.623	.596	.573	.552	.534	.518	.502	.476	.453	.433	.400
26	Basic Premium Ratio	.510	.418	.361	.320	.288	.263	.242	.224	.209	.196	.175	.158	.145	.124
	Minimum Premium Ratio	.747	.688	.646	.613	.586	.562	.541	.523	.505	.490	.463	.439	.418	.383
25	Basic Premium Ratio	.497	.405	.348	.307	.276	.251	.230	.213	.198	.185	.164	.147	.134	.114
	Minimum Premium Ratio	.738	.679	.638	.605	.577	.553	.531	.512	.495	.479	.451	.427	.405	.369
24	Basic Premium Ratio	.476	.386	.331	.292	.262	.238	.218	.202	.188	.176	.157	.141	.129	.111
	Minimum Premium Ratio	.727	.669	.628	.596	.569	.546	.525	.506	.490	.474	.447	.423	.402	.367
23	Basic Premium Ratio	.454	.368	.315	.277	.249	.226	.208	.192	.179	.168	.150	.136	.124	.107
	Minimum Premium Ratio	.716	.659	.619	.588	.561	.539	.519	.501	.485	.469	.443	.420	.400	.365
22	Basic Premium Ratio	.434	.351	.300	.264	.237	.216	.198	.184	.172	.161	.144	.131	.120	.104
	Minimum Premium Ratio	.704	.649	.611	.580	.555	.533	.513	.496	.480	.465	.439	.417	.397	.363
21	Basic Premium Ratio	.414	.335	.286	.252	.226	.206	.190	.176	.165	.155	.139	.126	.117	.102

PERMANENT

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
Minimum Premium Ratio	.693	.640	.603	.573	.548	.527	.508	.491	.476	.461	.436	.414	.395	.361
20 Basic Premium Ratio	.394	.318	.271	.238	.214	.194	.178	.166	.155	.145	.130	.119	.110	.096
Minimum Premium Ratio	.683	.631	.595	.566	.541	.520	.502	.485	.470	.456	.431	.410	.391	.358
19 Basic Premium Ratio	.377	.301	.254	.222	.198	.179	.164	.152	.142	.133	.120	.109	.101	.089
Minimum Premium Ratio	.674	.621	.585	.557	.533	.513	.494	.478	.464	.450	.426	.405	.387	.355
18 Basic Premium Ratio	.358	.283	.238	.207	.184	.166	.152	.140	.131	.123	.110	.101	.094	.083
Minimum Premium Ratio	.664	.612	.575	.547	.524	.505	.488	.472	.458	.445	.421	.401	.383	.352
17 Basic Premium Ratio	.339	.266	.222	.192	.171	.154	.140	.130	.121	.114	.103	.094	.088	.079
Minimum Premium Ratio	.654	.602	.567	.539	.517	.497	.480	.466	.453	.440	.418	.398	.380	.350
16 Basic Premium Ratio	.320	.249	.208	.179	.159	.143	.131	.121	.113	.106	.096	.088	.083	.075
Minimum Premium Ratio	.644	.593	.559	.532	.510	.491	.475	.461	.448	.436	.414	.395	.378	.348
15 Basic Premium Ratio	.303	.234	.194	.168	.148	.134	.122	.113	.106	.100	.091	.084	.079	.072
Minimum Premium Ratio	.635	.586	.552	.526	.504	.486	.470	.457	.445	.433	.412	.393	.376	.346
14 Basic Premium Ratio	.293	.220	.180	.157	.141	.128	.117	.109	.103	.097	.089	.082	.078	.071
Minimum Premium Ratio	.630	.579	.545	.521	.501	.483	.468	.455	.443	.432	.411	.392	.375	.346
13 Basic Premium Ratio	.281	.204	.167	.148	.133	.122	.112	.105	.099	.094	.086	.081	.076	.070
Minimum Premium Ratio	.624	.571	.538	.516	.497	.480	.465	.453	.441	.430	.409	.391	.374	.345
12 Basic Premium Ratio	.269	.187	.156	.139	.126	.116	.108	.101	.096	.091	.084	.079	.075	.069
Minimum Premium Ratio	.618	.562	.533	.512	.493	.477	.463	.451	.440	.429	.408	.390	.374	.345
11 Basic Premium Ratio	.254	.167	.145	.130	.119	.110	.103	.097	.092	.088	.082	.077	.073	.068
Minimum Premium Ratio	.611	.552	.527	.507	.490	.474	.461	.449	.438	.427	.407	.389	.373	.344
10 Basic Premium Ratio	.238	.150	.135	.122	.113	.105	.098	.093	.089	.085	.079	.075	.072	.067
Minimum Premium Ratio	.603	.544	.522	.503	.487	.472	.458	.447	.436	.426	.406	.388	.372	.344
9 Basic Premium Ratio	.219	.138	.125	.115	.106	.100	.094	.089	.085	.082	.077	.073	.071	.066
Minimum Premium Ratio	.593	.538	.517	.500	.483	.469	.456	.445	.434	.424	.405	.387	.372	.343
8 Basic Premium Ratio	.197	.127	.116	.107	.100	.094	.090	.086	.082	.079	.075	.072	.069	.065
Minimum Premium Ratio	.582	.532	.513	.496	.480	.466	.454	.443	.433	.423	.404	.387	.371	.343
7 Basic Premium Ratio	.170	.117	.108	.100	.094	.089	.085	.082	.079	.077	.073	.070	.068	.064
Minimum Premium Ratio	.569	.527	.509	.492	.477	.464	.452	.441	.431	.422	.403	.386	.370	.342
6 Basic Premium Ratio	.137	.107	.100	.094	.089	.085	.081	.078	.076	.074	.071	.068	.066	.064
Minimum Premium Ratio	.552	.522	.505	.489	.475	.462	.450	.439	.430	.420	.402	.385	.369	.342
5 Basic Premium Ratio	.105	.098	.092	.087	.083	.080	.077	.075	.073	.071	.068	.066	.065	.063
Minimum Premium Ratio	.536	.518	.501	.486	.472	.459	.448	.438	.428	.419	.400	.384	.369	.342
4 Basic Premium Ratio	.104	.089	.085	.081	.078	.075	.073	.072	.070	.068	.066	.065	.064	.062
Minimum Premium Ratio	.532	.513	.497	.483	.469	.457	.446	.436	.427	.417	.399	.383	.368	.342

PERMANENT

NEW SECTION

WAC 296-17-90497 Table VI.

RETROSPECTIVE RATING PLAN B
 BASIC PREMIUM RATIOS
 AND LOSS CONVERSION FACTORS
 Effective January 1, 2000

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
63 Basic Premium Ratio	.993	.986	.979	.972	.965	.958	.951	.944	.938	.931	.917	.903	.889	.861
63 Loss Conversion Factor	.007	.014	.021	.028	.035	.042	.049	.056	.062	.069	.083	.097	.111	.139
62 Basic Premium Ratio	.992	.985	.977	.970	.962	.954	.947	.939	.931	.924	.909	.893	.878	.848
62 Loss Conversion Factor	.008	.015	.023	.030	.038	.046	.053	.061	.069	.076	.091	.107	.122	.152
61 Basic Premium Ratio	.992	.983	.975	.967	.959	.950	.942	.934	.926	.917	.901	.884	.868	.835
61 Loss Conversion Factor	.008	.017	.025	.033	.041	.050	.058	.066	.074	.083	.099	.116	.132	.165
60 Basic Premium Ratio	.991	.982	.973	.964	.955	.946	.937	.928	.919	.910	.892	.874	.856	.819
60 Loss Conversion Factor	.009	.018	.027	.036	.045	.054	.063	.072	.081	.090	.108	.126	.144	.181
59 Basic Premium Ratio	.990	.980	.971	.961	.951	.941	.931	.921	.912	.902	.882	.862	.843	.803
59 Loss Conversion Factor	.010	.020	.029	.039	.049	.059	.069	.079	.088	.098	.118	.138	.157	.197
58 Basic Premium Ratio	.989	.979	.968	.957	.947	.936	.926	.915	.904	.894	.872	.851	.830	.787
58 Loss Conversion Factor	.011	.021	.032	.043	.053	.064	.074	.085	.096	.106	.128	.149	.170	.213
57 Basic Premium Ratio	.989	.977	.966	.954	.943	.931	.920	.908	.897	.886	.863	.840	.817	.771
57 Loss Conversion Factor	.011	.023	.034	.046	.057	.069	.080	.092	.103	.114	.137	.160	.183	.229
56 Basic Premium Ratio	.988	.976	.963	.951	.939	.927	.914	.902	.890	.878	.853	.829	.805	.756
56 Loss Conversion Factor	.012	.024	.037	.049	.061	.073	.086	.098	.110	.122	.147	.171	.195	.244
55 Basic Premium Ratio	.987	.974	.961	.948	.935	.922	.909	.896	.883	.870	.844	.818	.792	.741
55 Loss Conversion Factor	.013	.026	.039	.052	.065	.078	.091	.104	.117	.130	.156	.182	.208	.259
54 Basic Premium Ratio	.986	.972	.959	.945	.931	.917	.904	.890	.876	.862	.835	.807	.780	.724
54 Loss Conversion Factor	.014	.028	.041	.055	.069	.083	.096	.110	.124	.138	.165	.193	.220	.276
53 Basic Premium Ratio	.985	.971	.956	.941	.927	.912	.898	.883	.868	.854	.824	.795	.766	.707
53 Loss Conversion Factor	.015	.029	.044	.059	.073	.088	.102	.117	.132	.146	.176	.205	.234	.293
52 Basic Premium Ratio	.984	.969	.953	.938	.922	.907	.891	.876	.860	.845	.814	.783	.752	.690
52 Loss Conversion Factor	.016	.031	.047	.062	.078	.093	.109	.124	.140	.155	.186	.217	.248	.310
51 Basic Premium Ratio	.983	.967	.950	.934	.917	.901	.884	.868	.851	.835	.802	.769	.735	.669
51 Loss Conversion Factor	.017	.033	.050	.066	.083	.099	.116	.132	.149	.165	.198	.231	.265	.331
50 Basic Premium Ratio	.982	.965	.947	.929	.911	.894	.876	.858	.841	.823	.787	.752	.717	.646
50 Loss Conversion Factor	.018	.035	.053	.071	.089	.106	.124	.142	.159	.177	.213	.248	.283	.354
49 Basic Premium Ratio	.981	.962	.943	.924	.905	.886	.867	.848	.829	.810	.772	.734	.696	.621
49 Loss Conversion Factor	.019	.038	.057	.076	.095	.114	.133	.152	.171	.190	.228	.266	.304	.379
48 Basic Premium Ratio	.980	.959	.939	.919	.898	.878	.858	.837	.817	.797	.756	.716	.675	.594
48 Loss Conversion Factor	.020	.041	.061	.081	.102	.122	.142	.163	.183	.203	.244	.284	.325	.406

PERMANENT

Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
47	Basic Premium Ratio	.978	.957	.935	.913	.891	.870	.848	.826	.805	.783	.740	.696	.653	.566
	Loss Conversion Factor	.022	.043	.065	.087	.109	.130	.152	.174	.195	.217	.260	.304	.347	.434
46	Basic Premium Ratio	.977	.954	.931	.908	.885	.862	.839	.816	.793	.770	.724	.677	.631	.539
	Loss Conversion Factor	.023	.046	.069	.092	.115	.138	.161	.184	.207	.230	.276	.323	.369	.461
45	Basic Premium Ratio	.976	.951	.927	.902	.878	.854	.829	.805	.780	.756	.707	.658	.609	.512
	Loss Conversion Factor	.024	.049	.073	.098	.122	.146	.171	.195	.220	.244	.293	.342	.391	.488
44	Basic Premium Ratio	.974	.948	.922	.897	.871	.845	.819	.793	.767	.742	.690	.638	.587	.483
	Loss Conversion Factor	.026	.052	.078	.103	.129	.155	.181	.207	.233	.258	.310	.362	.413	.517
43	Basic Premium Ratio	.973	.945	.918	.891	.863	.836	.809	.781	.754	.727	.672	.617	.562	.453
	Loss Conversion Factor	.027	.055	.082	.109	.137	.164	.191	.219	.246	.273	.328	.383	.438	.547
42	Basic Premium Ratio	.970	.941	.911	.881	.852	.822	.792	.763	.733	.703	.644	.585	.525	.406
	Loss Conversion Factor	.030	.059	.089	.119	.148	.178	.208	.237	.267	.297	.356	.415	.475	.594
41	Basic Premium Ratio	.968	.935	.903	.870	.838	.806	.773	.741	.708	.676	.611	.546	.481	.352
	Loss Conversion Factor	.032	.065	.097	.130	.162	.194	.227	.259	.292	.324	.389	.454	.519	.648
40	Basic Premium Ratio	.965	.929	.894	.859	.823	.788	.753	.718	.682	.647	.576	.506	.435	.294
	Loss Conversion Factor	.035	.071	.106	.141	.177	.212	.247	.282	.318	.353	.424	.494	.565	.706
39	Basic Premium Ratio	.962	.923	.885	.847	.808	.770	.732	.693	.655	.616	.540	.463	.386	.233
	Loss Conversion Factor	.038	.077	.115	.153	.192	.230	.268	.307	.345	.384	.460	.537	.614	.767
38	Basic Premium Ratio	.958	.917	.875	.834	.792	.751	.709	.668	.626	.585	.502	.419	.336	.170
	Loss Conversion Factor	.042	.083	.125	.166	.208	.249	.291	.332	.374	.415	.498	.581	.664	.830
37	Basic Premium Ratio	.955	.910	.865	.820	.776	.731	.686	.641	.596	.551	.461	.371	.282	.102
	Loss Conversion Factor	.045	.090	.135	.180	.224	.269	.314	.359	.404	.449	.539	.629	.718	.898
36	Basic Premium Ratio	.951	.903	.854	.806	.757	.709	.660	.612	.563	.514	.417	.320	.223	.029
	Loss Conversion Factor	.049	.097	.146	.194	.243	.291	.340	.388	.437	.486	.583	.680	.777	.971
35	Basic Premium Ratio	.947	.895	.842	.789	.736	.684	.631	.578	.525	.473	.367	.262	.156	.000
	Loss Conversion Factor	.053	.105	.158	.211	.264	.316	.369	.422	.475	.527	.633	.738	.844	.987
34	Basic Premium Ratio	.943	.886	.829	.771	.714	.657	.600	.543	.486	.428	.314	.200	.085	.000
	Loss Conversion Factor	.057	.114	.171	.229	.286	.343	.400	.457	.514	.572	.686	.800	.915	.969
33	Basic Premium Ratio	.938	.876	.814	.752	.690	.628	.567	.505	.443	.381	.257	.133	.009	.000
	Loss Conversion Factor	.062	.124	.186	.248	.310	.372	.433	.495	.557	.619	.743	.867	.991	.953
32	Basic Premium Ratio	.933	.866	.799	.732	.665	.598	.531	.463	.396	.329	.195	.061	.000	.000
	Loss Conversion Factor	.067	.134	.201	.268	.335	.402	.469	.537	.604	.671	.805	.939	.984	.939
31	Basic Premium Ratio	.927	.854	.781	.707	.634	.561	.488	.415	.342	.268	.122	.000	.000	.000
	Loss Conversion Factor	.073	.146	.219	.293	.366	.439	.512	.585	.658	.732	.878	.994	.965	.925
30	Basic Premium Ratio	.920	.840	.760	.680	.600	.520	.440	.360	.280	.200	.040	.000	.000	.000
	Loss Conversion Factor	.080	.160	.240	.320	.400	.480	.560	.640	.720	.800	.960	.975	.949	.913
29	Basic Premium Ratio	.913	.826	.739	.651	.564	.477	.390	.303	.216	.128	.000	.000	.000	.000

PERMANENT

Maximum Premium Ratio:	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group														
Loss Conversion Factor	.087	.174	.261	.349	.436	.523	.610	.697	.784	.872	.990	.958	.935	.902
28 Basic Premium Ratio	.904	.807	.711	.615	.519	.422	.326	.230	.134	.037	.000	.000	.000	.000
Loss Conversion Factor	.096	.193	.289	.385	.481	.578	.674	.770	.866	.963	.969	.940	.918	.887
27 Basic Premium Ratio	.892	.785	.677	.570	.462	.355	.247	.140	.032	.000	.000	.000	.000	.000
Loss Conversion Factor	.108	.215	.323	.430	.538	.645	.753	.860	.968	.983	.946	.918	.897	.868
26 Basic Premium Ratio	.881	.761	.642	.522	.403	.283	.164	.044	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.119	.239	.358	.478	.597	.717	.836	.956	.983	.960	.925	.899	.879	.851
25 Basic Premium Ratio	.868	.736	.604	.472	.340	.208	.075	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.132	.264	.396	.528	.660	.792	.925	.987	.961	.940	.907	.883	.864	.838
24 Basic Premium Ratio	.852	.705	.557	.409	.261	.114	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.148	.295	.443	.591	.739	.886	.992	.964	.941	.922	.893	.872	.855	.832
23 Basic Premium Ratio	.835	.669	.504	.338	.173	.008	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.165	.331	.496	.662	.827	.992	.969	.944	.924	.907	.881	.862	.848	.827
22 Basic Premium Ratio	.814	.628	.442	.256	.070	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.186	.372	.558	.744	.930	.978	.949	.927	.909	.894	.871	.854	.841	.823
21 Basic Premium Ratio	.790	.579	.369	.159	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.210	.421	.631	.841	.990	.957	.932	.912	.896	.882	.862	.847	.835	.818
20 Basic Premium Ratio	.758	.516	.274	.032	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.242	.484	.726	.968	.966	.936	.913	.895	.881	.869	.851	.837	.827	.812
19 Basic Premium Ratio	.720	.439	.159	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.280	.561	.841	.979	.942	.915	.894	.878	.865	.854	.838	.826	.817	.805
18 Basic Premium Ratio	.672	.344	.016	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.328	.656	.984	.954	.920	.896	.877	.863	.851	.842	.827	.817	.810	.799
17 Basic Premium Ratio	.617	.234	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.383	.766	.977	.932	.902	.879	.863	.850	.839	.831	.819	.810	.803	.794
16 Basic Premium Ratio	.550	.100	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.450	.900	.953	.913	.885	.865	.851	.839	.830	.823	.812	.804	.798	.790
15 Basic Premium Ratio	.477	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.523	.992	.932	.896	.872	.854	.841	.831	.822	.816	.806	.799	.794	.788
14 Basic Premium Ratio	.414	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.586	.973	.912	.881	.861	.846	.834	.825	.818	.812	.804	.797	.793	.787
13 Basic Premium Ratio	.344	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.656	.953	.889	.867	.851	.838	.828	.821	.814	.809	.801	.796	.791	.786
12 Basic Premium Ratio	.256	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.744	.931	.874	.856	.842	.831	.823	.816	.810	.806	.799	.794	.790	.785
11 Basic Premium Ratio	.159	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
Loss Conversion Factor	.841	.906	.860	.846	.834	.825	.818	.812	.807	.803	.796	.792	.788	.784

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Maximum Premium Ratio:		1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.60	1.70	1.80	2.00
Size Group															
10	Basic Premium Ratio	.042	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.958	.879	.848	.836	.827	.819	.813	.807	.803	.800	.794	.790	.787	.783
9	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.982	.850	.838	.828	.820	.813	.808	.803	.800	.797	.792	.788	.786	.782
8	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.952	.838	.828	.820	.813	.808	.803	.800	.796	.794	.790	.787	.784	.781
7	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.917	.828	.820	.813	.807	.803	.799	.796	.793	.791	.788	.785	.783	.780
6	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.876	.818	.812	.806	.802	.798	.795	.792	.790	.788	.785	.783	.782	.779
5	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.826	.809	.804	.800	.797	.794	.791	.789	.787	.786	.783	.782	.780	.778
4	Basic Premium Ratio	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000	.000
	Loss Conversion Factor	.815	.800	.797	.794	.792	.790	.788	.786	.785	.784	.782	.781	.779	.777

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-17-91201 Introduction.
- WAC 296-17-91202 Definitions.
- WAC 296-17-91203 Can you give me an overview of the retrospective rating program?
- WAC 296-17-91204 I understand that there are specific requirements that an employer must meet before they can participate in either individual or group retrospective rating.
- WAC 296-17-91205 I understand that there are specific prerequisites that an organization must meet to sponsor a retrospective rating group plan.
- WAC 296-17-91206 Are there other qualifying requirements that an organization must satisfy once the preliminary requirements have been met?
- WAC 296-17-91207 I have several businesses that have been combined for experience rating purposes because of common majority ownership. They still report

WAC 296-17-91208

WAC 296-17-91209

WAC 296-17-91210

WAC 296-17-91211

WAC 296-17-91212

WAC 296-17-91213

and pay premiums using separate sub-accounts.

Is there a requirement for employer members of an organization to be engaged in substantially similar businesses to participate in the organization's group plan?

Do all organization members enrolled in a retrospective rating group plan have to report within one classification?

Can you tell me how the authorized classifications for a retrospective rating group plan are determined?

After a retrospective rating group plan has been authorized a classification or classifications, can an organization be allowed additional classifications at a later date?

Does an organization have to reapply each year for authorized classifications applicable to their retrospective rating group plan?

The department has approved our organization to sponsor a retrospective rating group. Is

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- WAC 296-17-91214 there an application process that we must follow?
- WAC 296-17-91214 What is the next step after the organization has submitted this application?
- WAC 296-17-91215 Is there an application process to enroll in an individual retrospective rating plan?
- WAC 296-17-91216 Can you tell me what happens at the end of a coverage period?
- WAC 296-17-91219 If I am successful in reducing my workers' compensation insurance costs, and you inform me that I am entitled to a refund, when will I get the refund?
- WAC 296-17-91220 Do you establish how the refund is to be distributed to members of a group?
- WAC 296-17-91221 If a group is subject to an additional assessment, does the department bill each member of the group for their share?
- WAC 296-17-91222 If a group or individually enrolled employer owes money related to a retrospective rating adjustment, when is it due?
- WAC 296-17-91223 If I am in a dispute with the department over an assessment, claim cost or moneys alleged to be owed to the department, can I participate in the retrospective rating program?
- WAC 296-17-91224 Are employers required to share retrospective rating refunds with their workers?
- WAC 296-17-91225 Can an organization be disqualified from sponsoring a retrospective rating group?
- WAC 296-17-91250 Limitation of liability indemnification.
- WAC 296-17-914 How is retrospective premium calculated?
- WAC 296-17-91402 Table II.
- WAC 296-17-91403 Table III.
- WAC 296-17-91404 Table IV.
- WAC 296-17-91405 Table V.

- WAC 296-17-91406 Table VI.
- WAC 296-17-919 Table I.

**WSR 00-11-067
PERMANENT RULES
BOARD OF ACCOUNTANCY**

[Filed May 15, 2000, 1:57 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To introduce the board's rules, chapter 4-25 WAC, advises the reader of the authority given to the board by the legislature to enact rules and the subjects covered by the board's rules.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-400 What is the authority for and the purpose of the board's rules?

Statutory Authority for Adoption: RCW 18.04.055.

Adopted under notice filed as WSR 00-07-004 on March 3, 2000.

Changes Other than Editing from Proposed to Adopted Version: Added explanatory phrase "chapter 18.04 RCW" after the words "Public Accountancy Act (act)" located in the first sentence following the introductory question (title).

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: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA

Executive Director

AMENDATORY SECTION (Amending WSR 93-12-063, filed 5/27/93, effective 7/1/93)

WAC 4-25-400 ((Preamble.)) What is the authority for and the purpose of the board's rules? ((These rules are adopted by the Washington state board of accountancy, pursuant to its authority under RCW 18.04.055, the Public Accounting Act. Their purpose is to promote and protect the public interest by implementing the provisions of that act, which provide for the certifying and licensing of practitioners of public accountancy and the regulation of the practice of public accountancy. The further purpose is the enhancing of the reliability of information which is used for guidance in

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~~financial transactions or for accounting for or assessing the financial status or performance of commercial, none-commercial, and governmental enterprises.)~~ The Public Accountancy Act (act), chapter 18.04 RCW, establishes the board as the licensing and disciplinary agency for certified public accountants (CPA) and CPA firms. The act authorizes the board to promulgate rules to carry out the purpose of the act, which include:

- Protecting the public interest; and
- Enhancing the reliability of information used for guidance in financial transactions or for accounting for or assessing financial status or performance.

The board's rules, contained in chapter 4-25 WAC, encompass these subjects:

- Definitions;
- Administration of the board;
- Ethics and prohibited practices;
- Certifying and licensing entry and renewal requirements;
- Continuing competency; and
- Regulation and enforcement.

WSR 00-11-068

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 1:58 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: Procedural rule to govern the conduct of matters before the board; provides the time and dates of regular meetings (to comply with RCW 42.30.070) and the annual meeting of the board, notifies the public of the election of officers at the board's annual meeting, and outlines the procedures the board will follow during its meetings.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-510 What is the board's meeting schedule and how are officers elected?

Statutory Authority for Adoption: RCW 18.04.055.

Other Authority: RCW 42.30.070.

Adopted under notice filed as WSR 00-07-005 on March 3, 2000.

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: June 30, 2000.

May 9, 2000

Dana M. McInturff, CPA

Executive Director

AMENDATORY SECTION (Amending WSR 99-18-111, filed 9/1/99, effective 1/1/00)

WAC 4-25-510 What is the board's meeting schedule and how are officers elected? ~~((The board meets from 9:00 a.m. to 5:00 p.m.))~~ Regular board meetings begin at 9:00 a.m. on the last Friday of the month in the months of January, April, July and October. ((Additionally,)) The board holds an annual meeting((, from 9:00 a.m. to 5:00 p.m.,)) beginning at 9:00 a.m. on the ((third)) second Friday of December.

The board consists of seven members. At the annual meeting the board elects the chair, vice-chair, and secretary from its members. The newly elected officers assume the duties of their offices at the conclusion of the meeting and serve a term of one year. Officers can be reelected for one additional term.

Either the chair or a quorum of the board has the authority to call meetings of the board. ~~((The board complies with the rules of procedure, chapter 42.30 RCW, in regards to notice and conduct of meetings.))~~ The chair presides at all meetings. In the event of the chair's absence or inability to act, the vice-chair presides. The board determines other duties of the officers.

The board's meetings are open public meetings conducted pursuant to chapter 42.30 RCW. Contact the board's office for meeting times and locations or additional information regarding the board's activities.

WSR 00-11-069

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 1:59 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To repeal section of chapter 4-25 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 4-25-522 Operations and procedures.

Statutory Authority for Adoption: RCW 18.04.055.

Adopted under notice filed as WSR 00-07-006 on March 3, 2000.

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: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA
Executive Director

WSR 00-11-070

PERMANENT RULES

BOARD OF ACCOUNTANCY

{Filed May 15, 2000, 2:00 p.m., effective June 30, 2000}

Date of Adoption: April 28, 2000.

Purpose: To provide a process authorized by the Administrative Procedure Act (chapter 34.05 RCW) for persons to appeal certain decisions by board staff.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-540 What are brief adjudicative proceedings?

Statutory Authority for Adoption: RCW 18.04.055(1).

Other Authority: RCW 34.05.482.

Adopted under notice filed as WSR 00-07-007 on March 3, 2000.

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: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA
Executive Director

AMENDATORY SECTION (Amending WSR 98-12-022, filed 5/27/98, effective 6/27/98)

WAC 4-25-540 What are brief adjudicative proceedings? For certain types of decisions, the board has adopted an appeal process authorized by chapter 34.05 RCW which is called a brief adjudicative proceeding. Decisions to which this appeal process will be applied are:

- Denials of initial individual license or certificate applications;
- (• ~~Good character rulings;~~

- ~~Agency ethics rulings; and~~)
- Denials of initial firm license applications and firm license renewals;
- Denials of exam applications; and
- A determination whether a licensee or certificate-holder has been certified by a lending agency and reported for nonpayment or default on a federally or state-guaranteed student loan or service conditional scholarship.

To appeal a decision you must submit your request for a brief adjudicative proceeding, **in writing**, to the board **within thirty days** after the decision by board staff is posted in the U.S. mail. The residing officer for the brief adjudicative proceedings is the executive director. After consulting with a board member, the executive director renders a decision either upholding or overturning the decision by board staff. This decision, called an order, is mailed to you.

If you (~~do not receive satisfaction from~~) are dissatisfied with the order in the brief adjudicative proceeding, you may appeal to the board's vice-chair. This appeal process is called an administrative review. Your appeal must be received by the board, **orally or in writing, within twenty-one days** after the brief adjudicative proceedings order is posted in the U.S. mail. The vice-chair considers your appeal and either upholds or overturns the brief adjudicative proceeding (~~decision~~) order. The vice-chair's decision, also called an order, is mailed to you.

WSR 00-11-071

PERMANENT RULES

BOARD OF ACCOUNTANCY

{Filed May 15, 2000, 2:01 p.m., effective June 30, 2000}

Date of Adoption: April 28, 2000.

Purpose: To identify the standards with which the board requires certified public accountants (CPAs) to comply and the bodies that promulgate the identified standards.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-631 With which rules, regulations and professional standards must a CPA comply?

Statutory Authority for Adoption: RCW 18.04.055 (2) and (6).

Adopted under notice filed as WSR 00-07-008 on March 3, 2000.

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 Mak-

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ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA

Executive Director

AMENDATORY SECTION (Amending WSR 98-12-050, filed 5/29/98, effective 6/29/98)

WAC 4-25-631 (~~Compliance with standards.~~) With which rules, regulations and professional standards must a CPA comply? (~~A certified public accountant shall exercise due care and professional judgment in order to comply with the pertinent accounting principles, professional standards, regulations, releases and rules (hereinafter referred to as "standards") promulgated by the "appropriate bodies" for each endeavor undertaken. A certified public accountant shall be knowledgeable of federal, state and local law pertinent to the endeavor. If professional standards differ from board rule, board rules prevail.~~

Such "appropriate bodies" include, but are not limited to, the ~~Securities and Exchange Commission; the Financial Accounting Standards Board; the Governmental Accounting Standards Board; the Internal Revenue Service; federal, state, and local audit, regulatory and tax agencies; the American Institute of Certified Public Accountants; and recognized educational and industry institutions.~~

Such "standards" include, but are not limited to:

- (1) ~~Regulation SX and the accounting series releases of the Securities and Exchange Commission;~~
- (2) ~~Generally accepted accounting principles and other comprehensive bases of accounting;~~
- (3) ~~Generally accepted auditing, review, compilation, attestation, consulting and peer review standards;~~
- (4) ~~Generally accepted government accounting standards;~~
- (5) ~~Consensus opinions of "appropriate bodies" such as Emerging Issues Task Forces;~~
- (6) ~~Circular 230 of the IRS and "appropriate bodies" guidance with respect to responsibilities in tax practice;~~
- (7) ~~Rules governing practice before regulatory agencies; and~~
- (8) ~~Guidance found in industry publications and textbooks and articles published by recognized accounting professionals or societies.)~~ A CPA must comply with rules, regulations, and professional standards (standards) promulgated by the appropriate bodies for each endeavor undertaken. However, if professional standards differ from board rule, board rules prevail.

Such appropriate bodies include, but are not limited to, the Securities and Exchange Commission (SEC); the Financial Accounting Standards Board (FASB); the Governmental Accounting Standards Board (GASB); the Cost Accounting Standards Board (CASB); the Federal Accounting Standards Advisory Board (FASAB); the U.S. General Accounting Office (GAO); the Federal Office of Management and Budget (OMB); the Internal Revenue Service (IRS); the Ameri-

can Institute of Certified Public Accountants (AICPA), and federal, state, and local audit, regulatory and tax agencies.

Such standards include:

(1) Statements on Auditing Standards and related Auditing Interpretations issued by the AICPA including subsequent amendments;

(2) Statements on Standards for Accounting and Review Services and related Accounting and Review Services Interpretations issued by the AICPA including subsequent amendments;

(3) Statements on Governmental Accounting and Financial Reporting Services issued by GASB including subsequent amendments;

(4) Statements on Standards for Attestation Engagements and related Attestation Engagements Interpretations issued by AICPA including subsequent amendments;

(5) Statements of Financial Accounting Standards, together with those Accounting Research Bulletins and Accounting Principles Board Opinions which are not superseded by action of the FASB, including subsequent amendments;

(6) Statement on Standards for Consulting Services issued by the AICPA including subsequent amendments;

(7) Statements on Quality Control Standards issued by the AICPA including subsequent amendments;

(8) Statements on Responsibilities in Tax Practice and Interpretation of Statements on Responsibilities in Tax Practice issued by the AICPA including subsequent amendments;

(9) Statements on Responsibilities in Personal Financial Planning Practice issued by the AICPA including subsequent amendments;

(10) Professional Code of Conduct issued by the AICPA including interpretations, ethics rulings, and subsequent amendments;

(11) Governmental Auditing Standards issued by the U.S. General Accounting Office, and subsequent amendments; and

(12) Auditing and Accounting Guides (both General and Industry) issued by the AICPA.

If the professional services are governed by standards not included in subsections (1) through (12) of this section, the CPA must:

- Justify the departure from the standards listed in subsections (1) through (12) of this section;
- Determine what standards are applicable; and
- Comply with the applicable standards.

Copies of the above standards may be inspected at the board's office.

WSR 00-11-072

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 2:02 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To identify the limitations on advertising and other forms of solicitation by persons using the title CPA.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-660 What are the limitations on advertising and other forms of solicitation?

Statutory Authority for Adoption: RCW 18.04.055(2).

Adopted under notice filed as WSR 00-07-009 on March 3, 2000.

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: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA
Executive Director

AMENDATORY SECTION (Amending WSR 93-22-090, filed 11/2/93, effective 12/3/93)

WAC 4-25-660 (~~(Advertising and other forms of solicitation.)~~) **What are the limitations on advertising and other forms of solicitation?** ((A person using the CPA title shall not use or participate in the use of any form of communication having reference to the CPA's professional services which contains a) (1) If you use the title CPA, you must not make false, fraudulent, misleading, deceptive or unfair statements or claims (~~(-A false, fraudulent, misleading, deceptive or unfair)~~) regarding your services. Examples of such statements or claims include(s), but ((is)) are not limited to ((a)), statements or claims which:

- ((1)) (a) Contain(s) a misrepresentation of fact; ((or
- (2) ~~Is likely to mislead or deceive because it~~) (b) Fail(s) to make full disclosure of relevant facts; ((or
- (3) ~~Contains any testimonial, laudatory, or other statement or implication that the licensee's~~) (c) Imply your professional services are of an exceptional quality, ((#)) which is not supported by verifiable facts; ((or
- (4) ~~Is intended or likely to~~) (d) Create false ((or unjustified)) expectations of favorable results; ((or
- (5) ~~Implies~~) (e) Imply educational or professional attainments, specialty designations, or licensing recognition not supported in fact; or

((6)) (f) Represent(s) that professional services ((can or)) will be ((competently)) performed for a stated fee when this is not the case, or ((makes representations with respect to fees for professional services that)) do not disclose all variables that may reasonably be expected to ((effect)) affect the fees that will ((in fact)) be charged(~~or~~

~~(7) Contains any other representations that are likely to mislead or deceive a reasonable person).~~

(2) If you use the CPA title to perform or solicit services via the Internet, you must include a statement on the Internet site that you hold a valid Washington state CPA certificate. This statement must be clearly visible and prominently displayed.

WSR 00-11-073

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 2:04 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To identify what CPA firm names must be approved by the board and what CPA firm names are prohibited.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-661 What firm names must be approved by the board and what firm names are prohibited?

Statutory Authority for Adoption: RCW 18.04.055(8).

Adopted under notice filed as WSR 00-07-010 on March 3, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA
Executive Director

AMENDATORY SECTION (Amending WSR 93-22-046, filed 10/28/93, effective 11/28/93)

WAC 4-25-661 (~~(Improper CPA firm names.)~~) **What firm names must be approved by the board and what firm names are prohibited?** ((A firm name is misleading, and thus prohibited if, among other things:))

(1) ((The firm name)) A firm name that does not consist of the name(s) of one or more present or former owners must be approved in advance by the board as not being deceptive or misleading.

(2) Misleading or deceptive firm names are prohibited. The following are examples of misleading firm names.

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The board does not intend this listing to be all inclusive. The firm name:

(a) Implies the existence of a corporation when the firm is not a corporation (as by the use of the abbreviations "P.C.," "P.S.," or "Inc. P.S.");

~~((2) The firm name)~~ (b) Implies the existence of a partnership when ~~((there is not a partnership (as in "Smith & Jones, CPA's")))~~ one does not exist;

~~((3) The firm name)~~ (c) Includes the name of a person who is neither a present nor a past partner or shareholder of the firm; or

~~((4) The firm name)~~ (d) Includes the ~~((designation))~~ words "and Associates," "& Associates," or "and Assoc.," ~~((and Company," or "& Co."))~~ when there are not ~~((in fact))~~ at least two owners and/or employees ~~((who hold))~~ holding a valid CPA license ((to practice public accounting)).

~~((A fictitious firm name (that is, one not consisting of the names of one or more present or former owners) may not be used by a licensee in the practice of public accounting unless such name has been registered with and approved by the board as not being false or misleading.))~~

WSR 00-11-074

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 2:05 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To prescribe the procedures entities must follow to register and maintain offices established for the practice of public accounting in the state of Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-750 What are the CPA firm licensing requirements?

Statutory Authority for Adoption: RCW 18.04.055(8), 18.04.195, and 18.04.205.

Adopted under notice filed as WSR 00-07-011 on March 3, 2000.

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: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA

Executive Director

AMENDATORY SECTION (Amending WSR 99-18-117, filed 9/1/99, effective 1/1/00)

WAC 4-25-750 ((Firm license.)) What are the CPA firm licensing requirements? ~~((1) A licensee may only practice public accountancy in a CPA firm organized as:~~

~~(a) A proprietorship;~~

~~(b) A partnership;~~

~~(c) A professional corporation;~~

~~(d) A limited liability company;~~

~~(e) A limited liability partnership; or~~

~~(f) Some other form of legal entity authorized by statute for use by a CPA firm.~~

~~(2) A CPA firm shall apply to the board for a license to practice public accountancy within ninety days of formation. A CPA firm shall apply for renewal of its license no later than sixty days prior to expiration of the firm's current license. The board will not accept a firm license renewal application unless it is accompanied by all applicable renewal and late filing fees.~~

~~(3) An application for a firm license shall include the:~~

~~(a) Firm name;~~

~~(b) Addresses and telephone numbers of the main office and any branch offices of the firm;~~

~~(c) Name of the manager of each branch office;~~

~~(d) Owners' names and the states in which they hold CPA licenses;~~

~~(e) Names of corporate directors, limited liability company managers, and all firm officers; and~~

~~(f) Type of legal organization under which the firm operates (such as, general partnership or limited liability company).~~

~~(4) Firm licenses expire on June 30 of the third year after the board issues a firm's initial license and on June 30 of each third year after the initial license expires.~~

~~(5) A CPA firm shall file with the board a written notification of any of the following events within ninety days after its occurrence:~~

~~(a) Formation or dissolution of a CPA firm;~~

~~(b) Admission of an owner;~~

~~(c) Retirement or death of an owner;~~

~~(d) Any change in the name of the firm;~~

~~(e) Change in the management of any branch office;~~

~~(f) Opening, closing, or relocating of a branch office; and~~

~~(g) The occurrence of any event that would cause the firm to be in violation of the provisions of the act or these rules.~~

~~A change in the legal form of a firm constitutes a new firm. Accordingly the new firm shall within ninety days of the change file an application for a firm license and pay the applicable fee.)~~ A licensee may only practice public accountancy in a licensed CPA firm. An entity wishing to practice as a CPA firm must first obtain a CPA firm license from the board.

(1) How may a CPA firm be organized? A CPA firm may be organized as:

(a) A proprietorship;

(b) A partnership;

(c) A professional corporation (PC) or professional service corporation (PS);

(d) A limited liability company (LLC);

(e) A limited liability partnership (LLP); or

(f) Any other form of legal entity authorized by statute for use by a CPA firm.

Each proprietor, partner, shareholder or member who is either resident or practicing public accountancy in this state must hold a valid Washington state CPA license. A nonresident owner must be a licensee of at least one state.

A change in the legal form of a firm constitutes a new firm. Accordingly, the new entity must first obtain a CPA firm license from the board.

(2) What are the requirements for a branch office? A branch office is an office of a CPA firm which is physically separated from the main office. A branch office must be under the direct supervision of a resident licensee manager who is present a minimum of eighty percent of the time the branch office is open for business. A branch office operates under the CPA firm license of the main office.

(3) How do I apply for an initial CPA firm license? To apply for an initial CPA firm license you must use the application form provided by the board. You must submit the completed form, all applicable fees, and all required documentation to the board's office. When completing the application for a CPA firm license, you must include the following information:

- The firm name;
- Address and telephone number of the main office and any branch offices of the firm;
- Name of the managing licensee of the main office and the managing licensee of each branch office;
- Owners' names and the states in which they hold CPA licenses;
- Names of corporate directors, limited liability company managers, and all officers; and
- Type of legal organization under which the firm operates.

An application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board. Upon completion of processing, a CPA firm license will be mailed to the main office at the last address provided to the board.

The initial CPA firm license will expire on June 30 of the third calendar year following initial licensure.

(4) How do I renew a CPA firm license? To renew a CPA firm license you must use the form provided by the board. In January of the year of expiration, a renewal form will be mailed to the main office at the last address provided to the board.

To renew a CPA firm license you must submit a properly completed renewal form, all applicable fees and all required documentation to the board by April 30th of the year of expiration. A renewal application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board. Upon completion of processing, the CPA firm license will be mailed to the main office at the last address provided to the board.

The CPA firm license will expire on June 30 of the third calendar year following the date of renewal.

(5) When must I notify the board of changes in the CPA firm? A CPA firm must provide the board written notification of the following within ninety day of its occurrence:

(a) Formation or dissolution of a CPA firm;

(b) Admission or departure of an owner;

(c) Any change in the name of the firm;

(d) Change in the managing licensee of the main office or of any branch office;

(e) Opening, closing, or relocating of the main office or of any branch office; and

(f) The occurrence of any event that would cause the firm to be in violation of the provisions of the Public Accountancy Act (chapter 18.04 RCW) or these rules.

WSR 00-11-075

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 2:06 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To repeal section of chapter 4-25 WAC that was rewritten and recodified (WAC 4-25-781, 4-25-782, and 4-25-783).

Citation of Existing Rules Affected by this Order: Repealing WAC 4-25-780 Reciprocity for accountants from foreign countries.

Statutory Authority for Adoption: RCW 18.04.055(11) and 18:04.183.

Adopted under notice filed as WSR 00-07-012 on March 3, 2000.

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: June 30, 2000.

May 8, 2000

Dana M. McInturff, CPA

Executive Director

WSR 00-11-076
PERMANENT RULES
BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 2:07 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To prescribe the procedures the board will follow when designating a professional accounting credential issued by a foreign country as substantially equivalent to a Washington CPA certificate.

Citation of Existing Rules Affected by this Order: New sections WAC 4-25-781 What are the rules governing reciprocity for accountants from foreign countries?, 4-25-782 How do I apply for an initial Washington state license and/or certificate through foreign reciprocity?, and 4-25-783 How do I renew a Washington CPA certificate and/or license granted through foreign reciprocity?

Statutory Authority for Adoption: RCW 18.04.055 and 18.04.183.

Adopted under notice filed as WSR 00-07-013 on March 3, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 0, Repealed 0.

Effective Date of Rule: June 30, 2000.

May 9, 2000

Dana M. McInturff, CPA
 Executive Director

NEW SECTION

WAC 4-25-781 What are the rules governing reciprocity for accountants from foreign countries? (1) Under the authority provided by RCW 18.04.183, the board may rely on the National Association of State Boards of Accountancy, the American Institute of Certified Public Accountants, or other professional bodies for evaluation of foreign accounting credential equivalency.

(2) The board may accept your foreign accounting credential in partial satisfaction of CPA certification requirements if:

(a) You met the foreign issuing body's education and examination requirements used to qualify its domestic candidates;

(b) Your foreign accounting credential is valid and in good standing at the time you apply for a Washington state CPA license and/or certificate; and

(c) The foreign issuing body granting your foreign accounting credential permits Washington CPAs an equivalent opportunity to receive the foreign accounting credential by reciprocity.

The board will, by policy, identify acceptable foreign accounting credentials and acknowledge reciprocal agreements with bodies granting foreign accounting credentials.

(3) The board may require a qualifying examination(s) to determine if you possess adequate knowledge of U.S. practice standards and the board's regulations. The board will, by policy, specify the form of qualifying examination(s) and passing grade(s).

(4) The board will require you to demonstrate satisfactory experience in a foreign or domestic professional accounting firm. The board will, by policy, specify experience standards for each foreign accounting credential accepted by the board.

(5) If you hold a Washington state CPA license and/or certificate issued through foreign reciprocity, you must report any investigations undertaken, or sanctions imposed, by a foreign credentialing body against your foreign credential within thirty days of your receiving notice that an investigation has begun or a sanction was imposed.

NEW SECTION

WAC 4-25-782 How do I apply for an initial Washington state license and/or certificate through foreign reciprocity? (1) Pursuant to RCW 18.04.183 the board may issue a certificate and/or license if you meet the board's requirements for application through foreign reciprocity. To apply for an initial Washington state CPA license and/or certificate you must use the foreign reciprocity application form provided by the board and satisfy continuing professional education (CPE) requirements in WAC 4-25-830.

(2) You need to fully complete the form, have your signature notarized or the foreign equivalent of a notarization, and submit the form, all applicable fees, and all required documentation to the board's office.

(3) An application is not complete and cannot be processed until all fees, required information, and required documentation are received by the board. When the processing of your application is complete, notification will be mailed to the last address you provided to the board.

(4) Your Washington state CPA license and/or certificate will expire on June 30 of the third calendar year following initial licensure and/or certification.

(5) You may not use the title CPA and you may not hold out as a CPA in public practice until you have filed a complete application with the board. A licensee may only practice public accountancy in a licensed CPA firm licensed by the Washington state board of accountancy.

NEW SECTION

WAC 4-25-783 How do I renew a Washington CPA certificate and/or license granted through foreign reciprocity? To renew a CPA certificate originally issued in reli-

ance on a foreign professional accounting credential, you must:

(1) Submit an application for renewal, including appropriate fees and documentation, at the time and in the same manner prescribed for all Washington state CPAs; and

(2) Submit documentation from the foreign issuing body certifying:

(a) Your foreign credential is in good standing and valid for the practice of public accountancy in the foreign jurisdiction; and

(b) You are not currently under disciplinary investigation or action; or

(c) If you are currently under disciplinary investigation or action, a statement as to the nature of the allegations.

(3) If you no longer hold the foreign credential used to qualify for a Washington state CPA license and/or certificate, you must submit documentation from the foreign issuing body certifying that you were not the subject of any investigations or disciplinary proceedings at the time the foreign credential lapsed.

WSR 00-11-077

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 2:08 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To clearly prescribe the board's continuing professional education (CPE) requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-830 What are the CPE requirements?

Statutory Authority for Adoption: RCW 18.04.055(7), 18.04.104(8), 18.04.215(4).

Adopted under notice filed as WSR 00-07-014 on March 3, 2000.

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: June 30, 2000.

May 9, 2000

Dana M. McInturff, CPA
Executive Director

AMENDATORY SECTION (Amending WSR 99-23-045, filed 11/15/99, effective 1/1/00)

WAC 4-25-830 What are the CPE requirements? (1) For CPE reporting periods beginning January 1, 2000, or later, the following CPE is required during the three calendar year period prior to renewal:

Category	Maximum CPE Allowed in Nontechnical Subject Areas	Minimum CPE in Ethics Applicable to Practice in WA State	Total CPE
(a) A licensee.	24	4	120
(b) A certificateholder whose activities during the 3-year calendar period prior to renewal do not require a license to practice public accounting.	Exempt	4	120

(2) Subject area requirements:

(a) Licensees are limited to a maximum of 24 CPE credit hours in nontechnical subject areas during the CPE reporting period.

(b) If you are a certificateholder, you are exempt from the limitation of CPE credit hours in nontechnical subject areas.

(3) Ethics applicable to practice in WA state: During each CPE reporting period all licensees and certificateholders are required to complete a four-hour course on professional ethics with specific application to the practice of public accounting in Washington state.

(4) 20 hours a year minimum: For CPE reporting periods beginning after December 31, 1999, you must complete a minimum of 20 hours of CPE each calendar year. This requirement is waived for the first calendar year of a certificateholder's initial CPE reporting cycle.

(5) Reasonable cause exemption: ~~((In order to renew your license and/or certificate you must complete the required CPE unless you can demonstrate your failure to meet the CPE requirements was due to reasonable cause. The board may make exceptions to the CPE requirements for reasons of individual hardship including health, military service, foreign residence, or other reasonable cause. You must request such an exemption in writing to the board. The request should include justification for the exemption and your plan to correct your CPE deficiency.~~

If you are retired, or you are a certificateholder and did) Retirees and certificateholders who will not make any public, professional, commercial, or occupational use of the title CPA during the ((prior) upcoming three-year((s, you) period are deemed to have met the reasonable cause exemption and may therefore renew their certificate under the reasonable cause exemption and be exempt from the CPE requirements. However, individuals holding a certificate

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under the reasonable cause exemption may not hold out in public practice nor may they make any professional, occupational, commercial or public use of the CPA title.

(6) **Return to previous status:** If you seek to change your status as a certificateholder exempted from the CPE requirements under the reasonable cause exemption to a:

(a) Licensee, you must satisfy the requirements of subsection (1)(a) of this section within the three-year period immediately preceding the date the application for change in status was received by the board; or

(b) Certificateholder, you must satisfy the requirements of subsection (1)(b) of this section within the three-year period immediately preceding the date the application for change in status was received by the board.

(7) **Reinstatement of a lapsed, suspended, or revoked license and/or certificate:** If you seek to reinstate a lapsed, suspended, or revoked license and certificate, you must satisfy the requirements of subsection (1)(a) of this section within the three-year period immediately preceding the date the application for reinstatement was received by the board. If you seek to reinstate a lapsed, suspended, or revoked certificate, you must satisfy the requirements of subsection (1)(b) of this section within the three-year period immediately preceding the date the application for reinstatement was received by the board.

(8) **Reciprocity:** If you are applying for an initial Washington state CPA license and/or certificate under the reciprocity provisions of RCW 18.04.180 or 18.04.183, you must satisfy the applicable requirements in subsection (1) of this section within the three-year period immediately preceding the date the application was received by the board. For purposes of an initial license and/or certificate, you do not need to satisfy the ethics requirements of subsection (3) of this section.

Thereafter, in order to renew your Washington state CPA license and/or certificate, you must comply with all the applicable renewal requirements in subsection (1) of this section, including the ethics requirements in subsection (3) of this section.

(9) CPE waiver request: In order to renew your license and/or certificate you must complete the required CPE unless you can demonstrate your failure to meet the CPE requirements was due to reasonable cause. The board may make limited exceptions to the CPE requirements for reasons of individual hardship including health, military service, foreign residence, or other reasonable cause. You must request such an exception in writing on the form provided by the board. The request must include justification for the request and your plan to correct your CPE deficiency.

WSR 00-11-078

PERMANENT RULES

BOARD OF ACCOUNTANCY

[Filed May 15, 2000, 2:09 p.m., effective June 30, 2000]

Date of Adoption: April 28, 2000.

Purpose: To clearly prescribe the bases for the board to impose discipline against Washington CPAs and CPA firms.

Citation of Existing Rules Affected by this Order: Amending WAC 4-25-910 What are the bases for the board to impose discipline?

Statutory Authority for Adoption: RCW 18.04.055(11), 18.04.295, and 18.04.305.

Adopted under notice filed as WSR 00-07-015 on March 3, 2000.

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: June 30, 2000.

May 9, 2000

Dana M. McInturff, CPA

Executive Director

AMENDATORY SECTION (Amending WSR 94-23-070, filed 11/15/94, effective 12/16/94)

WAC 4-25-910 ((Bases for imposing discipline-))

What are the bases for the board to impose discipline? RCW 18.04.295 ((specifies sanctions the board may impose based on a listing of general causes)) authorizes the board to revoke, suspend, refuse to renew a license and/or certificate, impose a fine not to exceed one thousand dollars, and recover investigative and legal costs for the specific acts listed below.

The following are specific ((acts are)) examples of prohibited ((activities)) acts that constitute grounds for discipline under RCW 18.04.295 and 18.04.305. The board does not intend this listing to be all inclusive.

(1) Fraud or deceit in obtaining a CPA license and/or certificate ((as a certified public accountant, or in obtaining a license, within the meaning of RCW 18.04.295(1), includes but is not limited to)).

(2) Making a false or misleading statement in support of another's application for ((certificate or)) a license and/or certificate.

((2(a))) (3) Dishonesty, fraud, or negligence while representing oneself as a CPA ((, within the meaning of RCW 18.04.295(2), includes)) including but ((is)) not limited to:

((#)) (a) Practicing public accountancy in ((this)) Wash- ington state prior to obtaining a license;

((#)) (b) Making misleading, deceptive, or untrue representations;

((#)) (c) Engaging in acts of fiscal dishonesty;

~~((iv))~~ (d) Purposefully, knowingly, or negligently failing to file a report or record, or filing a false report or record, required by local, state, or federal law;

~~((v))~~ (e) Unlawfully selling unregistered securities;

~~((vi))~~ (f) Unlawfully acting as an unregistered securities salesperson or broker-dealer;

~~((vii))~~ (g) Discharging a trustee's duties in a negligent manner or breaching one's fiduciary duties; or

~~((viii))~~ (h) Withdrawing or liquidating, as fees earned, funds received by a CPA from a client as a deposit or retainer when the client contests the amount of fees earned, until such time as the dispute is resolved.

~~((b))~~ (4) The following shall be prima facie evidence that a ~~(certified public accountant)~~ CPA has engaged in dishonesty, fraud, or negligence while representing himself or herself as a CPA:

~~((i))~~ (a) An order of a court of competent jurisdiction finding the CPA to have committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on a CPA's fitness to represent himself or herself as a CPA~~(-);~~

~~((ii))~~ (b) An order of a federal, state, ~~(or)~~ local or foreign jurisdiction regulatory body finding the CPA to have committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on a CPA's fitness to represent himself or herself as a CPA;

~~(c)~~ Cancellation, revocation, suspension, or refusal to renew the right to practice as a CPA by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state; or

~~(d)~~ Suspension or revocation of the right to practice before any state or federal agency.

~~(5)~~ Conviction of a crime or an act constituting a crime under: Federal law; the laws of Washington state; or the laws of another state, and which, if committed within this state, would have constituted a crime under the laws of this state.

~~((3))~~ (6) A conflict of interest~~(, within the meaning of RCW 18.04.055(2), includes but is not limited to)~~ such as:

(a) Self dealing as a trustee, including, but not limited to:

~~(i)~~ Investing trust funds in entities controlled by or related to the trustee;

~~(ii)~~ Borrowing from trust funds, with or without disclosure; and

~~(iii)~~ Employing persons ~~(or entities related to the trustee)~~ related to the trustee or entities in which the trust has a beneficial interest to provide services to the trust (unless specifically authorized by the trust creation document)~~(;)~~

(b) Borrowing funds from ~~(any)~~ a client unless the client is in the business of making loans of the type obtained by the ~~(licensee)~~ certificateholder and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness.

~~((4))~~ (7) A violation of ~~(a rule of professional conduct promulgated by the board, within the meaning of RCW 18.04.295(4), includes but is not limited to:)~~ the Public Accountancy Act or failure to comply with a board rule contained in chapter 4-25 WAC.

~~((a))~~ (8) Violation of one or more of the rules of professional conduct included in chapter 4-25 WAC~~(;)~~

~~(b)~~ Violation of one or more of the administrative rules included in chapter 4-25 WAC;

~~(e))~~ or concealing another's violation of the Public Accountancy Act or board rules.

~~(9)~~ Failure to cooperate with the board by failing to:

~~(a)~~ Furnish any papers or documents requested or ordered to produce by the board;

~~(b)~~ Furnish in writing a full and complete explanation related to a complaint as requested by the board;

~~(c)~~ Respond to an inquiry of the board;

~~(d)~~ Respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding.

~~(10)~~ A CPA's adjudication as mentally incompetent is prima facie evidence that the CPA lacks the professional competence required by the rules of professional conduct.

WSR 00-11-084
PERMANENT RULES
OFFICE OF THE
STATE TREASURER
{Filed May 16, 2000, 8:39 a.m.}

Date of Adoption: December 28, 1999.

Purpose: WAC 474-02-010, to amend the basis for the interest rate on loans to newly incorporated cities and towns; WAC 474-02-020, to amend the sample intergovernmental agreement to reflect change to WAC 474-02-010.

Citation of Existing Rules Affected by this Order: Amending WAC 474-02-010 and 474-02-020.

Statutory Authority for Adoption: RCW 35.02.135.

Adopted under notice filed as WSR 99-23-093 on November 17, 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 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.

December 28, 1999

Gretchen D. Gale

Legal Counsel

AMENDATORY SECTION (Amending WSR 95-19-029, filed 9/11/95, effective 10/12/95)

WAC 474-02-010 New cities and towns—Standards for borrowing from municipal sales and use tax equalization account. (1) To borrow money from the municipal sales

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and use tax equalization account a new city or town must furnish a copy of the governing board's resolution establishing the official date of incorporation, declaring the population of the city or town, and stating the amount to be borrowed.

(2) Loans shall be repaid with interest, according to the terms of a loan agreement acceptable to the state treasurer, over a maximum period of three years. Each loan shall bear interest for the duration of the loan at the closing offering yield of the ~~((then current three-year))~~ treasury note which matures closest to three years, as quoted by the *Wall Street Journal*, on the day prior to loan disbursement.

(3) Loans shall be repayable by the treasurer withholding moneys from the funds otherwise payable to the borrowing city or town, either from the municipal sales and use tax equalization account or from sales and use tax entitlements otherwise distributable to the borrowing city or town, so that the municipal sales and use tax equalization account is fully reimbursed over the period of the loan. Payments are to be made monthly until the borrowing city or town has paid all of the principal and interest owed under the loan agreement.

AMENDATORY SECTION (Amending WSR 95-19-029, filed 9/11/95, effective 10/12/95)

**WAC 474-02-020 Appendix to WAC 474-02-010—
Sample intergovernmental agreement.**

INTERGOVERNMENTAL AGREEMENT

The ____ of (City/Town) has submitted a request to the Washington State Treasurer (Treasurer) to borrow _____ from the Municipal Sales and Use Tax Equalization Account pursuant to RCW 35.02.135.

The City/Town and Treasurer have entered into this agreement, by which the City, as authorized by legally sufficient resolution of its governing body, shall borrow from the municipal sales and use tax equalization account the sum stated below and shall repay said sum according to the repayment terms and conditions stated herein:

1. Amount of loan ____.

2. Interest. Interest will be charged on unpaid principal until the full amount has been paid. Interest will be calculated on the average daily loan balance and will accrue monthly. The loan shall bear interest for the duration of the loan at the closing offering yield of the ~~((then current three-year))~~ Treasury Note which matures closest to three years, as quoted by the *Wall Street Journal*, on the day prior to loan disbursement repayable as set forth in Section 3.

3. Repayment.

(A) Time of Payments.

City/Town will pay principal and interest by the Treasurer withholding moneys from the funds otherwise payable to City/Town, either from the municipal sales and use tax equalization account or from sales and use tax entitlements otherwise distributable to City/Town, so that the municipal

sales and use tax equalization account is fully reimbursed over the period of the loan. Payments will be due on the last business day of each month beginning on _____. Payments will be made monthly until the City/Town has paid all of the principal and interest owed under this loan agreement. Monthly payments will be applied to interest before principal. Final payment of principal and interest owed is due on _____.

(B) Amount of City's/Town's Monthly Payments.

Each of City's/Town's monthly payments will be in the amount of _____, except for the last payment, due on _____, which will be in the amount of U.S. _____.

4. City's/Town's Right to Prepay.

City/Town has the right to make payments of principal at any time before they are due. City/Town may make a full prepayment or partial prepayments without paying any prepayment charge. Treasurer will use all of City's/Town's prepayments to reduce the amount of principal City/Town owes under this intergovernmental agreement. If City/Town makes a partial prepayment, there will be no changes in the due dates of City's/Town's monthly payments unless Treasurer agrees in writing to those changes. City's/Town's partial prepayments may reduce the amount of its monthly payments beginning with the first payment date following its partial prepayment.

5. Treasurer's Authority to Withdraw Moneys.

The City/Town acknowledges and agrees that Treasurer is authorized by the City/Town pursuant to RCW 35.02.135 and this agreement to withdraw from future tax distributions to the City/Town on the basis stated above. City/Town also agrees not to challenge or contest Treasurer's authority to withdraw moneys for the purposes of this loan.

6. Impact of Rules.

City/Town agrees that the terms and conditions of this agreement are subject to rules adopted by Treasurer pursuant to RCW 35.02.135, and that this agreement may be modified to reflect any changes to such rules effective following the execution of this intergovernmental agreement.

7. Scope of Agreement.

This agreement comprises the entire agreement of the parties with respect to the matters covered herein, and no agreement, statement, or promise made by any party which is not included herein shall be binding or valid.

8. Modification.

This agreement may be modified or amended only pursuant to Section 6 of this agreement or by a written agreement duly executed by all parties hereto.

9. Applicable Law.

This agreement shall be governed by the laws of the State of Washington, and any questions arising under this agreement shall be construed or determined according to such law. City/Town consents to the venue of any action brought under this agreement in any superior court in Thurston County, Washington.

The undersigned persons do hereby stipulate to the following:

I have the authority to sign this intergovernmental agreement, on behalf of the City/Town and the Treasurer.

For the City/Town:

Name	Title	Date
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For the Treasurer:

Name	Title	Date
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WSR 00-11-096
PERMANENT RULES
DEPARTMENT OF REVENUE
 [Filed May 17, 2000, 9:13 a.m.]

Date of Adoption: May 17, 2000.

Purpose: These rules explain the B&O, retail sales, and use tax reporting responsibilities of extractors and manufacturers/processors for hire. WAC 458-20-135 and 458-20-136 have been revised to incorporate legislative changes that have occurred since these rules were last revised. WAC 458-20-135 clarifies when an extracting activity ends and a manufacturing activity begins. WAC 458-20-136 identifies the special tax classifications that apply to specific manufacturing activities and the factors considered when determining if a person combining various items is a manufacturer. WAC 458-20-13601 Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment is a new rule explaining the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565 for certain machinery and equipment used directly in a manufacturing operation or research and development operation. This rule provides pertinent definitions, explains the legislative history of the exemption, the steps to determine whether the "useful life" threshold is satisfied, and the criteria used to determine whether the machinery and equipment is "used directly" in a qualifying operation, and the "majority use" standard.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-135 Extracting natural products and 458-20-136 Manufacturing, processing for hire, fabricating.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 00-04-029 on January 24, 2000.

Changes Other than Editing from Proposed to Adopted Version: **WAC 458-20-135:**

Subsection (1) the sentence "Persons performing activities related to timber harvest operations should refer to WAC 458-20-13501 (Timber harvest operations)" has been removed. A new WAC 458-20-13501 will not be adopted prior to the adoption and effective date of the revised WAC 458-20-135.

Subsection (2)(b)(i) has been revised as follows. New language is underlined while language being removed is shown by ~~strikeout~~.

(i) Mining and quarrying operations are extracting activities, and generally include the screening, sorting, and piling; and washing of rock, sand, stone, ~~or gravel, or ore.~~ For example, an operation that extracts rock, then screens, sorts, and with no further processing places the rock into piles for sale, is an extracting operation.

(A) The crushing and/or blending of rock, sand, stone, ~~or gravel, or ore~~ are manufacturing activities. These are manufacturing activities whether or not the materials were previously screened or sorted.

(B) Screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending at the site where the materials are taken or produced, is considered a part of the manufacturing activity if it takes place after the first screen. If there is no separate first screen, only those activities subsequent to the materials being deposited into the screen are considered manufacturing activities.

Subsection (5) the citations to chapter 82.45 RCW and chapter 458-61 WAC have been replaced with RCW 82.45-035 and WAC 458-61-520 Mineral rights and mining claims, respectively.

WAC 458-20-136:

Subsection (4)(a) the phrase "tax credit under the" when referring to the multiple activities tax credit has been eliminated in both paragraphs of this subsection.

WAC 458-20-13601:

The changes in the text are noted in legislative drafting style, with deletions shown with ~~strikeouts~~ and additions shown by underlining.

The word "cement" has been changed to "concrete" throughout the draft.

In subsection (3)(g)(i) the following was revised: Likewise, ~~a portable cement mixer~~ a concrete mixer used at a construction site is not used in a manufacturing operation because the activity is constructing, not manufacturing. Other portable equipment used in nonmanufacturing activities, such as continuous gutter trucks or trucks designed to deliver and combine aggregate, or specialized carpentry tools, do not qualify for the same reasons.

The following change is being made in subsection (4): However, because the exemption is limited to items with a useful life of one year or more, some charges for repair, labor, services, and replacement parts may not be eligible for the exemption. In the case of labor and service charges that cover both qualifying and nonqualifying repair and replacement parts, the labor and services charges are presumed to be exempt. If all of the parts are nonqualifying, the labor and service charge is not exempt, unless the parts are incidental to the service being performed, such as cleaning, calibrating, and adjusting qualifying machinery and equipment.

The following change is being made in subsection (7)(c): The building itself ~~is not eligible, however~~ some of its components, ~~such as walls, partitions, floors, ceilings, windows, and doors, are not eligible~~ might be eligible for the exemption.

The following sentence will be added to subsection (8): If it is clear from taxpayer records or practice that an item is used for at least one year, the item is eligible, regardless of

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the answers to the four threshold questions. A taxpayer may work directly with the department to establish record-keeping methods that are tailored to the specific circumstances of the taxpayer.

The following sentence is deleted from subsection (8): If it is clear from taxpayer records or practice that an item is not used for at least one year, the item is not eligible, regardless of the answers to the four threshold questions.

In subsection (8) the following sentence was revised:

In order to substantiate qualification under any step, a taxpayer must maintain adequate records or be able to establish by demonstrating through practice or routine that the threshold is overcome.

The definition of "integral" has been deleted from subsection (9)(h).

In subsection (10)(a) the following was revised: To determine whether the majority use requirement has been satisfied, the person claiming the exemption must retain records documenting the measurement used to substantiate a claim for exemption or, if time, value, or volume is not the basis for measurement, be able to establish by demonstrating through practice or routine that the requirement is satisfied.

In subsection (10)(c) the following was revised:

Based on a comparison of selling prices of the processed product picked up by the customer at the manufacturing site and delivery prices to a customer location, and taking into the consideration the qualifying activity (interacting with tangible personal property) of the machinery and equipment compared to the nonqualifying activity (delivering the product) of the machinery and equipment, the department has determined that concrete trucks ~~overcome~~ qualify under the majority use threshold. Only in those limited instances where it is apparent that the use of the concrete truck is atypical for the industry would the taxpayer be required to provide recordkeeping on the use of the truck in order to support the exemption.

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 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 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 2, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2000

Russell W. Brubaker
Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending Order ET 86-7, filed 4/17/86)

WAC 458-20-135 Extracting natural products. ((The word "extractor" means every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others or persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession.) (RCW 82.04.100.)

The following examples are illustrative of operations which are included within the extractive activity:

(1) Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees. It includes other activities necessary and incidental to logging, such as logging road construction, slash burning, slashing, scarification, stream cleaning, miscellaneous cleaning, and trail work, where such activities are performed pursuant to a timber harvest operation. *Provided*, That persons performing such activities must identify in their business records the timber harvest operation of which their work is a part.

(2) Mining and quarrying operations, including the activities incidental to the preparation of the products for market, such as screening, sorting, washing, crushing, etc.

(3) Fishing operations, including the taking of any fish, or the taking, cultivating, or raising of shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) for sale or commercial use. It includes the removal of the meat from the shell, and the cleaning and icing of fish or sea products by the person catching or taking them. It does not include cultivating or raising fish entirely within confined rearing areas under RCW 82.04.100.

Business and Occupation Tax

~~**Extracting local sales.** Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification retailing and those who sell such products at wholesale in this state are taxable under the classification wholesaling all others. Persons taxable under the classification retailing and wholesaling all others are not taxable under the classification extracting with respect to the extracting of products so sold within this state.~~

~~**Extracting interstate or foreign sales.** Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification extracting upon the value of the products so sold, and are not taxable under retailing or wholesaling all others in respect to such sales. (See also WAC 458-20-193.)~~

~~**Extracting for commercial use.** Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under extracting. (For tax liability of such persons on the sale of manufactured products see WAC 458-20-136, manufacturing, processing for hire, fabricating.)~~

Persons who extract products in this state for any other commercial or industrial use are taxable under extracting on the value of products extracted and so used. (See WAC 458-20-134 for definition of commercial or industrial use.)

~~**Extracting for others.** Persons performing under contract, either as prime or subcontractors, the necessary labor or mechanical services for others who are engaged in the business as extractors, are taxable under the extracting for hire classification of the business and occupation tax upon their gross income from such service. If the contract includes the hauling of the products extracted over public roads, such persons are also taxable under the motor transportation classification of the public utility tax upon that portion of their gross income properly attributable to such hauling. However, the hauling for hire of logs or other forest products exclusively upon private roads is taxable under the service classification of the business and occupation tax upon the gross income received from such hauling. (See WAC 458-20-180.)~~

Forest Excise Tax

In addition to all other taxes, a person engaged in business as a harvester of timber is subject to the forest excise tax levied by chapter 84.33 RCW. The word "harvester" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

See chapter 458-40 WAC for detailed provisions, procedures, and other definitions.

Retail Sales Tax

The retail sales tax applies upon all sales of extracted products made at retail by the extractor thereof, except as provided by WAC 458-20-244, Food products.

Use Tax

Persons constructing logging roads pursuant to timber harvest operations are subject to use tax on all materials used in such construction, except for materials on which sales tax was paid at the time of purchase.)) (1) **Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to persons extracting natural products. Persons extracting natural products often use the same extracted products in a manufacturing process. The rule provides guidance for determining when an extracting activity ends and the manufacturing activity begins. Persons engaged in a manufacturing activity should also refer to WAC 458-20-136 (Manufacturing, processing for hire, fabricating) and 458-20-13601 (Manufacturers and processors for

hire—Sales and use tax exemptions for machinery and equipment).

In addition to all other taxes, commercial fishermen may be subject to the enhanced fish excise tax levied by chapter 82.27 RCW (Tax on enhanced food fish).

(2) **Extracting activities.** RCW 82.04.100 defines the term "extractor" to mean every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral, or other natural resource product. The term includes a person who fells, cuts, or takes timber, Christmas trees other than plantation Christmas trees, or other natural products. It also includes any person who takes fish, shellfish, or other sea or inland water foods or products.

(a) The term "extractor" does not include:

(i) Persons performing under contract the necessary labor or mechanical services for others;

(ii) Persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession;

(iii) Persons who fell, cut, or take plantation Christmas trees from the person's own land or from land in which the person has a present right of possession; or

(iv) Persons cultivating or raising shellfish or any other cultural aquatic product as defined in RCW 15.85.020 on the person's own land or on land in which the person has a present right of possession. This exclusion from the definition of "extractor" is because these persons qualify as farmers under RCW 82.04.213. (Persons identified under subsection (2)(a)(ii) and (iii) are also considered farmers.)

(b) An extractor may subsequently take an extracted product and use it as a raw material in a manufacturing process. The following examples explain when an extracting process ends and a manufacturing process begins for various situations. These examples should be used only as a general guide. Similar determinations for other situations can be made only after a review of all of the facts and circumstances.

(i) Mining and quarrying operations are extracting activities, and generally include the screening, sorting, and piling of rock, sand, stone, gravel, or ore. For example, an operation that extracts rock, then screens, sorts, and with no further processing places the rock into piles for sale, is an extracting operation.

(A) The crushing and/or blending of rock, sand, stone, gravel, or ore are manufacturing activities. These are manufacturing activities whether or not the materials were previously screened or sorted.

(B) Screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending at the site where the materials are taken or produced, is considered a part of the manufacturing activity if it takes place after the first screen. If there is no separate first screen, only those activities subsequent to the materials being deposited into the screen are considered manufacturing activities.

(ii) Commercial fishing operations, including the taking of any fish in Washington waters (within the statutory limits of the state of Washington) and the taking of shellfish or other sea or inland water foods or products, are extracting activities. The removal of meat from the shell and the icing of fish or sea products by the person catching or taking them are extracting activities. As explained in subsection (2)(a), a person taking fish, shellfish, or other sea or inland water food or product cultivated or raised on the person's own land or on land in which the person has a present right of possession is considered a farmer. RCW 82.04.213.

The filleting, steaking, or cleaning (removal of the head, fins, or viscera) of fish are manufacturing activities. The cooking of fish or seafood is also a manufacturing activity.

(3) Tax-reporting responsibilities for income received by extractors. Persons who extract natural products in this state are subject to the extracting B&O tax upon the value of the products. (See WAC 458-20-112 regarding "value of products.") Extractors who sell the products at retail or wholesale in this state are subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the extractor must report under both the "production" (extracting) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a tax credit under the multiple activities tax credit (MATC). See also WAC 458-20-19301 (Multiple activities tax credits) for a more detailed explanation of the MATC reporting requirements.

(a) Persons who extract products, use these extracted products in a manufacturing process, and then sell the products all within Washington are subject to both "production" taxes (extracting and manufacturing) and the "selling" tax (wholesaling or retailing), and may claim the appropriate credits under the MATC. (See also WAC 458-20-136 on manufacturing.)

For example, Company quarries rock (an extracting activity), crushes and blends the rock (a manufacturing activity), and sells the resulting product at wholesale. The taxable value of the extracted rock is \$50,000 (the amount subject to the extracting B&O tax). The taxable value of the crushed and blended rock is \$140,000 (the amount subject to the manufacturing B&O tax). The crushed and blended rock is sold for \$140,000 (the amount subject to the wholesaling B&O tax). Under the MATC, Company should report \$50,000 subject to the extracting B&O tax, \$140,000 subject to the manufacturing B&O tax, and \$140,000 subject to the wholesaling B&O tax. Company should then claim the appropriate MATC per WAC 458-20-19301.

(b) An extractor making retail sales must collect and remit retail sales tax on all sales to consumers, unless the sale is exempt by law (e.g., see WAC 458-20-244 regarding sales of certain food products). Extractors making wholesale sales must obtain resale certificates from their customers to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 on resale certificates.)

(4) Tax-reporting responsibilities for income received by extractors for hire. Persons performing extracting activities for extractors are subject to the extracting for hire B&O tax upon their gross income from those services.

For example, a person removing ore, waste, or overburden at a mining pit for the operator of the mining operation is an extractor for hire. Likewise, a person drilling to locate or provide access to a satisfactory grade of ore at the mining pit for the operator is also an extractor for hire. The gross income derived from these activities is subject to the extracting for hire tax classification.

(5) Mining or mineral rights. Royalties or charges in the nature of royalties for granting another the privilege or right to remove minerals, rock, sand, or other natural product are subject to the service and other activities B&O tax. The special B&O tax rate provided by RCW 82.04.2907 does not apply because this statute specifically excludes compensation received for any natural product. Refer also to RCW 82.45.035 and WAC 458-61-520 (Mineral rights and mining claims) for more information regarding the sale of mineral rights and the real estate excise tax.

Income derived from the sale or rental of real property, whether designated as royalties or another term, is exempt of the B&O tax.

(6) Tax liability with respect to purchases of equipment or supplies and property extracted and/or manufactured for commercial or industrial use. The retail sales tax applies to all purchases of equipment, component parts of equipment, and supplies by persons engaging in extracting or extracting for hire activities unless a specific exemption applies. If the seller fails to collect the appropriate retail sales tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department.

(a) RCW 82.08.02565 and 82.12.02565 provide retail sales and use tax exemptions for certain machinery and equipment used by manufacturers. While this exemption does not extend to extractors, persons engaged in both extracting and manufacturing activities should refer to WAC 458-20-13601 for an explanation of how these exemptions may apply to them.

(b) Persons manufacturing tangible personal property for commercial or industrial use are subject to both the manufacturing B&O and use taxes upon the value of the property manufactured, unless a specific exemption applies. (See also WAC 458-20-134 on commercial or industrial use.)

If the person also extracts materials used in the manufacturing process, the extracting B&O tax is due on the value of the extracted materials and a MATC may be taken. For example, Quarry extracts rock, crushes the rock into desired size, and then uses the crushed rock in its parking lot. The use of the crushed rock by Quarry in its parking lot is a commercial or industrial use. Quarry is subject to the extracting and manufacturing B&O taxes and may claim a MATC. Quarry is also responsible for remitting use tax on the value of the crushed rock applied to the parking lot.

AMENDATORY SECTION (Amending Order 88-7, filed 10/7/88)

WAC 458-20-136 Manufacturing, processing for hire, fabricating. ((1) Definitions. "The term 'manufacture' embraces all activities of a commercial or industrial

nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles." (RCW 82.04.120.) It means the business of producing articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving these matters new forms, qualities, properties, or combinations. It includes such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, curing, aging, canning, etc. It includes also the preparing, packaging and freezing of fresh fruits, vegetables, fish, meats and other food products, the making of custom made suits, dresses, coats, awnings, blinds, boats, curtains, draperies, rugs, and tanks, and other articles constructed or made to order, and the curing of animal hides and food products.

(2) The word "manufacturer" means every person who, from the person's own materials or ingredients manufactures for sale, or for commercial or industrial use any articles, substance or commodity either directly, or by contracting with others for the necessary labor or mechanical services.

(3) However, a nonresident of the state of Washington who owns materials processed for hire in this state is not deemed to be a manufacturer because of such processing. Further, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

(4) The term "to manufacture" does not include conditioning of seed for use in planting or activities which consist of cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state; the mere cleaning and freezing of whole fish; or the repairing and reconditioning of tangible personal property for others.

(5) The term "processing for hire" means the performance of labor and mechanical services upon materials belonging to others so that as a result a new, different or useful article of tangible personal property is produced for sale or commercial or industrial use. Thus, a processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials.

(6) Persons who both manufacture and sell those products in this state must report their gross receipts under both the manufacturing and retailing or wholesaling classifications. A credit may then be taken against the selling tax in the amount of the manufacturing tax reported. (See also WAC 458-20-19301.)

(7) Manufacturing—interstate or foreign sales. Persons who manufacture products in this state and sell the same in interstate or foreign commerce are taxable under the classification manufacturing upon the value of the products so sold, and are not taxable under retailing or wholesaling all others in respect to such sales. (See also WAC 458-20-193A.) A credit may be applicable if a gross receipts tax is paid on the selling activity to another state. (See also WAC 458-20-19301.)

(8) Business and occupation tax—hops. The business and occupation tax shall not apply to amounts received by

hop growers or dealers for hops which are shipped outside the state of Washington for first use, if those hops have been processed into extract, pellets, or powder in this state. Amounts charged by a processor or warehouse for processing or warehousing, however, are not exempt.

(9) Manufacturing—special classifications. The law provides several special classifications and rates for activities which constitute "manufacturing" as defined in this rule. These include manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, or sunflower seeds into sunflower oil (RCW 82.04.260(2)); splitting or processing dried peas (RCW 82.04.260(3)); manufacturing seafood products which remain in a raw, raw frozen, or raw salted state (RCW 82.04.260(4)); manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables (RCW 82.04.260(5)); and manufacturing nuclear fuel assemblies (RCW 82.04.260(9)). In all such cases the principles set forth in subsections (6) and (7) of this section concerning multiple tax classifications and credit provisions are also applicable.

(10) The special classification and rate for slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale (RCW 82.04.260(7)) combines manufacturing and nonmanufacturing activities into a single taxable business activity. For persons who break, slaughter, and/or process meat products for others, the statutory classification and rate are applicable to the value of products so processed and delivered to customers within this state and to interstate or foreign customers. The mere wholesale selling of perishable meat products not manufactured by the vendor is subject to the statutory classification and rate only upon gross receipts from sales within this state. Interstate or foreign sales are deductible from gross proceeds of sales. (See WAC 458-20-193A.)

(11) Manufacturing for commercial use. Persons who manufacture products in this state for their own commercial or industrial use are taxable under the classification manufacturing on the value of the products so manufactured and used. (See WAC 458-20-134 for definition of commercial or industrial use.)

(12) Processing for hire. Persons processing for hire for consumers or for persons other than consumers are taxable under the processing for hire classification upon the total charge made therefor.

(13) Materials furnished in part by customer. In some instances, the persons furnishing the labor and mechanical services undertakes to produce a new article, substance, or commodity from materials or ingredients furnished in part by them and in part by the customer. In such instances, tax liability is as follows:

(a) The persons furnishing the labor and mechanical services will be presumed to be the manufacturer if the value of the materials or ingredients furnished by them is equal to or exceeds 20% of the total value of all materials or ingredients which become a part of the finished product.

(b) If the person furnishing the labor and mechanical services furnishes materials constituting less than 20% of the value of all of the materials which become a part of the finished product, such person will be presumed to be processing

for hire. The person for whom the work is performed is the manufacturer in that situation, and will be taxable as such.

(e) In cases where the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, before processing, 20% or more in value of the materials from which the finished product is made, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and taxable as a manufacturer.

(14) Retail sales tax. Persons taxable as engaging in the business of manufacturing and selling at retail any of the products manufactured and persons manufacturing, fabricating, or processing for hire tangible personal property for consumers shall collect the retail sales tax upon the total charge made to their customers.

(15) Sales to processors for hire and to manufacturers of articles of tangible personal property which do not become an ingredient or component part of a new article produced, or are not chemicals used in processing the same, are retail sales, and the retail sales tax must be collected thereon. (However, see WAC 458-20-113 and 458-20-134 for certain express exemptions.)

(16) Use tax. Manufacturers are taxable under the use tax upon the use of articles manufactured by them for their own use in this state. (See WAC 458-20-113 and 458-20-134 for certain express exemptions.)

(17) See WAC 458-20-244 for sales and use tax on food products.) (1) **Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to manufacturers. It identifies the special tax classifications and rates that apply to specific manufacturing activities. The law provides a retail sales and use tax exemption for certain machinery and equipment used by manufacturers. Refer to RCW 82.08.02565, 82.12.02565, and WAC 458-20-13601 (Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment) for more information regarding this exemption. Persons engaging in both extracting and manufacturing activities should also refer to WAC 458-20-135 (Extracting natural products) and 458-20-13501 (Timber harvest operations).

(2) **Manufacturing activities.** RCW 82.04.120 explains that the phrase "to manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or articles of tangible personal property is produced for sale or commercial or industrial use. The phrase includes the production or fabrication of special-made or custom-made articles.

(a) "To manufacture" includes, but is not limited to:

(i) The production or fabrication of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician, effective October 1, 1998 (chapter 168, Laws of 1998);

(ii) The cutting, delimiting, and measuring of felled, cut, or taken trees;

(iii) The crushing and/or blending of rock, sand, stone, gravel, or ore; and

(iv) The cleaning (removal of the head, fins, or viscera) of fish.

(b) "To manufacture" does not include:

(i) The conditioning of seed for use in planting;

(ii) The cubing of hay or alfalfa;

(iii) The growing, harvesting, or producing of agricultural products;

(iv) The cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state;

(v) The packing of agricultural products, including sorting, washing, rinsing, grading, waxing, treating with fungicide, packaging, chilling, or placing in controlled atmospheric storage; and

(vi) The repairing and reconditioning of tangible personal property for others.

(3) **Manufacturers and processors for hire.** RCW 82.04.110 defines "manufacturer" to mean every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his or her own materials or ingredients any articles, substances, or commodities. However, a nonresident of the state of Washington who is the owner of materials processed for it in this state by a processor for hire is not deemed to be a manufacturer in this state because of that processing. Additionally, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

(a) The term "processor for hire" means a person who performs labor and mechanical services upon property belonging to others so that as a result a new, different, or useful article of tangible personal property is produced for sale or commercial or industrial use. Thus, a processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon his or her own materials.

(b) If a particular activity is excluded from the definition of "to manufacture," a person performing the labor and mechanical services upon materials owned by another is not a processor for hire. For example, the cutting, grading, or ice glazing of seafood that has been cooked, frozen, or canned outside this state is excluded from the definition of "to manufacture." Because of this exclusion, a person who performs these activities on seafood belonging to others is not a "processor for hire."

(c) A person who produces aluminum master alloys, regardless of the portion of the aluminum provided by that person's customer, is considered a "processor for hire." RCW 82.04.110. For the purpose of this specific provision, the term "aluminum master alloy" means an alloy registered with the Aluminum Association as a grain refiner or a hardener alloy using the American National Standards Institute designating system H35.3.

(d) In some instances, a person furnishing the labor and mechanical services undertakes to produce an article, substance, or commodity from materials or ingredients furnished in part by the person and in part by the customer. Depending on the circumstances, this person will either be considered a manufacturer or a processor for hire.

(i) If the person furnishing the labor and mechanical services furnishes materials constituting less than twenty percent of the value of all of the materials or ingredients which

become a part of the produced product, that person will be presumed to be processing for hire.

(ii) The person furnishing the labor and mechanical services will be presumed to be a manufacturer if the value of the materials or ingredients furnished by the person is equal to or greater than twenty percent of the total value of all materials or ingredients which become a part of the produced product.

(iii) If the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, before processing, twenty percent or more in value of the materials or ingredients from which the product is produced, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and considered a manufacturer.

(e) There are occasions where a manufacturing facility and ingredients used in the manufacturing process are owned by one person, while another person performs the actual manufacturing activity. The person operating the facility and performing the manufacturing activity is a processor for hire. The owner of the facility and ingredients is the manufacturer.

(4) Tax-reporting responsibilities for income received by manufacturers and processors for hire. Persons who manufacture products in this state are subject to the manufacturing B&O tax upon the value of the products, including by-products (see also WAC 458-20-112 regarding "value of products"), unless the activity qualifies for one of the special tax rates discussed in subsection (5), below. See also WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property).

For example, Corporation A stains door panels that it purchases. Corporation A also affixes hinges, guide wheels, and pivots to unstained door panels. Corporation B shears steel sheets to dimension, and slits steel coils to customer's requirements. The resulting products are sold and delivered to out-of-state customers. Corporation A and Corporation B are subject to the manufacturing B&O tax upon the value of these manufactured products. These manufacturing activities take place in Washington, even though the manufactured product is delivered out-of-state. A credit may be available if a gross receipts tax is paid on the selling activity to another state. (See also WAC 458-20-19301 on multiple activities tax credits.)

(a) Manufacturers who sell their products at retail or wholesale in this state are also subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the manufacturer must report under both the "production" (manufacturing) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a multiple activities tax credit (MATC). See also WAC 458-20-19301 for a more detailed explanation of the MATC reporting requirements.

For example, Incorporated purchases raw fish that it fillets and/or steaks. The resulting product is then sold at wholesale in its raw form to customers located in Washington. Incorporated is subject to both the manufacturing raw seafood B&O tax upon the value of the manufactured product, and the wholesaling B&O tax upon the gross proceeds of sale. Incorporated is entitled to claim a MATC.

(b) Processors for hire are subject to the processing for hire B&O tax upon the total charge made to those services, including any charge for materials furnished by the processor. The B&O tax applies whether the resulting product is delivered to the customer within or outside this state.

(c) The measure of tax for manufacturers and processors for hire with respect to "cost-plus" or "time and material" contracts includes the amount of profit or fee above cost received, plus the reimbursements or prepayments received on account of materials and supplies, labor costs, taxes paid, payments made to subcontractors, and all other costs and expenses incurred by the manufacturer or processor for hire.

(d) A manufacturing B&O tax exemption is available for the cleaning of fish, if the cleaning activities are limited to the removal of the head, fins, or viscera from fresh fish without further processing other than freezing. RCW 82.04.2403. Processors for hire performing these cleaning activities remain subject to the processing for hire B&O tax.

(e) Amounts received by hop growers or dealers for hops shipped outside the state of Washington for first use, even though the hops have been processed into extract, pellets, or powder in this state are exempt from the B&O tax. RCW 82.04.337. However, a processor for hire with respect to hops is not exempt on amounts charged for processing these products.

(f) Manufacturers and processors for hire making retail sales must collect and remit retail sales tax on all sales to consumers, unless the sale is exempt by law (e.g., see WAC 458-20-244 regarding sales of certain food products). A manufacturer or processor for hire making wholesale sales must obtain resale certificates from the customers to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 on resale certificates.)

(5) Manufacturing—Special tax rates/classifications. RCW 82.04.260 provides several special B&O tax rates/classifications for manufacturers engaging in certain manufacturing activities. In all such cases the principles set forth in subsection (4) of this rule concerning multiple activities and the resulting credit provisions are also applicable.

(a) Special tax classifications/rates are provided for the activities of:

(i) Manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, meal, or canola byproducts, or sunflower seeds into sunflower oil;

(ii) Splitting or processing dried peas;

(iii) Manufacturing seafood products, which remain in a raw, raw frozen, or raw salted state;

(iv) Manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables;

(v) Slaughtering, breaking, and/or processing perishable meat products and/or selling the same at wholesale and not at retail; and

(vi) Manufacturing nuclear fuel assemblies.

(6) Repairing and/or refurbishing distinguished from manufacturing. The term "to manufacture" does not include the repair or refurbishing of tangible personal property. To be considered "manufacturing," the application of labor or skill to materials must result in a "new, different, or useful article." If the activity merely restores an existing article of

tangible personal property to its original utility, the activity is considered a repair or refurbishing of that property. (See WAC 458-20-173 for tax-reporting information on repairs.)

(a) In making a determination whether an activity is manufacturing as opposed to a repair or reconditioning activity, consideration is given to a variety of factors including, but not limited to:

(i) Whether the activity merely restores or prolongs the useful life of the article;

(ii) Whether the activity significantly enhances the article's basic qualities, properties, or functional nature; and

(iii) Whether the activity is so extensive that a new, different, or useful article results.

(b) The following example illustrates the distinction between a manufacturing activity resulting in a new, different, or useful article, and the mere repair or refurbishment of an existing article. This example should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances. In cases of uncertainty, persons should contact the department for a ruling.

(i) Corporation rebuilds engine cores. When received, each core is assigned an individual identification number and disassembled. The cylinder head, connecting rods, crankshaft, valves, springs, nuts, and bolts are all removed and retained for reassembly into the same engine core. Unusable components are discarded. The block is then baked to burn off dirt and impurities, then blasted to remove any residue. The cylinder walls are rebored because of wear and tear. The retained components are cleaned, and if needed straightened and/or reground. Corporation then reassembles the cores, replacing the pistons, gaskets, timing gears, crankshaft bearings, and oil pumps with new parts. The components retained from the original engine core are incorporated only into that same core.

(ii) Corporation is under these circumstances not engaging in a manufacturing activity. The engine cores are restored to their original condition, albeit with a slightly larger displacement because of wear and tear. The cores have retained their original functional nature as they run with approximately the same efficiency and horsepower. The rebuilding of these cores is not so extensive as to result in a new, different, or useful article. Each engine core has retained its identity because all reusable components of the original core are reassembled in the same core. Corporation has taken an existing article and extended its useful life.

(7) Combining and/or assembly of products to achieve a special purpose as manufacturing. The physical assembly of products from various components is manufacturing because it results in a "new, different, or useful" product, even if the cost of the assembly activity is minimal when compared with the cost of the components. For example, the bolting of a motor to a pump, whether bolted directly or by using a coupling, is a manufacturing activity. Once physically joined, the resulting product is capable of performing a pumping function that the separate components cannot.

(a) In some cases the assembly may consist solely of combining parts from various suppliers to create an entirely different product that is sold as a kit for assembly by the pur-

chaser. In these situations, the manufacturing B&O tax applies even if the person combining the parts does not completely assemble the components, but sells them as a package. For example, a person who purchases component parts from various suppliers to create a wheelbarrow, which will be sold in a "kit" or "knock-down" condition with some assembly required by purchaser, is a manufacturer. The purchaser of the wheelbarrow kit is not a manufacturer, however, even though the purchaser must attach the handles and wheel.

(b) The department considers various factors in determining if a person combining various items into a single package is engaged in a manufacturing activity. Any single one of the following factors is not considered conclusive evidence of a manufacturing activity, though the presence of one or more of these factors raises a presumption that a manufacturing activity is being performed:

(i) The ingredients are purchased from various suppliers;

(ii) The person combining the ingredients attaches his or her own label to the resulting product;

(iii) The ingredients are purchased in bulk and broken down to smaller sizes;

(iv) The combined product is marketed at a substantially different value from the selling price of the individual components; and

(v) The person combining the items does not sell the individual items except within the package.

(c) The following examples should be used only as a general guide. The specific facts and circumstances of each situation must be carefully examined to determine if the combining of ingredients is a manufacturing activity or merely a packaging or marketing activity. In cases of uncertainty, persons combining items into special purpose packages should contact the department for a ruling.

(i) Combining prepackaged food products and gift items into a wicker basket for sale as a gift basket is not a manufacturing activity when:

(A) The products combined in the basket retain their original packaging;

(B) The person does not attach his or her own labels to the components or the combined basket;

(C) The person maintains an inventory for sale of the individual components and does sell these items in this manner as well as the combined baskets.

(ii) Combining bulk food products and gift items into a wicker basket for sale as a gift basket is a manufacturing activity when:

(A) The bulk food products purchased by the taxpayer are broken into smaller quantities; and

(B) The taxpayer attaches its own labels to the combined basket.

(iii) Combining components into a kit for sale is not a manufacturing activity when:

(A) All components are conceived, designed, and specifically manufactured by and at the person's direction to be used with each other;

(B) The person's label is attached to or imprinted upon the components by supplier;

(C) The person packages the components with no further assembly, connection, reconfiguration, change, or processing.

(8) Tax liability with respect to purchases of equipment or supplies and property manufactured for commercial or industrial use. The retail sales tax applies to purchases of tangible personal property by manufacturers and processors for hire unless the property becomes an ingredient or component part of a new article produced for sale, or is a chemical used in the processing of an article for sale. If the seller fails to collect the appropriate retail sales tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department. Refer to WAC 458-20-113 for additional information about what qualifies as an ingredient or component or a chemical used in processing.

(a) RCW 82.08.02565 and 82.12.02565 provide a retail sales and use tax exemption for certain machinery and equipment used by manufacturers and/or processors for hire. Refer to WAC 458-20-13601 for additional information regarding how these exemptions apply.

(b) Persons manufacturing tangible personal property for commercial or industrial use are subject to both the manufacturing B&O and use taxes upon the value of the property manufactured, unless a specific exemption applies. (See also WAC 458-20-134 on commercial or industrial use.) Persons who also extract the product used as an ingredient in a manufacturing process should refer to WAC 458-20-135 for additional information regarding their tax-reporting responsibilities.

NEW SECTION

WAC 458-20-13601 Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment. (1) **Introduction.** This rule explains the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565 for sales to or use by manufacturers or processors for hire of machinery and equipment (M&E) used directly in a manufacturing operation or research and development operation. This rule explains the requirements that must be met to substantiate a claim of exemption. For information regarding the distressed area sales and use tax deferral refer to WAC 458-20-24001 and chapter 82.60 RCW. For the high technology business sales and use tax deferral refer to chapter 82.63 RCW.

On and after July 25, 1999, a person engaged in testing for manufacturers or processors for hire is eligible to take the exemption, subject to the requirements explained below.

(2) **Legislative history.** The manufacturing machinery and equipment exemption, codified as RCW 82.08.02565 and 82.12.02565, became effective July 1, 1995. The exemption has since been the subject of a number of changes: See 1995 1st sp.s. c 3, 1996 c 173, 1996 c 247, 1998 c 330, and 1999 c 211. The 1995 legislation covered installation charges for qualifying machinery and equipment as well as replacement parts that increased the productivity, improved efficiency, or extended the useful life of the machinery and equipment.

(a) In 1996, the exemption was extended to include charges for repairing, cleaning, altering, or improving the machinery and equipment. The same act also revised the

definition of "machinery and equipment" to include tangible personal property that becomes an ingredient or component of the machinery and equipment, including repair and replacement parts. A second act extended the exemption to research and development engaged in by manufacturers or processors for hire. Both acts took effect June 6, 1996.

(b) In 1998, the duplicate certificate and annual reporting requirements were eliminated, effective June 11, 1998.

(c) In 1999, the 1995 legislation was clarified retroactively by ESHB 1887, chapter 211, Laws of 1999, to include certain logging and mining activities, segmented manufacturing, and off-site testing by manufacturers, and to explain that hand-powered tools were excluded. On July 25, 1999, the exemption was extended on a prospective basis to persons who perform third-party testing for manufacturers or processors for hire.

(3) **Definitions.** For purposes of the manufacturing machinery and equipment tax exemption the following definitions will apply.

(a) "Cogeneration" means the simultaneous generation of electrical energy and low-grade heat from the same fuel. See RCW 82.08.02565.

(b) "Device" means an item that is not attached to the building or site. Examples of devices are: Forklifts, chainsaws, air compressors, clamps, free standing shelving, software, ladders, wheelbarrows, and pulleys.

(c) "Industrial fixture" means an item attached to a building or to land. Fixtures become part of the real estate to which they are attached and upon attachment are classified as real property, not personal property. Examples of "industrial fixtures" are fuel oil lines, boilers, craneways, and certain concrete slabs.

(d) "Machinery and equipment" means industrial fixtures, devices, and support facilities, and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts. "Machinery and equipment" includes pollution control equipment installed and used in a qualifying operation to prevent air pollution, water pollution, or contamination that might otherwise result from the operation. "M&E" means "machinery and equipment."

(e) "Manufacturer" has the same meaning as provided in chapter 82.04 RCW.

(f) "Manufacturing" has the same meaning as "to manufacture" in chapter 82.04 RCW.

(g) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. A manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the processed material leaves the manufacturing site. The operation includes storage of raw materials at the site, the storage of in-process materials at the site, and the storage of the processed material at the site. The manufacturing operation is defined in terms of a process occurring at a location. To be eligible as a qualifying use of M&E, the use must take place within the manufacturing operation, unless specifically excepted by law. Storage of raw material or other tangible personal property, packaging of tangible personal property, and other activities that poten-

tially qualify under the "used directly" criteria, and that do not constitute manufacturing in and of themselves, are not within the scope of the exemption unless they take place at a manufacturing site. The statute specifically allows testing to occur away from the site.

The term "manufacturing operation" also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include the production of electricity by a light and power business as defined in RCW 82.16.010 or the preparation of food products on the premises of a person selling food products at retail.

(i) Neither duration or temporary nature of the manufacturing activity nor mobility of the equipment determine whether a manufacturing operation exists. For example, operations using portable saw mills or rock crushing equipment are considered "manufacturing operations" if the activity in which the person is engaged is manufacturing. Rock crushing equipment that deposits material onto a roadway is not used in a manufacturing operation because this is a part of the constructing activity, not a manufacturing activity. Likewise, a concrete mixer used at a construction site is not used in a manufacturing operation because the activity is constructing, not manufacturing. Other portable equipment used in nonmanufacturing activities, such as continuous gutter trucks or trucks designed to deliver and combine aggregate, or specialized carpentry tools, do not qualify for the same reasons.

(ii) Manufacturing tangible personal property for sale can occur in stages, taking place at more than one manufacturing site. For example, if a taxpayer processes pulp from wood at one site, and transfers the resulting pulp to another site that further manufactures the product into paper, two separate manufacturing operations exist. The end product of the manufacturing activity must result in an article, substance, or commodity for sale.

(h) "Processor for hire" has the same meaning as used in chapter 82.04 RCW and as explained in WAC 458-20-136.

(i) "Qualifying operation" means a manufacturing operation, a research and development operation, or, as of July 25, 1999, a testing operation.

(j) "Research and development operation" means engaging in research and development as defined in RCW 82.63.-010 by a manufacturer or processor for hire. RCW 82.63.010 defines "research and development" to mean: Activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the Federal Food and Drug Administration under chapter 21, C.F.R., as amended. The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer

software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(k) "Sale" has the same meaning as "sale" in chapter 82.08 RCW, which includes by reference RCW 82.04.040. RCW 82.04.040 includes by reference the definition of "retail sale" in RCW 82.04.050. "Sale" includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price.

(l) "Site" means the location at which the manufacturing or testing takes place.

(m) "Support facility" means a part of a building, or a structure or improvement, used to contain or steady an industrial fixture or device. A support facility must be specially designed and necessary for the proper functioning of the industrial fixture or device and must perform a function beyond being a building or a structure or an improvement. It must have a function relative to an industrial fixture or a device. To determine if some portion of a building is a support facility, the parts of the building are examined. For example, a highly specialized structure, like a vibration reduction slab under a microchip clean room, is a support facility. Without the slab, the delicate instruments in the clean room would not function properly. The ceiling and walls of the clean room are not support facilities if they only serve to define the space and do not have a function relative to an industrial fixture or a device.

(n) "Tangible personal property" has its ordinary meaning.

(o) "Testing" means activities performed to establish or determine the properties, qualities, and limitations of tangible personal property.

(p) "Testing operation" means the testing of tangible personal property for a manufacturer or processor for hire. A testing operation begins at the point where the tangible personal property enters the testing site and ends at the point where the tangible personal property leaves the testing site. The term also includes that portion of a cogeneration project that is used to generate power for consumption within the site of which the cogeneration project is an integral part. The term does not include the production of electricity by a light and power business as defined in RCW 82.16.010 or the preparation of food products on the premises of a person selling food products at retail. The testing operation is defined in terms of a process occurring at a location. To be eligible as a qualifying use of M&E, the use must take place within the testing operation, unless specifically excepted by law.

(4) **Sales and use tax exemption.** The M&E exemption provides a retail sales and use tax exemption for machinery and equipment used directly in a manufacturing operation or research and development operation. Sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying machinery and equipment are also exempt from sales tax. However, because the exemption is limited to items with a useful life of one year or more, some charges for repair, labor, services, and replacement parts may not be eligible for the exemption. In the case of labor and service charges that

cover both qualifying and nonqualifying repair and replacement parts, the labor and services charges are presumed to be exempt. If all of the parts are nonqualifying, the labor and service charge is not exempt, unless the parts are incidental to the service being performed, such as cleaning, calibrating, and adjusting qualifying machinery and equipment.

On and after July 25, 1999, the exemption may be taken for qualifying machinery and equipment used directly in a testing operation by a person engaged in testing for a manufacturer or processor for hire.

Sellers remain subject to the retailing B&O tax on all sales of machinery and equipment to consumers if delivery is made within the state of Washington, notwithstanding that the sale may qualify for an exemption from the retail sales tax.

(a) **Sales tax.** The purchaser must provide the seller with an exemption certificate. The exemption certificate must be completed in its entirety. The seller must retain a copy of the certificate as a part of its records. This certificate may be issued for each purchase or in blanket form certifying all future purchases as being exempt from sales tax. Blanket forms must be renewed every four years.

The form must contain the following information:

- (i) Name, address, and registration number of the buyer;
- (ii) Name of the seller;
- (iii) Name and title of the authorized agent of the buyer/user;
- (iv) Authorized signature;
- (v) Date; and
- (vi) Whether the form is a single use or blanket-use form.

A copy of a M&E certificate form may be obtained from the department of revenue on the Internet at <http://www.dor.wa.gov/>, under "Other forms and schedules" or by contacting the department's taxpayer services division at:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478

(b) **Use tax.** The use tax complements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any tangible personal property purchased at retail, where the user has not paid retail sales tax with respect to the purchase of the property used. (See also chapter 82.12 RCW and WAC 458-20-178.) If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the retail sales tax (commonly referred to as "deferred sales tax") or the use tax directly to the department unless the purchase and/or use is exempt from the retail sales and/or use tax. A qualifying person using eligible machinery and equipment in Washington in a qualifying manner is exempt from the use tax. If an item of machinery and equipment that was eligible for use tax or sales tax exemption fails to overcome the majority use threshold or is totally put to use in a nonqualifying manner, use tax is due on the fair market value at the time the item was put to nonqualifying use. See subsection (10) of this rule for an explanation of the majority use threshold.

(5) **Who may take the exemption.** The exemption may be taken by a manufacturer or processor for hire who manu-

factures articles, substances, or commodities for sale as tangible personal property, and who, for the item in question, meets the used directly test and overcomes the majority use threshold. (See subsection (9) of this rule for a discussion of the "used directly" criteria and see subsection (10) of this rule for an explanation of the majority use threshold.) However, for research and development operations, there is no requirement that the operation produce tangible personal property for sale. A processor for hire who does not sell tangible personal property is eligible for the exemption if the processor for hire manufactures articles, substances, or commodities that will be sold by the manufacturer. For example, a person who is a processor for hire but who is manufacturing with regard to tangible personal property that will be used by the manufacturer, rather than sold by the manufacturer, is not eligible. See WAC 458-20-136 and RCW 82.04.110 for more information. On and after July 25, 1999, persons who engage in testing for manufacturers or processors for hire are eligible for the exemption. To be eligible for the exemption, the taxpayer need not be a manufacturer or processor for hire in the state of Washington, but must meet the Washington definition of manufacturer.

(6) **What is eligible for the exemption.** Machinery and equipment used directly in a qualifying operation by a qualifying person is eligible for the exemption, subject to overcoming the majority use threshold.

There are three classes of eligible machinery and equipment: Industrial fixtures, devices, and support facilities. Also eligible is tangible personal property that becomes an ingredient or component of the machinery and equipment, including repair parts and replacement parts. "Machinery and equipment" also includes pollution control equipment installed and used in a qualifying operation to prevent air pollution, water pollution, or contamination that might otherwise result from the operation.

(7) **What is not eligible for the exemption.** In addition to items that are not eligible because they do not meet the used directly test or fail to overcome the majority use threshold, there are four categories of items that are statutorily excluded from eligibility. The following property is not eligible for the M&E exemption:

(a) **Hand-powered tools.** Screw drivers, hammers, clamps, tape measures, and wrenches are examples of hand-powered tools. Electric powered, including cordless tools, are not hand-powered tools, nor are calipers, plugs used in measuring, or calculators.

(b) **Property with a useful life of less than one year.** All eligible machinery and equipment must satisfy the useful life criteria, including repair parts and replacement parts. For example, items such as blades and bits are generally not eligible for the exemption because, while they may become component parts of eligible machinery and equipment, they generally have a useful life of less than one year. Blades generally having a useful life of one year or more, such as certain sawmill blades, are eligible. See subsection (8) of this rule for thresholds to determine useful life.

(c) **Buildings, other than machinery and equipment that is permanently affixed to or becomes a physical part of a building.** Buildings provide work space for people or shelter

machinery and equipment or tangible personal property. The building itself is not eligible, however some of its components might be eligible for the exemption. The industrial fixtures and support facilities that become affixed to or part of the building might be eligible. The subsequent real property status of industrial fixtures and support facilities does not affect eligibility for the exemption.

(d) Building fixtures that are not integral to the manufacturing operation, testing operation, or research and development operation that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical. Examples of nonqualifying fixtures are: Fire sprinklers, building electrical systems, or washroom fixtures. Fixtures that are integral to the manufacturing operation might be eligible, depending on whether the item meets the other requirements for eligibility, such as the used directly test.

(8) **The "useful life" threshold.** RCW 82.08.02565 has a per se exception for "property with a useful life of less than one year." Property that meets this description is not eligible for the M&E exemption. The useful life threshold identifies items that do not qualify for the exemption, such as supplies, consumables, and other classes of items that are not expected or intended to last a year or more. For example, tangible personal property that is acquired for a one-time use and is discarded upon use, such as a mold or a form, has a useful life of less than one year and is not eligible. If it is clear from taxpayer records or practice that an item is used for at least one year, the item is eligible, regardless of the answers to the four threshold questions. A taxpayer may work directly with the department to establish recordkeeping methods that are tailored to the specific circumstances of the taxpayer. The following steps should be used in making a determination whether an item meets the "useful life" threshold. The series of questions progress from simple documentation to complex documentation. In order to substantiate qualification under any step, a taxpayer must maintain adequate records or be able to establish by demonstrating through practice or routine that the threshold is overcome. Catastrophic loss, damage, or destruction of an item does not affect eligibility of machinery and equipment that otherwise qualifies. Assuming the machinery and equipment meets all of the other M&E requirements and does not have a single one-time use or is not discarded during the first year, useful life can be determined by answering the following questions for an individual piece of machinery and equipment:

(a) Is the machinery and equipment capitalized for either federal tax purposes or accounting purposes?

- If the answer is "yes," it qualifies for the exemption.

- If the answer is "no,"

(b) Is the machinery and equipment warranted by the manufacturer to last at least one year?

- If the answer is "yes," it qualifies for the exemption.

- If the answer is "no,"

(c) Is the machinery and equipment normally replaced at intervals of one year or more, as established by industry or business practice? (This is commonly based on the actual experience of the person claiming the exemption.)

- If the answer is "yes," it qualifies for the exemption.

- If the answer is "no,"

(d) Is the machinery and equipment expected at the time of purchase to last at least one year, as established by industry or business practice? (This is commonly based on the actual experience of the person claiming the exemption.)

- If the answer is "yes," it qualifies for the exemption.

- If the answer is "no," it does not qualify for the exemption.

(9) The "used directly" criteria. Items that are not used directly in a qualifying operation are not eligible for the exemption. The statute provides eight descriptions of the phrase "used directly." The manner in which a person uses an item of machinery and equipment must match one of these descriptions. If M&E is not "used directly" it is not eligible for the exemption. Examples of items that are not used directly in a qualifying operation are cafeteria furniture, safety equipment not part of qualifying M&E, packaging materials, shipping materials, or administrative equipment. Machinery and equipment is "used directly" in a manufacturing operation, testing operation, or research and development operation, if the machinery and equipment meets any one of the following criteria:

(a) Acts upon or interacts with an item of tangible personal property. Examples of this are drill presses, concrete mixers (agitators), ready-mix concrete trucks, hot steel rolling machines, rock crushers, and band saws. Also included is machinery and equipment used to repair, maintain, or install tangible personal property. Computers qualify under this criteria if:

(i) They direct or control machinery or equipment that acts upon or interacts with tangible personal property; or

(ii) If they act upon or interact with an item of tangible personal property.

(b) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site or the testing site. Examples of this are wheelbarrows, handcarts, storage racks, forklifts, tanks, vats, robotic arms, piping, and concrete storage pads. Floor space in buildings does not qualify under this criteria. Not eligible under this criteria are items that are used to ship the product or in which the product is packaged, as well as materials used to brace or support an item during transport.

(c) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property at the site or away from the site. Examples of "away from the site" are road testing of trucks, air testing of planes, or water testing of boats, with the machinery and equipment used off site in the testing eligible under this criteria. Machinery and equipment used to take readings or measurements is eligible under this criteria.

(d) Provides physical support for or access to tangible personal property. Examples of this are catwalks adjacent to production equipment, scaffolding around tanks, braces under vats, and ladders near controls. Machinery and equipment used for access to the building or to provide a work space for people or a space for tangible personal property or machinery and equipment, such as stairways or doors, is not eligible under this criteria.

(e) Produces power for or lubricates machinery and equipment. A generator providing power to a sander is an

example of machinery and equipment that produces power for machinery and equipment. An electrical generating plant that provides power for a building is not eligible under this criteria. Lubricating devices, such as hoses, oil guns, pumps, and meters, whether or not attached to machinery and equipment, are eligible under this criteria.

(f) Produces another item of tangible personal property for use in the manufacturing operation, testing operation, or research and development operation. Machinery and equipment that makes dies, jigs, or molds, and printers that produce camera-ready images are examples of this.

(g) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported.

(h) Is integral to research and development as defined in RCW 82.63.010.

(10) The majority use threshold.

(a) Machinery and equipment both used directly in a qualifying operation and used in a nonqualifying manner is eligible for the exemption only if the qualifying use satisfies the majority use requirement. Examples of situations in which an item of machinery and equipment is used for qualifying and nonqualifying purposes include: The use of machinery and equipment in manufacturing and repair activities, such as using a power saw to make cabinets in a shop versus using it to make cabinets at a customer location; the use of machinery and equipment in manufacturing and constructing activities, such as using a forklift to move finished sheet rock at the manufacturing site versus using it to unload sheet rock at a customer location; and the use of machinery and equipment in manufacturing and transportation activities, such as using a mixer truck to make concrete at a manufacturing site versus using it to deliver concrete to a customer. Majority use can be expressed as a percentage, with the minimum required amount of qualifying use being greater than fifty percent compared to overall use. To determine whether the majority use requirement has been satisfied, the person claiming the exemption must retain records documenting the measurement used to substantiate a claim for exemption or, if time, value, or volume is not the basis for measurement, be able to establish by demonstrating through practice or routine that the requirement is satisfied. Majority use is measured by looking at the use of an item during a calendar year using any of the following:

(i) Time. Time is measured using hours, days, or other unit of time, with qualifying use of the M&E the numerator, and total time used the denominator. Suitable records for time measurement include employee time sheets or equipment time use logs.

(ii) Value. Value means the value to the person, measured by revenue if the qualifying and nonqualifying uses both produce revenue. Value is measured using gross revenue, with revenue from qualifying use of the M&E the numerator, and total revenue from use of the M&E the denominator. If there is no revenue associated with the use of the M&E, such as in-house accounting use of a computer system, the value basis may not be used. Suitable records for value measurement include taxpayer sales journals, ledgers, account books, invoices, and other summary records.

(iii) Volume. Volume is measured using amount of product, with volume from qualifying use of the M&E the numerator and total volume from use of the M&E the denominator. Suitable records for volume measurement include production numbers, tonnage, and dimensions.

(iv) Other comparable measurement for comparison. The department may agree to allow a taxpayer to use another measure for comparison, provided that the method results in a comparison between qualifying and nonqualifying uses. For example, if work patterns or routines demonstrate typical behavior, the taxpayer can satisfy the majority use test using work site surveys as proof.

(b) Each piece of M&E does not require a separate record if the taxpayer can establish that it is reasonable to bundle M&E into classes. Classes may be created only from similar pieces of machinery and equipment and only if the uses of the pieces are the same. For example, forklifts of various sizes and models can be bundled together if the forklifts are doing the same work, as in moving wrapped product from the assembly line to a storage area. An example of when not to bundle classes of M&E for purposes of the majority use threshold is the use of a computer that controls a machine through numerical control versus use of a computer that creates a camera ready page for printing.

(c) Typically, whether the majority use threshold is met is decided on a case-by-case basis, looking at the specific manufacturing operation in which the item is being used. However, for purposes of applying the majority use threshold, the department may develop industry-wide standards. For instance, the aggregate industry uses concrete mixer trucks in a consistent manner across the industry. Based on a comparison of selling prices of the processed product picked up by the customer at the manufacturing site and delivery prices to a customer location, and taking into consideration the qualifying activity (interacting with tangible personal property) of the machinery and equipment compared to the nonqualifying activity (delivering the product) of the machinery and equipment, the department has determined that concrete trucks qualify under the majority use threshold. Only in those limited instances where it is apparent that the use of the concrete truck is atypical for the industry would the taxpayer be required to provide recordkeeping on the use of the truck in order to support the exemption.

WSR 00-11-097

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed May 17, 2000, 9:16 a.m.]

Date of Adoption: May 17, 2000.

Purpose: The purpose of this rule is to explain the circumstances under which persons may claim tax exemptions and credits related to ride sharing, public transportation, and nonmotorized commuting. It explains how persons may claim credits and how the Department of Revenue computes the credit when the state-wide credit limit is reached.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting.

Statutory Authority for Adoption: RCW 82.32.300, 82.04.4453, and 82.16.048.

Adopted under notice filed as WSR 00-03-001 on January 5, 2000.

Changes Other than Editing from Proposed to Adopted Version: One sentence was added at the beginning of subsection (6) to explain that the credit program expires December 31, 2000.

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.

May 17, 2000

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 99-08-035, filed 3/31/99, effective 5/1/99)

WAC 458-20-261 Exemptions and credits for ride sharing, public transportation, and nonmotorized commuting. (1) **Introduction.** This section explains the various tax credits and exemptions which apply in connection with ride sharing, public transportation, and nonmotorized commuting.

(2) **Definitions.** For purposes of this section, the following definitions apply, unless otherwise required by the context.

(a) "Ride sharing" and "commuter ride sharing" mean a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including the drivers, and (i) not fewer than five persons including the drivers, or (ii) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment. The transportation must be between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places

of employment or educational or other institution. The terms include ride sharing on Washington state ferries.

(b) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010(3) in a passenger motor vehicle as defined by the department of licensing to include small buses, cutaways, and modified vans not more than twenty-eight feet long. The driver need not be a person with special transportation needs.

(c) "Persons with special transportation needs" means those persons, including their personal attendants, who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase appropriate transportation.

(d) "Public transportation" means the transportation of passengers by means other than chartered or sightseeing bus, together with necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems. It includes passenger services of the Washington state ferries.

(e) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor. It does not include teleworking.

(3) **Business and occupation tax and public utility tax exemptions.** Amounts received from providing commuter ride sharing and ride sharing for persons with special transportation needs are exempt from the business and occupation tax and from the public utility tax. RCW 82.04.355 and 82.16.047.

(4) **Retail sales tax exemption.** RCW 82.08.0287 provides a retail sales tax exemption for sales of passenger motor vehicles as ride-sharing vehicles.

(a) Sales tax does not apply to sales of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from sales tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or

with a public transportation agency serving the area where the employees live or work.

(5) **Use tax exemption.** RCW 82.12.0282 provides a use tax exemption for the use of passenger motor vehicles as ride-sharing vehicles.

(a) Use tax does not apply to the use of passenger motor vehicles used for commuter ride sharing or ride sharing for persons with special transportation needs if the vehicles are exempt from motor vehicle excise tax under RCW 82.44.015 for thirty-six consecutive months beginning within thirty days of application for exemption from use tax. If the vehicle is used as a ride-sharing vehicle for less than thirty-six consecutive months, the registered owner must notify the department of revenue and pay the tax.

(b) Vehicles with five or six passengers, including driver, used for commuter ride sharing must be operated within a county having a commute trip reduction plan under chapter 70.94 RCW in order to be purchased without payment of sales tax. In addition, for the exemption to apply at least one of the following conditions must apply:

(i) The vehicle must be operated by a public transportation agency for the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524, as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work.

(6) **Business and occupation tax and public utility tax credit.** The credit program described in this subsection expires December 31, 2000. Employers in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of employees for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. Property managers who manage worksites in Washington are allowed a credit against their business and occupation tax and public utility tax liability for amounts paid to or on behalf of persons employed at those worksites for ride sharing in vehicles carrying two or more persons, using public transportation, or using nonmotorized commuting. RCW 82.04.4453 and 82.16.048. ~~((Employers must provide incentives before June 30, 2000, to be eligible for the credit. The credit program expires December 31, 2000.))~~ Property managers became eligible for these credits on July 25, 1999. Chapter 402, Laws of 1999.

(a) In ~~((most cases))~~ general, the amount of the credit for employers is equal to the amount paid to or on behalf of each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. For property managers, the amount of the credit, in most cases, is equal to the amount paid to or on behalf of each person employed at the worksite, but may not exceed sixty dollars per employee per year. However, for ride sharing in vehicles carrying two persons, the credit for both employers and property managers is equal to the amount paid to or on behalf of each employee multiplied by thirty percent, but may not exceed sixty dollars per

employee per year. The credit is based upon amounts paid to or on behalf of individual employees, and may not be based upon an average of amounts paid to or on behalf of employees for qualifying purposes.

(b) The credit may not exceed the amount of business and occupation tax or public utility tax that would otherwise be due for the same calendar year after all other credits are applied.

(c) ~~((An employer))~~ A person may not receive credit for amounts paid to or on behalf of the same employee under both the business and occupation tax and the public utility tax.

(d) A person may not take a credit for amounts claimed for credit by other persons.

(e) The total credit received by ~~((an employer))~~ a person against both the business and occupation tax and the public utility tax may not exceed one hundred thousand dollars for a calendar year.

~~((e))~~ (f) The total credit granted to all ~~((employers))~~ persons under both the business and occupation tax and the public utility tax may not exceed ~~((one))~~ two million ~~((five))~~ two hundred fifty thousand dollars for a calendar year. The total credit granted may be limited to less than two million two hundred fifty thousand dollars for any particular calendar year, depending on the availability of funding.

~~((f))~~ (g) No credit or portion of a credit denied because of exceeding the limitations in ~~((d) or (e))~~ (e) or (f) of this subsection may be used against tax liability for other calendar years.

(7) **Credit procedures.** This subsection explains the procedures used in the credit program described in subsection (6) of this rule.

(a) Persons apply for the credit by completing a ride share credit reporting schedule and filing it with the combined excise tax return covering the period for which the credit is claimed. The ride share credit reporting schedule is available upon request from the department of revenue.

(b) Persons may not apply for the credit more frequently than once per quarter nor less frequently than once per year against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to or on behalf of employees.

(c) Credit must be claimed by the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(i) Credit not previously claimed may not be claimed for the first time on supplemental or amended tax returns filed after the due date of the last tax return for the calendar year in which the payment to or on behalf of employees was made.

(ii) If the department of revenue has granted an extension of the due date for the last tax return for the calendar year in which the payment to or on behalf of employees was made, the credit must be claimed by the extended due date.

(d) The department of revenue tabulates the amount of credit taken by all ~~((employers))~~ persons on a quarterly basis. If the annual ~~((maximum))~~ allowable amount of ~~((one million five hundred thousand dollars in))~~ credit is exceeded in a given quarter, no further credit will be allowed in succeeding quarters in the same calendar year. For the quarter in which

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the maximum is exceeded, the department of revenue calculates the amount of credit available at the beginning of the quarter and determines the proportional share of that amount for every ((employer)) person who has claimed a credit in the quarter. ((Employers)) These persons are billed for the difference between the amount of credit they claimed and the prorated amount of credit for which they are eligible.

(8) **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) An employer pays one hundred eighty dollars for a yearly bus pass for one employee. For another employee, the employer buys a bicycle helmet and bicycle lock for a total of fifty dollars. This is the total expenditure during a calendar year of amounts paid to or on behalf of employees in support of ride sharing, using public transportation, and using non-motorized commuting. The employer may claim a credit of sixty dollars for the amount spent for the employee using the bus pass. Fifty percent of one hundred eighty dollars is ninety dollars, but the credit is limited to sixty dollars per employee. The employer may claim a credit of twenty-five dollars (fifty percent of fifty dollars) for the amount spent for the employee who bicycles to work. Even though fifty percent of two hundred thirty dollars, the amount spent on both employees, works out to be less than sixty dollars per employee, the credit is computed by looking at actual spending for each employee and not by averaging the spending for both employees.

(b) An employer provides parking spaces for the exclusive use of ride-sharing vehicles. Amounts spent for signs, painting, or other costs related to the parking spaces do not qualify for the credit. This is because the credit is for financial incentives paid to or on behalf of employees. While the parking spaces support the use of ride-sharing vehicles, they are not financial incentives and do not involve amounts paid to or on behalf of employees.

(c) As part of its commute trip reduction program, an employer pays the cab fare for an employee who has an emergency and must leave the workplace but has no vehicle available because he or she commutes by ride-sharing vehicle. The cab fare qualifies for the credit, if it does not cause the sixty dollar limitation to be exceeded, because it is an amount paid on behalf of a specific employee.

(d) An employer pays the property manager for a yearly bus pass for one employee who works at the worksite managed by the property manager. The property manager in turn pays the amount received from the employer to a public transportation agency to purchase the bus pass. Either the employer or the property manager, but not both, may take the credit for this expenditure.

WSR 00-11-098
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 17, 2000, 3:46 p.m., effective August 1, 2000]

Date of Adoption: May 17, 2000.

Purpose: We adopted new rules in chapters 296-27 and 296-350 WAC because:

- Some of the rules are outdated and inconsistent with current policy.
- Many of the rules are written poorly, thus confusing.
- Other rules are unnecessary and should be repealed.
- The chapters are poorly organized and contain rules on the same subject in different locations.

Inspections and Citations. The new rules clarify and simplify the previous rules for inspections and citations, making them easier to understand. We moved the rules related to inspections from chapter 296-27 WAC into chapter 296-350 WAC, improving the organization and making them easier to find. We repealed unnecessary rules and removed outdated language.

Civil Penalties. We adopted new rules explaining how WISHA calculates and assesses civil penalties to provide employers with advance notice. For several years, employers have complained that the penalty assessment process seems arbitrary, mysterious, and unfair. This has led to an increase in WISHA appeals, as well as increased anger towards the regulatory process. Additionally, several judges at the Board of Industrial Insurance Appeals have requested that we adopt WAC rules about how we calculate penalties. The new rules will help to increase public awareness and lessen the confusion surrounding penalties.

WISHA Appeals. The previous rules about when the department reassumes jurisdiction of citations and notices were ambiguous. Many people affected by those rules often could not easily understand their rights or what was expected of them. We wrote the new rules in plain language to make them easier to understand.

Variations from WISHA rules. The new rules clarify and simplify the previous wording, making them easier to understand. We removed outdated language.

This adoption is part of the agency's implementation of the Governor's Executive Order on Regulatory Improvement 97-02, and part of our effort to improve WISHA safety and health rules. It eliminates outdated and unnecessary rules; makes the previous rules much easier to understand; improves the organization of the rules; and gives employers notice of department policies that directly affect them. These are interpretive rules.

Citation of Existing Rules Affected by this Order:

Amended sections: WAC 296-350-010 Definitions.

Repealed sections: Chapter 296-27 WAC, WAC 296-27-150 Effective dates of regulations, 296-27-160 Safety and health inspections, 296-27-16001 Definitions, 296-27-16002 Inspection hours, 296-27-16003 Inspection format, 296-27-16004 Interprogram referrals, 296-27-16007 Citations, penalty assessments and notices of violations, 296-27-16011 Refusal or limitation of inspection, 296-27-16018 Compliance inspections, 296-27-16020 Inspection selection, sched-

uling criteria, and limit on number of inspections, 296-27-16022 Unprogrammed inspections, follow-up inspections, monitoring inspections, and "high hazard" inspections, 296-27-16026 Programmed inspections, chapter 296-350 WAC, WAC 296-350-020 Reassumption of jurisdiction—Purpose, 296-350-030 Notice of appeal—Filing and service, 296-350-040 Notice of appeal—Contents, 296-350-050 Reassumption of jurisdiction—Time—Notice of reassumption of jurisdiction and informal conference, 296-350-060 Notices of reassumption of jurisdiction and informal conferences—Service—Posting record, 296-350-070 Reassumption of jurisdiction—Informal conferences—Procedure—Evidence, 296-350-080 Reassumption of jurisdiction—Final determination—Mailing, 296-350-090 Reassumption of jurisdiction—Statement of redetermination—Appeal, 296-350-095 Settlement agreements, 296-350-200 Variances—Foreword, 296-350-210 Types of orders granting a variance, 296-350-230 Effect of variances, 296-350-240 Variance applications—Form of documents—Subscription, 296-350-250 Order granting a temporary variance—Application, 296-350-255 Order granting a permanent variance—Application, 296-350-260 Interim order—Application—Notice of grant, 296-350-270 Notice of denial of application for variance, 296-350-280 Hearings on applications for variances—Temporary and permanent, 296-350-400 Posting notices—Posting of citation and notice—Availability of act and applicable standard, 296-350-450 Complaints by employees or their representatives, 296-350-460 Complaints—Inspection not warranted—Informal review, and 296-350-470 Citation not issued following complaint.

New sections: WAC 296-350-100 Inspections and citations, 296-350-10010 Selecting workplaces to inspect, 296-350-10020 Inspections—Site visit, 296-350-10030 Complaints by employees or employee representatives, 296-350-10040 Results of a WISHA inspection—Notice of violations, 296-350-10050 Posting a citation and notice, 296-350-150 Civil penalties, 296-350-15010 Assessing civil penalties—Purpose, 296-350-15015 Minimum penalty amounts, 296-350-15020 Severity and probability determines base penalties, 296-350-15025 Severity, 296-350-15030 Probability, 296-350-15035 Gravity and base penalties, 296-350-15040 Adjustments to base penalties, 296-350-15045 Increasing penalty amounts, 296-350-600 WISHA appeals, 296-350-60010 Filing an appeal—Who, when and where, 296-350-60015 What must be in a WISHA appeal, 296-350-60020 Why we reassume jurisdiction, 296-350-60025 Reassuming jurisdiction or forwarding an appeal to the board, 296-350-60030 Reviewing appeals and extending review time, 296-350-60035 Informal WISHA conferences, 296-350-60040 Issuing and appealing corrective notices, 296-350-60045 Notifying employees, 296-350-700 Variance from WISHA rules, 296-350-70010 Purpose of variances, 296-350-70015 Permanent variances—Description, 296-350-70020 Temporary variances—Description, 296-350-70025 Interim orders—Description and requesting, 296-350-70030 Requesting a permanent variance, 296-350-70035 Requesting a temporary variance, 296-350-70040 Renewing temporary variances, 296-350-70045 Submitting variance requests, 296-350-70050 Notifying employees about variance requests, 296-350-70055 Department review and decision,

296-350-70060 Your responsibilities once we make a decision, 296-350-70065 Changing a variance, and 296-350-70070 Variance hearings

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 00-05-058 on February 15, 2000.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made to the WISHA administrative rules proposal.

WAC 296-350-010 Definitions.

- **Permanent variance:** Added the word "an."
- **Variance:** Changed the word "variances" to "variance" for consistency.

WAC 296-350-100 Inspections and citations. Changed the first sentence from second person to third person to avoid using the word "you" when it applies to anyone reading the rules and not just employers. This change is based on public comment.

WAC 296-350-10010 Selecting workplaces to inspect.

- In subsection (1), added a new bullet point to include other factors like history of employee complaints. This change is based on public comment.
- In subsection (4), added the word "or" because it was inadvertently left out of proposal.

WAC 296-350-10020 Inspections—Site visit. In subsection (2), we added the phrase "on or off the work site" and removed "any" to clarify where we may question people and to keep all the items in the list parallel. This change is based on public comment.

WAC 296-350-10050 Posting a citation and notice.

- Added the word "immediately" from the previous rule in WAC 296-350-400 (8)(b).
- Deleted the second bullet because this is a new requirement that we inadvertently added in the proposal. The department, not employers, sends copies of citation and notices to employee representatives when they ask us to do so. Moved providing a copy to employee representatives to last bullet point because it is a good example of other appropriate means for notifying employees who cannot [or] may not see notices on the safety bullet board.
- Changed the wording in the third bullet to fit with removing the second bullet.
- Added two examples of other appropriate means. Safety committee is added based on public comment.

WAC 296-350-150 Civil penalties. Changed the first sentence from second person to third person to avoid using the word "you" when it applies to anyone reading the rules and not just employers. This change is based on public comment.

WAC 296-350-15010 Assessing civil penalties—Purpose.

- Changed the first bullet point to clarify that penalties are issued for violations of health and safety rules, regulations, or statutes.
- In the second bullet point, we changed "alleging" to "for" and added several examples of other circumstances specified by statute for clarity.
- In the third bullet, we changed the wording to better explain how penalties level the playing field.

- Made similar changes to WAC 296-350-70050 Notifying employees about variance requests, keeping the wording consistent throughout these rules.

WAC 296-350-15025 Severity. In Table 1: Severity ratings, under severity of 3 we added the phrase "beyond first aid" to clarify.

WAC 296-350-15040 Adjustments to base penalties. Changed subsection (4) to clarify maximum penalty amount.

WAC 296-350-15045 Increasing penalty amounts.

- In subsection (1), we added the word "substantially" to maintain wording from the previous rule.
- In subsection (1), we added the phrase "inspection with a" to more accurately explain how repeat violations are calculated.

WAC 296-350-600 WISHA appeals. Changed the first sentence from second person to third person to avoid using the word "you" when it applies to anyone reading the rules and not just employers. This change is based on public comment.

WAC 296-350-60010 Filing an appeal—Who, when and where. In subsection (2), we changed the last sentence from second person to third person, because employees and their representatives may file an appeal. This change is based on public comment.

WAC 296-350-60020 Why we reassume jurisdiction. Added a sentence to explain what it means when we reassume jurisdiction.

WAC 296-350-60045 Notifying employees. Added the word "immediately" to clarify when employers must post correspondence related to an appeal. This change is based on public comment.

WAC 296-350-700 Variance from WISHA rules. Changed the first sentence from second person to third person to avoid using the word "you" when it applies to anyone reading the rules and not just employers. This change is based on public comment.

WAC 296-350-70020 Temporary variances—Description.

- In subsection (1), added the word "new" to indicate when you may request variances for new WISHA requirements. This change is based on public comment.
- In subsection (1), changed the paragraph to correct an error in the proposal. The bullet points are part of the first sentence and may have caused confusion as written in the proposal.

WAC 296-350-70030 Requesting a permanent variance.

- In subsection (1), added the phrase "and signed by you or your representative" to maintain wording from the previous rule. This change is based on public comment.
- In subsection (1), added the word "specific" and a new bullet point to the list of things to clarify what employers need to submit with variance requests. This change is based on public comment.

WAC 296-350-70035 Requesting a temporary variance.

- Changed the first sentence to be like the wording in WAC 296-350-70030 Requesting a permanent variance.

- Added that a variance must be in writing and signed by you or your representative. This change is based on public comment.
- Added the phrase "a specific explanation of" to explain the appropriate type of information that must be included on the variance request. This change is based on public comment.
- Added a bullet that the request must be from a qualified person having first hand knowledge of the facts. This repeats language in the statute, but based on public comment, we felt it was good to add this for clarity.

WAC 296-350-70050 Notifying employees about variance requests. Changed the wording to be like WAC 296-350-10050 for consistency.

- Deleted the second bullet because this is a new requirement that we inadvertently added in the proposal. The department, not employers, sends copies of citation and notices to employee representatives when they ask us to do so. Moved providing a copy to employee representative to last bullet point because it is a good example of other appropriate means for notifying employees who may not see notices on the safety bullet board.
- Changed the wording in the third bullet to fit with removing the second bullet.
- Added two examples of other appropriate means. Safety committee is added based on public comment.

WAC 296-350-70055 Department review and decision.

- In subsection (2), added a sentence to explain that variances will not be retroactive. This change is based on public comment.

WAC 296-350-70060 Your responsibilities once we make a decision. Added the word "immediately" to clarify when employees must be notified. This change is based on public comment. Made a similar change to WAC 296-350-10050 and 296-350-60045.

WAC 296-350-70070 Variance hearings.

- In subsection (4), deleted the reference to brief adjudicative proceedings. We had added this to the proposal and realized that this was too formal of a process based on public comment.
- In subsection (4), added the phrase "and provide any relevant documents or information" to better explain what would happen at a hearing. This change is based on public comment.
- In subsection (5), we added the phrase "your employees, or employee representatives" to indicate that all parties attending the hearing may request a copy of the tape or recording, if one is available.

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 38, Amended 1, Repealed 34.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 38, Amended 1, Repealed 34.

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 38, Amended 1, Repealed 34.
Effective Date of Rule: August 1, 2000.

May 17, 2000
Gary Moore
Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-27-150 Effective date of regulations.
- WAC 296-27-160 Safety and health inspections.
- WAC 296-27-16001 Definitions.
- WAC 296-27-16002 Inspection hours.
- WAC 296-27-16003 Inspection format.
- WAC 296-27-16004 Interprogram referrals.
- WAC 296-27-16007 Citations, penalty assessments and notices of violations.
- WAC 296-27-16011 Refusal or limitation of inspection.
- WAC 296-27-16018 Compliance inspections.
- WAC 296-27-16020 Inspection selection, scheduling criteria, and limit on number of inspections.
- WAC 296-27-16022 Unprogrammed inspections, follow-up inspections, monitoring inspections, and "high hazard" inspections.
- WAC 296-27-16026 Programmed inspections.

Chapter 296-350 WAC

((REASSUMPTION OF JURISDICTION PURSUANT TO RCW 49.17.140)) WISHA ADMINISTRATIVE RULES

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-350-010 Definitions. ~~((1) The definitions and interpretations of RCW 49.17.020 shall apply to the provisions of this chapter unless the context of the provision clearly requires otherwise.~~

~~(2) "Presiding officer" means that person designated by the director as being responsible for the conducting of the informal conference provided for in RCW 49.17.140(3) and WAC 296-350-070.~~

~~(3) "Act" means the Washington Industrial Safety and Health Act (chapter 80, Laws of 1973; chapter 49.17 RCW) as now or hereafter amended.~~

~~(4) "Assistant director" shall mean the assistant director of consultation and compliance of the department, or his/her designated representative.~~

~~(5) "Citation" shall mean that CITATION issued to an employer in accordance with the provisions of RCW 49.17.120, otherwise known as a CITATION AND NOTICE (Form No. WISHERS-110.)~~

~~(6) "Abatement date" shall mean the date identified as such on the CITATION. The "abatement date" is the date by which the condition identified in the CITATION must be brought into compliance with the cited safety and health standard.~~

~~(7) "Division" shall mean the division of consultation and compliance of the department.) The following definitions apply to terms used in chapter 296-350 WAC.~~

Abatement date means the date on the citation when you must comply with specific safety and health standards listed on the citation and notice of assessment or the corrective notice of redetermination.

Board means the board of industrial insurance appeals.

Citation and notice refers to the citation issued to an employer under RCW 49.140.120 for any violations of WISHA safety and health rules, also known as a citation and notice of assessment.

Corrective notice refers to a corrective notice of redetermination issued after we have reassumed jurisdiction over a citation and notice.

Interim order is an order we grant allowing you to vary from WISHA requirements until we have determined whether to grant either a permanent or temporary variance.

Our refers to the department of labor and industries.

Permanent variance is an order we grant allowing you to vary from WISHA requirements when you use an alternate means that provides equal worker protection. It is in effect until we modify or revoke it.

Temporary variance is an order we grant allowing you to vary from WISHA requirements under certain circumstances (see WAC 296-350-70020).

Us refers to the department of labor and industries.

Variance refers to any order granted by us allowing you to vary from WISHA safety and health rules, including a permanent variance, temporary variance, or interim order.

We means the WISHA services division of the department of labor and industries and any other divisions charged with enforcing chapter 49.17 RCW, Washington Industrial Safety and Health Act.

Working days mean weekdays that do not fall on state holidays (see RCW 1.16.050 for a complete description of state holidays). State holidays include:

- January 1—New Year's Day;
- Martin Luther King, Jr. Day;
- Presidents' Day;
- Memorial Day;
- July 4—Independence Day;
- Labor Day;

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- November 11—Veterans' Day;
- Thanksgiving Day;
- The day after Thanksgiving Day; and
- December 25—Christmas Day.

You means the employer as defined in RCW 49.17.020.

Your refers to the employer as defined in RCW 49.17.020.

INSPECTIONS AND CITATIONS

NEW SECTION

WAC 296-350-100 Inspections and citations. Rules covering WISHA inspections and citations are found in WAC 296-350-10010 through 296-350-10050. These rules interpret chapter 49.17 RCW. These inspections are distinct from other services provided by us, such as, no fee consultations and other technical assistance.

NEW SECTION

WAC 296-350-10010 Selecting workplaces to inspect. (1) Programmed inspections. We identify hazardous workplaces to inspect based on objective criteria. We use inspection, scheduling systems that may look at any of the following:

- Type of industry;
- Available data of injuries and illnesses where an inspection might eliminate the hazards causing them;
- The employer's industrial insurance experience;
- The number, type and toxicity of contaminants at the workplace;
- The degree of exposure to hazards;
- The number of employees exposed; and
- Other relevant factors (such as, history of employee complaints).

(2) We review the scheduling systems periodically, and may adjust the factors used and the weight given to each factor.

(3) We may conduct routine programmed inspections in the following high hazard industries:

- Agriculture;
- Asbestos renovation and demolition;
- Construction;
- Electrical utilities and communications;
- Logging; and
- Maritime.

(4) We conduct "unprogrammed inspections" of workplaces we believe may be in violation of safety or health rules or chapter 49.17 RCW, Washington Industrial Safety and Health Act. Unprogrammed inspections may result from:

- Complaints from employees, former employees, or employee representatives who believe they are or have been exposed to a hazard because of a violation; or
- Referrals from anyone else who reasonably believes workers under our jurisdiction are exposed to a hazard at work because of a violation.

We may also initiate comprehensive inspections based on such investigations.

(5) We investigate workplace deaths and serious injuries or illnesses to determine whether they were caused by a violation of safety or health rules or chapter 49.17 RCW, Washington Industrial Safety and Health Act. We may also initiate comprehensive inspections based on such investigations.

(6) We inspect workplaces when we have reason to believe that employees may be in imminent danger of serious injury or death.

(7) Scheduling of WISHA inspections is intended to distribute available staff as efficiently as possible to ensure the maximum level of worker protection.

(8) We may conduct follow-up inspections to verify that you have abated any hazard for which you were previously cited.

NEW SECTION

WAC 296-350-10020 Inspections—Site visit. (1) During the physical inspection of the workplace, the inspector may:

- Take samples, photographs, video tapes, or audio tapes;
- Conduct tests;
- Have employees wear sampling devices;
- Conduct interviews; and
- Employ other reasonable investigative techniques.

(2) We can privately question any of the following—on or off the worksite:

- You;
- Your representative;
- Owner;
- Operator;
- Employee; or
- Employee representative.

NEW SECTION

WAC 296-350-10030 Complaints by employees or employee representatives. (1) The name of the person who files a complaint with us and the names of any individual employees referred to in the complaint will be removed from the copy of the complaint we give to you, unless the person making the complaint gives us written permission to release the names.

(2) We will provide the results of any complaint inspection to the person making a complaint, or we will inform the person making a complaint if we decide not to conduct an inspection as a result of the complaint.

(3) We will review the decision not to conduct an inspection or not to issue a citation with respect to any violation alleged in the complaint, if requested in writing by the person making a complaint. We will notify the person in writing the results of that review. If complainants are not satisfied after an initial review, they may request that the assistant director for WISHA services or a designee review the file.

NEW SECTION

WAC 296-350-10040 Results of a WISHA inspection—Notice of violations. If we find safety or health violations, we will mail a citation and notice to you no more than

six months following the inspection or investigation. The citation and notice will include any violations found, any penalties, and how much time you have to correct the violations. Normally when we do not find any violations, we will send you a citation and notice with a message indicating that no violations were found.

NEW SECTION

WAC 296-350-10050 Posting a citation and notice. When you receive a citation and notice, or any correspondence related to an employee complaint, you must immediately notify your employees by:

- Posting it on your safety bulletin board for three working days or until all violations have been abated, whichever is longer; and
- Using other appropriate means for employees who cannot be expected to receive notices posted on the safety bulletin board (such as, providing a copy to an authorized employee representative or the safety committee).

CIVIL PENALTIES

NEW SECTION

WAC 296-350-150 Civil penalties. Rules covering WISHA's use of civil penalties are found in WAC 296-350-150 through 296-350-15045. These rules interpret RCW 49.17.180.

NEW SECTION

WAC 296-350-15010 Assessing civil penalties—Purpose.

- We may assess civil penalties when a citation and notice is issued for any violation of health and safety rules, regulations, or statutes found during an inspection.
- We will assess civil penalties when we issue a citation for a serious violation, as well as under certain other circumstances specified by statute (such as, RCW 49.17.180, 49.26.016, 49.70.177, and 49.70.190).
- Civil penalties promote compliance by encouraging employers to correct violations before an inspection takes place, and therefore to avoid the risk of a penalty. Civil penalties help to promote a "level playing field" for employers complying with the laws by assessing penalties from those who do not comply.

NEW SECTION

WAC 296-350-15015 Minimum penalty amounts.

- Any penalty assessed will be at least \$100.
- Penalties for willful violations will be at least \$5,000 per violation.

HOW PENALTIES ARE CALCULATED

NEW SECTION

WAC 296-350-15020 Severity and probability determine base penalties. Except where otherwise specified by statute, we determine the base penalty for a violation by evaluating:

- The severity of the injury, illness, or disease that could result from the alleged hazard; and
- The probability that an injury, illness, or disease could occur as a result of the alleged hazard.

NEW SECTION

WAC 296-350-15025 Severity. Severity rates how serious the injury, illness, or disease might be relative to the hazardous condition. Severity ranges from one (lowest) to six (highest), using whole numbers. Severity is based on the most serious injury, illness, or disease that could reasonably be expected to result from a hazardous condition (see Table 1). We use severity when calculating a penalty. A violation with a severity of 4, 5, or 6 will be a serious violation.

Table 1: Severity Ratings

Severity	Most serious injury, illness, or disease likely to result in:
6	Death from injury, illness or disease; injuries involving permanent severe disability; chronic, irreversible illness.
5	Permanent disability of a limited or less severe nature; injuries or reversible illnesses resulting in hospitalization.
4	Injuries or temporary, reversible illnesses resulting in serious physical harm (but less than 5 or 6 above) and may require removal from exposure or supportive treatment without hospitalization for recovery.
3	Injuries or illness would probably not cause death or serious physical harm, but violations have at least major impact and an indirect relationship to serious injury, illness or disease. Violations could have direct and immediate relationship to safety and health of employees. No need for medical treatment beyond first aid.
2	Nonserious or general violations of minor impact, including violations that have an indirect relationship to nonserious injury, illness or disease. No injury, illness or disease without additional violations.
1	No injury, and not likely to result in injury in the presence of other violations.

PERMANENT

NEW SECTION

WAC 296-350-15030 Probability. Probability rates how likely it is that an injury, illness or disease will occur. It is scored from one (lowest probability) to six (highest probability), using whole numbers. We will consider the number of employees affected when determining probability. Probability does not change the severity.

Other factors we may consider, depending on the situation, include:

- Frequency of employee exposure;
- Instances (number of times the same violation occurs in the workplace);
- How close an employee is to the hazard;
- Weather and other working conditions;
- Employee skill level;
- Employee awareness of the hazard;
- The pace, speed, and nature of the task or work;
- Use of personal protective equipment;
- Amount of exposure (for health violations); and
- Other mitigating or contributing circumstances.

NEW SECTION

WAC 296-350-15035 Gravity and base penalties. We calculate most base penalties by assigning a weight, called gravity, to a violation. Gravity is calculated by multiplying the severity of a violation (see WAC 296-350-15025) by its probability (see WAC 296-350-15030).

Formula for gravity:

Gravity = Severity x Probability

We use Table 2 to determine the dollar amount for each base penalty. Some rules specify penalty amounts for certain violations.

Table 2: Penalty Amount Using Gravity

Gravity	Base Penalty
1	\$100
2	\$200
3	\$300
4	\$400
5	\$500
6	\$1000
8	\$1500
9	\$2000
10	\$2500
12	\$3000
15	\$3500
16	\$4000
18	\$4500
20	\$5000
24	\$5500
25	\$6000

Gravity	Base Penalty
30	\$6500
36	\$7000

NEW SECTION

WAC 296-350-15040 Adjustments to base penalties.

After determining the base penalty, we consider the employer's good faith, size and history when deciding whether to adjust the penalty amount. No adjustments are made for penalties specified by statute.

(1) Good faith adjustments.

An employer's level of good faith may justify increasing or decreasing the base penalty.

No single factor determines good faith. Good faith is a reflection of your efforts before the inspection to provide a safe and healthful workplace for your employees and your efforts to comply with the standard violated. Your cooperation during the inspection may also be considered to the extent that it reflects your attitude toward complying with the cited standard, including immediate efforts to abate the identified hazard.

Table 3: Good Faith Adjustments

Good Faith Rating	Adjustment to base penalty
Excellent	35% reduction
Good	20% reduction
Average	no adjustment
Poor	20% increase

(2) Size adjustments.

The number of employees at all of your workplaces in the state of Washington will determine any size adjustments to the penalty amount.

Table 4: Size Adjustments

Number of employees	Adjustment to base penalty
1-25	60% reduction
26-100	40% reduction
101-250	20% reduction
>250	no adjustment

(3) History adjustments.

History reflects your record of safety and health violations in the state of Washington, as demonstrated by previous citations and by injury and illness rates.

Table 5: History Adjustments

History Rating	Adjustment to base penalty
Good	10% reduction
Average	no adjustment
Poor	10% increase

PERMANENT

(4) The maximum penalty for a violation that is not a repeat, willful, egregious, or failure to abate is seven thousand dollars.

NEW SECTION

WAC 296-350-15045 Increasing penalty amounts.

We apply a multiplier to the adjusted base penalty for the following:

- Repeat violations;
- Willful violations;
- Egregious violations;
- Failure to abate a prior violation.

(1) Repeat violations. A repeat violation occurs when we have cited you in the last three years for a substantially similar hazard. The three-year period is measured from the date of the final order for each previous citation. The adjusted base penalty will be multiplied by the total number of inspections with violations (including the current inspection with a violation) involving similar hazards. The maximum penalty cannot exceed seventy thousand dollars for each violation.

(2) Willful violations. A willful violation is a voluntary action, done either with an intentional disregard of, or plain indifference to, the requirements of the applicable WISHA rule(s). For willful violations, we will multiply the adjusted base penalty by ten, with all willful violations receiving at least the statutory minimum of \$5000. The maximum penalty cannot exceed seventy thousand dollars for each violation.

For example: When management is aware that employees are resistant to following specific WAC rule(s); employee resistance results in an imminent danger situation or a serious violation; and management fails to make efforts that are effective in practice to overcome the resistance, then we will presume that the failure constitutes voluntary action.

(3) Egregious violations. An egregious violation may be issued for exceptionally flagrant cases involving willful violations. In these cases, we will issue a separate penalty for each instance when you fail to comply with a particular rule.

(4) Failure to abate violations. Failure to abate is when you have been cited previously for a violation of WISHA rules, but have failed to correct the violation on time (abatement verification is covered in WAC 296-27-210 through 296-27-21050). The maximum penalty cannot exceed seven thousand dollars for each day in which such failure or violation continues.

(a) For a general violation that had no initial penalty and a penalty is to be issued, there will be a minimum penalty of \$1000 with possible adjustments for attempts to comply.

(b) For a violation that had an initial penalty:

• We multiply the adjusted base penalty by five based on the facts at the time of reinspection with possible adjustments for attempts to comply; or

• When the employer has failed to make good faith efforts to abate the violation, we may multiply the adjusted base penalty by the number of days past the abatement date as provided in RCW 49.17.180(4).

WISHA APPEALS PROCESS

NEW SECTION

WAC 296-350-600 WISHA appeals. Rules covering the WISHA appeals process are found in WAC 296-350-60010 through 296-350-60045. These rules interpret RCW 49.17.140.

FILING AN APPEAL

NEW SECTION

WAC 296-350-60010 Filing an appeal—Who, when and where. (1) Who may file a notice of appeal?

• Any employer cited for a violation of WISHA's safety and health rules may appeal a citation and notice or a corrective notice.

• Any employee or employee representative who could be affected by a citation or its abatement may appeal the abatement date on the citation and notice or corrective notice.

(2) When must appeals be filed? Appeals must be filed in writing to the department as a written notice of appeal within fifteen working days of receiving the citation and notice. When mailed, the postmark on the appeal is used as the filing date.

(3) Where must appeals be filed?

• Mail to:

Dept. of Labor & Industries
WISHA Appeals
PO Box 44604
Olympia, WA 98504-4604

• Fax to: (360) 902-5581.

• Bring to: Any department of labor and industries office.

NEW SECTION

WAC 296-350-60015 What must be in a WISHA appeal. (1) **For employers:** Appeals must include:

• Business name, address and telephone number, and the name, address and telephone number of any person representing you if you have one;

• Citation and notice number;

• What you think is wrong with the citation and notice and any related facts; and

• How you think it should be changed (what relief you are seeking and why).

(2) **For employees:** Appeals must include:

• The employee's name, address and telephone number, and the name, address and telephone number of any person representing the employee;

• Citation and notice number; and

• What the employee thinks is wrong with the abatement date.

Note: See WAC 263-12-056 for related board requirements.

AFTER FILING AN APPEAL**NEW SECTION**

WAC 296-350-60020 Why we reassume jurisdiction. Under RCW 49.17.140(3), we may reassume jurisdiction over any or all issues related to a citation and notice, when it is appealed within fifteen working days. To reassume jurisdiction means that we will review a citation and notice under appeal to determine whether changes are needed. We reassume jurisdiction to:

- Provide the employer and affected employees an opportunity to present relevant information, facts, and opinions during an informal conference;
- Give the employer, affected employees and the department an opportunity to resolve appeals rapidly and without further contest, especially in routine compliance cases;
- Educate employers about the citation and notice, the WISHA appeals process, and WISHA compliance; and
- Review citations, penalties, and abatement dates for fairness and accuracy to ensure quality work by the department.

NEW SECTION

WAC 296-350-60025 Reassuming jurisdiction or forwarding an appeal to the board. After an appeal is filed, we will decide whether to reassume jurisdiction over the citation and notice being appealed.

- If we reassume jurisdiction, we will notify the person filing the appeal in writing.
- If we do not reassume jurisdiction, we send the appeal to the board. The board will send the person filing the appeal a notice with the time and location for any board proceedings.

NEW SECTION

WAC 296-350-60030 Reviewing appeals and extending review time. (1) Reviewing appeals. When the department reassumes jurisdiction, we have thirty working days after receipt of the appeal to gather more information and decide whether to make changes to the citation and notice. We begin counting the first working day after receipt of the appeal. For example, the first day we count for an appeal received on Friday will be Monday for weeks without state holidays.

(2) Extending review period. We may extend the review period for an appeal up to fifteen additional working days when everyone involved agrees to the extension.

NEW SECTION

WAC 296-350-60035 Informal WISHA conferences. During the review period, we will hold an informal conference about the appeal.

- The informal conference is not an evidentiary hearing. It is an opportunity for interested parties to briefly explain their positions and provide any additional information they would like us to consider when we review the citation and notice.

- Although informal, the conference is an official conference. As such, we may record all or part of it. We will tell participants when recording the conference.

NEW SECTION

WAC 296-350-60040 Issuing and appealing corrective notices. (1) Issuing corrective notices. By the end of the review period, we will issue a corrective notice that will reflect any changes we made to the citation and notice. We will send this notice to you and any employee representatives participating in the process.

(2) Appealing corrective notices.

- Anyone who may appeal the citation and notice may appeal the corrective notice (see WAC 296-350-10010(1)).
- Any appeal of a corrective notice must be filed within fifteen working days of receiving it.

NEW SECTION

WAC 296-350-60045 Notifying employees. (1) After filing an appeal, you must immediately post all correspondences with us, including:

- The notice of appeal;
- The notice telling you we reassumed jurisdiction of a citation and notice;
- Any extensions to the review period;
- The notice for an informal conference; and
- Corrective notices.

(2) You must post notices and information about the appeal in a conspicuous place and where you are required to post WISHA citations and notices (see WAC 296-350-10050).

(3) How long must you post notices? You must post:

- The notices of appeal until the appeal is resolved.
- Notices about when we reassume jurisdiction and any extension of review period until the end of review period.
- Notice of an informal conference until after the conference is held.
- Corrective notices for as long as citations and notices are required to be posted.

VARIANCES FROM WISHA RULES**NEW SECTION**

WAC 296-350-700 Variance from WISHA rules. Rules covering variances are found in WAC 296-350-70010 through 296-350-70070. These rules interpret RCW 49.17.080 and 49.17.090.

NEW SECTION

WAC 296-350-70010 Purpose of variances. In certain circumstances, we allow you to deviate from a specific WISHA safety and health standard when you use agency-approved substitute measures to protect workers.

You may request the following, as described in WAC 296-350-70015 through 296-350-70025:

- Permanent variances.

- Temporary variances.
- Interim orders.

NEW SECTION

WAC 296-350-70015 Permanent variances—

Description. (1) You may request a permanent variance if you can show that you are providing an alternate means of protecting your employees from hazards. These alternative means must be as effective as the methods required by the standard.

(2) We review permanent variances periodically to decide whether they are still needed or need to be changed (see WAC 296-350-70065(1)).

(3) A permanent variance remains in effect unless we modify or revoke it.

NEW SECTION

WAC 296-350-70020 Temporary variances—

Description. (1) You may request a temporary variance if you cannot meet one or more new WISHA requirements because:

- Professional or technical people are not available;
- Materials or equipment are not available; or
- You cannot complete construction or alteration of facilities by the effective date of a standard.

If you request a temporary variance, you must have an effective plan for coming into compliance with the applicable safety and health standards as quickly as possible.

(2) You must show that you are taking all available steps to safeguard your employees against hazards covered by the standard.

(3) Temporary variances remain in effect until you comply with the requirements of current WISHA rules or no longer than one year, whichever is shorter.

(4) You may renew a temporary variance twice for no more than one hundred eighty days each time it is renewed (see WAC 296-350-70040).

NEW SECTION

WAC 296-350-70025 Interim orders—Description

and requesting. (1) You may request an interim order when requesting a permanent or temporary variance, or anytime after. Interim orders allow you to vary from existing WISHA requirements until we make a final decision on your variance request.

(2) We may choose to issue an interim order in response to a variance request, even when the interim order was not specifically requested.

(3) Our decision to grant or deny an interim order will not restrict our decision on a permanent or temporary variance request.

(4) Interim orders will be effective until revoked or until we approve or deny your variance request.

NEW SECTION

WAC 296-350-70030 Requesting a permanent variance. (1) Request for a permanent variance must be in writing and signed by you or your representative. You must include the following items in your variance request:

- Employer name and address;
- What work locations and situations that you want the variance to apply to;
- The requirements from which you want the variance (be specific and include WAC numbers);
- A specific description of your proposed alternate means of protecting employees from hazards;
- How the proposed alternative means will protect employees;
- How you have notified your employees you are applying for a variance as required in WAC 296-350-70050; and
- How you have notified your employees that they may request a hearing. All applications for variances must contain the following notice on the first page, written large enough and clearly enough to be read easily:

"Attention Employees: Your employer is applying to the Department of Labor and Industries for a variance from safety and health standards. You have a right to ask the Department to have a hearing on this application; but you must ask for the hearing in writing by (date**), or the Department may act on this application without a hearing."

** This date must be at least twenty-one calendar days but not more than one month after submitting your variance request.

(2) Department forms for requesting variances are available from any labor and industries office in the state.

NEW SECTION

WAC 296-350-70035 Requesting a temporary variance. Requests for a temporary variance must be in writing and signed by you or your representative. You must include:

- All items listed in WAC 296-350-70030, Requesting a permanent variance.
- A specific explanation of why you cannot comply with the requirements, including documentation that supports your belief.
- What steps you will take to protect your employees until you can comply;
- What you are doing to come into compliance.
- When you will be able to come into compliance.
- A statement that this request is from a qualified person having first hand knowledge of the facts represented.

NEW SECTION

WAC 296-350-70040 Renewing temporary variances. You must apply for a renewal at least ninety days before the expiration date of the order. To apply for renewal, write to us, explaining why you need more time to come into compliance.

NEW SECTION**WAC 296-350-70045 Submitting variance requests.**

Submit permanent variance, temporary variance, or interim order requests using one of the following:

- Mail to:

Assistant Director, WISHA Services Division
P.O. Box 44625
Olympia, Washington 98504-4625

- FAX to: (360) 902-5459
- Bring to any labor and industries office in the state.

NEW SECTION

WAC 296-350-70050 Notifying employees about variance requests. You must notify your employees before requesting a permanent variance, temporary variance, or interim order by:

- Posting a copy of the application on your safety bulletin board; and
- Using other appropriate means for employees who cannot be expected to receive notices posted on the safety bulletin board (such as, providing a copy to an authorized representative or the safety committee).

NEW SECTION

WAC 296-350-70055 Department review and decision. (1) Review. We will review your request to determine whether to grant a variance to WISHA safety and health rules.

- If we need more information, we may contact you or others who may have relevant information.
- If we need to visit your workplace, we will contact you to make arrangements.
- If you do not provide us with the information we need or do not let us visit your workplace, we will deny your request.

(2) Decision. After reviewing your request, we will issue a written order either granting or denying it.

- We will not make a decision before the date for requesting a hearing that is listed on the variance request.
- If you have appealed a citation and notice that relates to the subject of the variance request, we may choose not to make a decision until after your appeal is resolved.
- If granted, the order will include where it applies, what rules it covers, what you must do instead of following the existing rules, an effective date, and any expiration dates, if applicable. Variances will not be retroactive. The effective date will be on or after the day we issue the order granting the variance.
- If denied, the order will include a brief statement with reason(s) supporting our decision.

NEW SECTION

WAC 296-350-70060 Your responsibilities once we make a decision. When you receive a written decision regarding a variance request or interim order, you must:

- Immediately notify affected employees using the same means used for the variance application (see WAC 296-350-70050); and

- Abide by the requirements specified in any variance. We can issue citations for violations of any variance.

NEW SECTION

WAC 296-350-70065 Changing a variance. (1) Permanent variances. We cannot change the terms of a permanent variance for the first six months it is in effect. Any time after six months, we will consider changing the terms of a variance when:

- You or your employees request changes; or
- We decide that changes may be warranted.

(2) Temporary variances. We will only consider changing a temporary variance as part of the renewal process.

(3) Interim orders. We will not change an interim order.

(4) Hearings. You, your employees, or employee representatives may request a hearing on variance changes as with variance applications (see WAC 296-350-70070).

NEW SECTION

WAC 296-350-70070 Variance hearings. (1) Requesting a hearing. You, any affected employee, or an employee representative may request a hearing on a variance request, temporary variance request, or changes to existing variances. All requests must be received in writing, signed by the applicant(s), and must be received by the assistant director within twenty-one calendar days of the date of the application for the variance.

(2) Department notice. We will issue a notice of the hearing ten days after receiving your request advising all interested parties that they will have the opportunity to participate. We will schedule the hearing so that you will receive notice at least twenty calendar days in advance of the hearing date.

(3) Notifying employees. Upon receiving notice of the hearing, you must immediately post copies of the notice, give copies to affected employees and employee representatives, and use any other appropriate means (see WAC 296-350-70050).

(4) Description of hearing. At the hearing, our representative will explain our view of your request for a variance or any proposed change to a variance. You, your employees, or employee representatives will then have an opportunity to explain your views and provide any relevant documents or information. Information gathered at the hearing will be used in making a decision about whether to grant or deny the request.

(5) We may tape or record a variance hearing. You, your employees, or employee representatives may request copies at cost.

REPEALE R

The following sections of the Washington Administrative Code are repealed:

WAC 296-350-020	Reassumption of jurisdiction—Purpose.
WAC 296-350-030	Notice of appeal—Filing and service.
WAC 296-350-040	Notice of appeal—Contents.
WAC 296-350-050	Reassumption of jurisdiction—Time—Notice of reassumption of jurisdiction and informal conference.
WAC 296-350-060	Notices of reassumption of jurisdiction and informal conferences—Service—Posting record.
WAC 296-350-070	Reassumption of jurisdiction—Informal conferences—Procedure—Evidence.
WAC 296-350-080	Reassumption of jurisdiction—Final determination—Mailing.
WAC 296-350-090	Reassumption of jurisdiction—Statement of redetermination—Appeal.
WAC 296-350-095	Settlement agreements.
WAC 296-350-200	Variances—Foreword.
WAC 296-350-210	Types of orders granting a variance.
WAC 296-350-230	Effect of variances.
WAC 296-350-240	Variance applications—Form of documents—Subscription.
WAC 296-350-250	Order granting a temporary variance—Application.
WAC 296-350-255	Order granting a permanent variance—Application.
WAC 296-350-260	Interim order—Application—Notice of grant.
WAC 296-350-270	Notice of denial of application for variance.
WAC 296-350-280	Hearings on applications for variances—Temporary and permanent.
WAC 296-350-400	Posting of notices—Posting of citation and notice—Availability of act and applicable standards.

WAC 296-350-450	Complaints by employees or their representatives.
WAC 296-350-460	Complaints—Inspection not warranted—Informal review.
WAC 296-350-470	Citation not issued following complaint.

WSR 00-11-102**PERMANENT RULES****BELLEVUE COMMUNITY COLLEGE**

[Filed May 18, 2000, 9:55 a.m.]

Date of Adoption: January 26, 2000.

Purpose: To identify authorization for the granting of refunds to students and describe the procedure by which a student may request a refund.

Citation of Existing Rules Affected by this Order: Amending WAC 132H-160-182.

Statutory Authority for Adoption: RCW 28B.15.605.

Adopted under notice filed as WSR 99-23-030 on November 10, 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 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2000

Elise J. Erickson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-01-056 [96-01-056], filed 12/15/95, effective 1/15/96)

WAC 132H-160-182 Student schedule changes—Refund policy and administrative fees. The Community College District VIII board of trustees has authorized the Associate Dean of Enrollment Services (or his/her designee) registrar to collect an administrative fee when a student adds or drops course(s) or withdraws from the college. In addition, the Associate Dean of Enrollment Services (or his/her designee) registrar is also authorized to refund tuition and/or fees when a student withdraws from college or a course(s), in accordance with RCW 28B.15.605 and the refund policies approved by the Board of Trustees. The Associate Dean of Enrollment Services (or his/her designee) registrar has the

authority to make judgments regarding refunds in extraordinary circumstances. A student who is requested to withdraw for disciplinary reasons will not be eligible for a refund. Refund provisions for students receiving Title IV Federal Aid are described in WAC 132H-160-185-, Refund for Title IV Federal Aid Recipients.

The specific refund procedure and rates are published in the college catalog and the quarterly schedule of classes.

~~Tuition and related fees for fall, winter, and spring quarters are refunded upon withdrawal from college or a course(s) as follows:~~

~~(1) Tuition and fees will be refunded at 100% prior to the third instructional day of the quarter for complete withdrawal from college, withdrawal from a course(s) (reduction of class load below 10 credits), and for classes the college has canceled.~~

~~(2) Tuition and fees will be refunded at 80% beginning with instructional day three through instructional day five of the quarter for complete withdrawal from college or withdrawal from a course(s) (reduction of class load below 10 credits).~~

~~(3) Tuition and fees will be refunded at 50% beginning with instructional day six of the quarter through calendar day twenty of the quarter for complete withdrawal from college, withdrawal from a course(s) (reduction of class load below 10 credits).~~

~~(4) Tuition and fees will not be refunded after calendar day twenty of the quarter. Tuition and related fees for summer quarter are refunded upon withdrawal from college or a course(s) as follows:~~

~~Tuition and related fees for summer quarter are refunded upon withdrawal from college or a course(s) as follows:~~

~~(5) Tuition and fees will be refunded at 100% prior to the second instructional day of the quarter for withdrawal from college, withdrawal from a course(s) (reduction of class load below 10 credits), and for classes the college has canceled.~~

~~(6) Tuition and fees will be refunded at 80% beginning with instructional day two of the quarter through instructional day three of the quarter for withdrawal from college, or withdrawal from a course(s) (reduction of class load below 10 credits).~~

~~(7) Tuition and fees will be refunded at 50% beginning with instructional day four of summer quarter through calendar day eleven of the quarter for withdrawal from college, or withdrawal from a course(s) (reduction of class load below 10 credits).~~

~~(8) Tuition and fees will not be refunded after calendar day eleven of the quarter.~~

~~(9) If an insurance claim has been filed, no refund will be granted for insurance fees.~~

~~(10) Self support programs may develop different refund policies based upon programmatic reasons, with institutional approval. Policies pertaining to these programs will be listed in the quarterly schedule~~

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

Reviser's note: 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.

WSR 00-11-103
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed May 18, 2000, 1:20 p.m.]

Date of Adoption: May 17, 2000.

Purpose: The proposed rules conform to RCW 43.43.278 which requires that the department provide retiring WSPRS members with actuarially equivalent benefit options by July 1, 2000.

Statutory Authority for Adoption: RCW 43.43.278.

Other Authority: RCW 41.50.050.

Adopted under notice filed as WSR 00-08-085 on April 4, 2000.

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 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 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 17, 2000

John F. Charles

Director

by Maureen Westgard

NEW SECTION

WAC 415-103-215 Retirement benefit options. RCW 43.43.278 requires the department to provide retiring members with an actuarially equivalent retirement option by July 1, 2000. The option pays the retiree a reduced retirement allowance which, upon the retiree's death, continues throughout the life of the lawful surviving spouse. When retiring for service, the married member can select either the historic retirement option under RCW 43.43.270 (Option A) or the actuarially equivalent retirement option (Option B). Both options include a survivor feature that entitles the eligible surviving spouse to receive a monthly allowance after the retiree dies.

(1) Option A (historic retirement option and survivor benefit). The department pays the retiree a monthly retiree-

ment allowance in accordance with RCW 43.43.260. The department pays survivor benefits in accordance with RCW 43.43.270.

(a) When the retiree dies, the department pays the retiree's lawful spouse a monthly retirement allowance equal to the gross monthly allowance received by the retiree, or an allowance equal to fifty percent of the average final salary (AFS) used to determine the retiree's benefit, whichever is less. This allowance is paid for the duration of the spouse's lifetime. The surviving spouse allowance will be adjusted by the annual increase amount as provided by RCW 43.43.272.

(b) If a surviving spouse who is receiving benefits under this subsection marries another member of this retirement system and the retiree predeceases the spouse, the spouse can receive only the higher of the two survivor's allowances for which he or she qualifies. The surviving spouse cannot receive more than one survivor allowance at a time under this subsection.

(c) To be eligible for an allowance, the lawful surviving spouse of a retired member must have been married to the member prior to the member's retirement and continuously thereafter until the date of the member's death, or must have been married to the retired member at least two years prior to the member's death. As used in this section, the terms "spouse," "surviving spouse" and "eligible spouse" mean "lawful surviving spouse."

(d) If the retiree has surviving unmarried children under the age of eighteen years, each child shall be entitled to a benefit equal to five percent of the retiree's AFS at retirement. The combined benefits to the surviving spouse and all children cannot exceed sixty percent of the retiree's AFS.

(e) If there is no surviving spouse or the spouse dies, the child or children will receive a benefit equal to thirty percent of the retiree's AFS for one child and an additional ten percent of AFS for each additional child.

(f) All payments cease upon the death of the surviving spouse or the youngest unmarried child's attainment of age eighteen, whichever occurs last.

(2) **Option B (actuarially equivalent retirement option and survivor benefit).** The department pays the retiree a monthly benefit that is actuarially reduced by three

percent to offset the cost of the survivor feature. The retiree's annual post-retirement increase (PRI) is based upon the amount of the retiree's reduced benefit.

(a) When the retiree dies, the department pays the retiree's eligible spouse a monthly retirement allowance equal to the gross monthly allowance received by the retiree. This allowance is paid for the duration of the spouse's lifetime. The surviving spouse allowance will be increased every July 1 by the amount of the PRI that had been paid to the retiree under the provisions of RCW 43.43.260(5).

(b) Benefits to the surviving spouse cease upon the spouse's death.

(3) **Retiree's benefit increases if spouse ceases to be married to retiree or predeceases retiree (pop-up provision).**

(a) This section applies to members retiring on or after July 1, 2000, who select Option B.

(b) If the retiree's spouse ceases to be married to the retiree or dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option A; plus

(ii) Any post-retirement increases the retiree received prior to the survivor's death or the termination of marriage.

(c) Pop-up recalculation example:

Option B:

Bob retires on August 1, 2000. He selects Option B so that his spouse Linda, to whom he has been married for 30 years, will receive his monthly allowance and post-retirement increases after he dies. As a result, his monthly allowance is reduced by three percent from \$3,000, the Option A, historic retirement and survivor benefit, to \$2,910. Bob's PRI is \$58.20, two percent of his reduced retirement allowance.

Unfortunately, Linda dies in September 2002. Under the "pop-up" provision, Bob's monthly benefit will increase in October 2002 to a total of \$3,116.40. His new benefit amount is composed of the \$3,000 he would have received had he originally chosen Option A, plus the total of the PRIs he received in 2001 and 2002.

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Year	Option A (Historic Survivor Benefit)	Annual PRI Based on Option A Benefit	Option B (Full Survivor Benefit)	Annual PRI Based on Optional B Benefit	Total Benefit
08/01/2000			2,910.00	(not eligible.)	2,910.00
07/01/2001			2,910.00	58.20	2,968.20
07/01/2002			2,968.20	58.20	3,026.40
10/01/2002	3,000.00				3,116.40
07/01/2003	3,000.00	60.00			3,176.40

On July 1, 2003, Bob's PRI will be two percent of the Option A amount (\$60.00) and his benefit will increase to \$3,176.40.

(d) If the retiree whose benefit increases under this section thereafter dies before all contributions are exhausted and there is no surviving spouse or eligible child, the remaining balance is retained by the retirement fund.

**WSR 00-11-104
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed May 18, 2000, 1:28 p.m.]**

Date of Adoption: May 17, 2000.
Purpose: RCW 41.50.770 and 41.50.780 govern the deferred compensation plan. These rules are intended to

improve the plan's recordkeeping process and to recodify to ensure clarity.

Citation of Existing Rules Affected by this Order: Amending WAC 415-501-010 updates references to RCW 41.50.088.

WAC 415-504-010 clarifies the definition of "accumulated deferrals."

WAC 415-504-090 clarifies the definition of "participant."

WAC 415-504-100 clarifies the definition of "participation agreement."

WAC 415-504-110 clarifies the definition of "separation from service."

WAC 415-508-010 clarifies that the department will administer the plan to maintain a plan eligible under Section 457 of the Internal Revenue Code.

WAC 415-508-050 clarifies that amounts in the deferred compensation principal account are invested pursuant to RCW 41.50.770.

WAC 415-512-010 changes the reference from "pay period" to "month," from "revoked" to "suspended" and to delete the \$30.00 minimum requirement for participation.

WAC 415-512-015 clarifies how a participant may transfer funds into or out of the state's deferred compensation plan.

WAC 415-512-020 conforms to the updated Internal Revenue Code Section 457 deferral limits.

WAC 415-512-030 changes references to "the state" to refer to "the employer."

WAC 415-512-050 describes how a participant may change deferral or investment options.

WAC 415-512-070 describes how a participant may suspend or reinstate deferrals.

WAC 415-512-080 allows a participant to change a designated beneficiary by filing the appropriate form.

WAC 415-512-086 describes the process for distribution in the event of the participant's death.

WAC 415-512-087 provides more flexibility in the distribution process if the beneficiary dies.

WAC 415-512-090 describes when and how a participant or beneficiary may elect distributions, modify or postpone them.

WAC 415-512-095 clarifies the rights of nonparticipants to benefits under domestic relations orders and the department's process for compliance with such orders.

WAC 415-512-110 clarifies the process and duration of deferral distribution.

WAC 415-524-010 clarifies that requests for distributions due to unforeseeable emergency will automatically result in the mandatory suspension plan participation.

WAC 415-556-010 authorizes employers to withhold additional deferred compensation without a copy of a plan participation agreement.

WAC 415-564-010 clarifies that the terms of the plan prevail over any form or document used in administering the plan.

WAC 415-564-020 articulates the process by which a participant may obtain review of a department decision.

WAC 415-564-040 clarifies the scope of the department's responsibility for an individual participant's compliance with the Internal Revenue Code.

WAC 415-536-010, 415-540-010, 415-544-010, and 415-564-050 refer to "distribution" rather than "payment."

WAC 415-512-075, 415-512-085, 415-532-020, and 415-552-010 conform to clear rule-writing standards as required by Executive Order 97-02.

In addition, the following deferred compensation rules have been recodified:

Current	Proposed Recodification
415-501-010	415-501-010
415-501-020	415-501-020
415-504-010	415-501-110
415-504-020	415-501-120
415-504-030	415-501-130
415-504-040	415-501-140
415-504-050	415-501-150
415-504-060	415-501-160
415-504-070	415-501-170
415-504-080	415-501-180
415-504-090	415-501-190
415-504-100	415-501-200
415-504-110	415-501-210
415-508-010	415-501-310
NEW SECTION	415-501-315
415-508-020	415-501-300
415-508-030	415-501-350
415-508-040	415-501-330
415-508-050	415-501-340
415-512-010	415-501-410
415-512-015	415-501-415
415-512-020	415-501-420
415-512-030	415-501-430
415-512-040	415-501-440
415-512-050	415-501-450
415-512-070	415-501-470
415-512-075	415-501-475
415-512-080	415-501-480
415-512-085	415-501-485
415-512-086	415-501-486
415-512-087	415-501-487
415-512-090	415-501-490
415-512-095	415-501-495
415-512-110	415-501-500
415-524-010	415-501-510
415-528-010	415-501-520
415-532-010	415-501-530

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Current	Proposed Recodification
415-532-020	415-501-540
415-536-010	415-501-550
415-540-010	415-501-560
415-544-010	415-501-570
415-548-010	415-501-580
415-552-010	415-501-590
415-556-010	415-501-600
415-560-010	415-501-610
415-564-010	415-501-360
415-564-020	415-501-370
415-564-030	415-501-305
415-564-040	415-501-320
415-564-050	415-501-380
415-564-060	415-501-390
415-568-010	415-501-710
415-568-020	415-501-720

PLAN ESTABLISHED

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-501-010 Plan established. In accordance with the provisions of RCW 41.50.030(2), 41.50.088(~~(5)~~) (2), 41.50.770, and 41.50.780, and as provided in Section 457 of the Internal Revenue Code, the state of Washington hereby establishes the deferred compensation plan for employees of the state of Washington and approved political subdivisions of the state of Washington, hereinafter referred to as the "plan." Nothing contained in this plan shall be deemed to constitute an employment agreement between the participant and the employer and nothing contained herein shall be deemed to give a participant any right to be retained in the employ of the employer.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-501-020 Separate plan. The provisions in chapter(s) 415-501 (~~through 415-568~~) WAC apply only to the deferred compensation plan and not to any other plan administered by the department.

NEW SECTION

WAC 415-501-315 Employer responsibility. The employer as plan sponsor has responsibilities including, but not limited to, monitoring for deferral limits and determining employees' eligibility to participate.

The department's administration of the plan does not replace the employer's responsibilities as the plan sponsor.

DEFINITIONS

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-504-010 Accumulated deferrals. "Accumulated deferrals" means compensation deferred under the plan, adjusted (~~(until date of payment)~~) by income received, increases or decreases in investment value, fees, and any prior distributions made.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-504-090 Participant. "Participant" means any eligible employee of (~~(the)~~) an employer who executes a participation agreement with the department assenting to the provisions of this plan, once the agreement has been approved by the department or its designee.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-504-100 Participation agreement. "Participation agreement" means the agreement executed (~~(and~~

The following rules have been amended to conform cross references to the recodified rules: WAC 415-501-020, 415-512-040, 415-532-010, 415-532-020, and 415-556-010.

Statutory Authority for Adoption: RCW 41.50.770 and [41.50.]780.

Other Authority: RCW 41.50.050.

Adopted under notice filed as WSR 00-08-092 on April 5, 2000.

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 32, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 32, 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.

May 17, 2000

John F. Charles

Director

by Maureen Westgard

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filed)) by an eligible employee (~~(with the employer)~~) pursuant to WAC (~~(415-512-010)~~) 415-501-410, in which the eligible employee elects to become a participant in the plan.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-504-110 Separation from service. "Separation (or separates) from service" means "separation from service" as that term is interpreted for purposes of Section 402 (d)(4)(A)(iii) of the Internal Revenue Code (~~(and refers to lump sum payments and the severance of the participant's employment with the employer. A participant will be deemed to have severed his or her employment as of the date of his or her last payroll)~~).

For distribution eligibility purposes, separation of service is a participant's last day of employment with his/her employer(s).

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
415-504-010	415-501-110
415-504-020	415-501-120
415-504-030	415-501-130
415-504-040	415-501-140
415-504-050	415-501-150
415-504-060	415-501-160
415-504-070	415-501-170
415-504-080	415-501-180
415-504-090	415-501-190
415-504-100	415-501-200
415-504-110	415-501-210

ADMINISTRATION

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-508-010 Administered by department. (~~(This plan shall be administered by the department which shall represent the employer in all matters concerning the administration of this plan.)~~) The department shall administer the plan in accordance with Section 457 of the Internal Revenue Code to maintain an eligible deferred compensation plan.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-508-050 Deferred compensation accounts. All deferred compensation hereunder shall be paid into a special fund created in the treasury of the state of Washington called the "deferred compensation principal account." All costs of administration and staffing of the plan, expenses of

the department, and such other amounts determined by the department and permitted by law, shall be paid as necessary out of the deferred compensation administrative account. Amounts in the deferred compensation principal account may be invested pursuant to RCW 41.50.770 (~~(as directed by the department)~~). All accumulated deferrals payable to participants or their respective beneficiary or beneficiaries shall be paid from the deferred compensation principal account unless otherwise paid.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
415-508-010	415-501-310
415-508-020	415-501-300
415-508-030	415-501-350
415-508-040	415-501-330
415-508-050	415-501-340

PARTICIPATION IN THE PLAN

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-010 Enrollment. (1) An eligible employee may become a participant by executing a participation agreement. Compensation will be deferred for any calendar month only if a participation agreement providing for such deferral is executed by the participant and approved by the department or its designee before the beginning of such month.

(2) In signing the participation agreement, the participant elects to participate in this plan and consents to the employer deferring the amount specified in the participation agreement from the participant's gross compensation for each (~~(pay period)~~) month. The amount specified (~~(must equal at least thirty dollars per month and)~~) shall continue until changed or (~~(revoked)~~) suspended pursuant to WAC (~~(415-512-050)~~) 415-501-450 or (~~(415-512-070)~~) 415-501-470 of this plan.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-015 Plan to plan transfers. The only transfers allowable under Section 457 of the Internal Revenue Code are from one eligible Section 457 plan to another eligible Section 457 plan.

(1) Transfers (~~(to)~~) into the plan following a change in employment. If a participant was formerly a participant in an eligible deferred compensation plan (within the meaning of Section 457 of the Internal Revenue Code and its regulations), which permits the direct transfer of the participant's interest to another plan, then (~~(the transferee)~~) this plan shall accept assets representing the value of such interest. However, the department may require in its sole discretion that

some or all of such interest be transferred in cash or its equivalent. Such amount shall be held, accounted for, administered, and otherwise treated in the same manner as compensation deferred by the participant under ~~((the))~~ this plan ~~((except that:~~

~~(a) Only the amount, if any, transferred to the plan which was deferred under the transferor plan in the taxable year when transfer occurs shall be treated as compensation deferred under the plan in such year.~~

~~(b) Such amount shall remain subject to, and shall be administered in accordance with, any irrevocable elections made under the transferor plan with respect to such amount)).~~ Only the amount, if any, transferred to the plan which was deferred under the transferor plan in the taxable year when transfer occurs shall be treated as compensation deferred under the plan in such year.

Transfer of the participant's interest will not be allowed if the participant has made any irrevocable distribution election, with respect to such interest, under the transferor plan.

~~(2) Transfers ~~((from))~~ out of the plan following a change in employment. ~~((The only rollovers or transfers allowable under Section 457 of the Internal Revenue Code are from one eligible Section 457 plan to another eligible Section 457 plan.))~~~~

If a participant, prior to making ~~((a final))~~ an irrevocable distribution election under WAC ~~((415-512-090(2) regarding the method of payment))~~ 415-501-409, accepts employment with an employer who offers an eligible Section 457 plan, and the participant becomes a participant in that plan, then accumulated deferrals may, at the election of the participant and after written notice to the department, be transferred to the other plan, provided that plan provides for the acceptance of such transfers.

(3) Transfers by employees of participating political subdivisions. Transfers of funds by an employee of a participating political subdivision are allowed to and from other ~~((IRC))~~ Section 457 plans of the Internal Revenue Code maintained by the political subdivision, but only if the other plan also allows ~~((transfers to and from its plan))~~ the proposed transfer and the participant has not made an irrevocable ~~((payout))~~ distribution election relating to either plan.

(4) Application for transfer. If the conditions in subsection (1), (2), or (3) of this section are met and the participant wishes to transfer his/her account, ~~((he/she))~~ the participant shall complete ~~((an application))~~ the appropriate form and/or other documents as may be required by the department.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-020 Deferral limit. (1) Except as provided in WAC ~~((415-512-030))~~ 415-501-430, relating to catch-up, the maximum that may be deferred under the plan for any taxable year of a participant shall not exceed the lesser of ~~((seven thousand five hundred))~~ eight thousand dollars, adjusted for the calendar year to reflect cost-of-living increases in accordance with Sections 457 (e)(15) and 415(d) of the Internal Revenue Code (dollar deferral limit) or thirty-three and one-third percent of the participant's includible compensation, each reduced:

(a) By any amount excludable from the participant's gross income for that taxable year under Section 403(b) of the Internal Revenue Code; and

(b) By any amount:

(i) Excluded from gross income under Section 402 (e)(3) or 402 (h)(1)(B) of the Internal Revenue Code (relating to a participant's elective deferrals to simplified employee pensions) for that taxable year;

(ii) For which a deduction is allowable for that taxable year by reason of a contribution to an organization described in Section 501 (c)(18) of the Internal Revenue Code (relating to pension trusts created before June 25, 1959, forming part of a plan for payment of benefits under a pension plan funded only by contributions of employees); or

(iii) Which is deferred by a participant under Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangement) during that taxable year; and

(c) By any amount the participant contributes to any other Section 457 of the Internal Revenue Code plan (relating to deferred compensation plan(s)) during the taxable year.

(2) "Includible compensation" for purposes of this section means includible compensation as defined in Section 457 (e)(5) of the Internal Revenue Code and as further defined by Treasury Department Regulation 1.457-2 (e)(2) interpreting that section, and is determined without regard to community property laws. Includible compensation for a taxable year includes only compensation from the employer that is attributable to services performed for the employer and that is includible in the participant's gross income for the taxable year for federal income tax purposes. Accordingly, a participant's includible compensation for a taxable year does not include an amount payable by the employer that is excludable from the employee's gross income under:

(a) Section 457 of the Internal Revenue Code;

(b) Section 403(b) of the Internal Revenue Code (relating to annuity contracts purchased by Section 501 (c)(3) of the Internal Revenue Code organizations or public schools);

(c) Section 105(d) of the Internal Revenue Code (relating to wage continuation plans);

(d) Section 911 of the Internal Revenue Code (relating to citizens or residents of the United States living abroad);

(e) Section 402 (e)(3) or 402 (h)(1)(B) or 402(k) of the Internal Revenue Code (relating to simplified employee pensions);

(f) Section 501 (c)(18) of the Internal Revenue Code (relating to certain pension trusts); or

(g) Section 401(k) of the Internal Revenue Code (relating to qualified cash or deferred arrangements).

(3) In computing includible compensation, total gross compensation as shown on ~~((state))~~ earnings statements must be reduced by:

(a) Section 414(h) of the Internal Revenue Code, before tax contributions to retirement plans (including those described in RCW 41.04.440, 41.04.445, and 41.04.450); and

(b) Any Section 125 of the Internal Revenue Code contributions to cafeteria plans (including those which include such items as dependent care salary reduction plans) before excluding the items listed in subsection (2)(a) through (g) of this section.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-030 Catch-up provision. For one or more of the participant's last three taxable years ending before attaining normal retirement age under the plan, the maximum deferral shall be the lesser of:

(1) Fifteen thousand dollars for the taxable year, reduced in the same manner as the dollar deferral limit is reduced in WAC ~~((415-512-020(1)))~~ 415-501-420; or

(2) The sum of:

(a) The limits established for purposes of WAC ~~((415-512-020))~~ 415-501-420 of the plan for the taxable year (determined without regard to this section), plus

(b) So much of the limit established under WAC ~~((415-512-020))~~ 415-501-420 for taxable years before the taxable year as has not theretofore been used under WAC ~~((415-512-020))~~ 415-501-420 or ~~((415-512-030))~~ 415-501-430. A prior taxable year shall be taken into account only if:

(i) It begins after December 31, 1978;

(ii) The participant was eligible to participate in the plan during all or any portion of the taxable year, and;

(iii) Compensation deferred (if any) under the plan during the taxable year was subject to a maximum limit (as established under WAC ~~((415-512-020))~~ 415-501-420).

A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by another entity. In no event can the participant elect to have the catch-up provision apply more than once whether or not the full catch-up had been utilized.

"Normal retirement age," as used in chapter ~~((s))~~ 415-501 ~~((through 415-568))~~ WAC, means the range of ages:

Ending not later than age seventy and one-half; and

Beginning not earlier than the earliest age at which the participant has the right to retire under ~~((a state))~~ an employer authorized pension for which the participant is eligible ~~((without consent of the state))~~ and under which the participant will receive immediate retirement benefits without actuarial adjustment due to retirement prior to some later specified age in ~~((a state))~~ an employer authorized pension plan.

This catch-up provision may not be used in the year in which the participant attains age seventy and one-half, and may not be used in any year thereafter.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-040 Department may disallow deferral. The participant acknowledges the right of the department to disallow deferral of compensation under the plan in excess of the limitations in WAC ~~((415-512-020))~~ 415-501-420 and ~~((415-512-030))~~ 415-501-430. However, the department shall have no duty to assure that amounts deferred are in compliance with such limitations.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-050 Modification of deferral or investment option(s). Deferral or investment option(s) may

be changed. A participant may change his/her deferral or investment option(s) ~~((by executing a participation agreement))~~ through the methods established by the department. ~~((Changes in the amount of deferral must equal at least ten dollars or more per month. (Beneficiaries)) (A beneficiary or beneficiaries entitled to receive accumulated deferrals may also change investment options.)~~ Deferral changes may be made only in:

(1) Whole dollar increments or;

(2) Whole percentages if percentage deferrals are allowed for the participant's employer.

A change in the deferral amount shall be effective for any calendar month only if the participant ~~((signs a new participation agreement prior to the earning period for which the change is requested. All participation agreements indicating changes in investment option(s) and transfer request forms indicating a transfer from one investment option to another must be filed with the department no later than twelve days prior to the established pay date for which the change will occur.~~

During the payout process, the department may periodically liquidate mutual fund shares in amounts necessary to meet distribution requirements for a six month period)) notifies the department or its designee of the change through the methods available, prior to the month for which the change is requested and prior to the established payroll cutoff date, for the participant's employer, for which the change will occur.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-070 Suspension and reinstatement of deferrals. Suspension. A participant may at any time, through the methods established by the department, direct that his/her deferrals ~~((under the participant's participation agreement cease by completing the proper form and filing it with the department))~~ cease. The direction to cease deferrals must be provided to the department or its designee no later than the last day of the ((payroll period)) month prior to the ((payroll period)) month during which the deferrals are to cease; however, accumulated deferrals shall ((only)) be paid only as provided in WAC ((415-512-080)) 415-501-480 through ~~((415-512-110))~~ 415-501-500.

Reinstatement. A participant may reinstate deferrals at any time, except after having ceased deferrals as part of an unforeseeable emergency distribution request. A participant who has directed the cessation of deferrals as part of an unforeseeable emergency ~~((payment))~~ distribution request ~~((may resume deferrals by executing a new participation agreement to defer compensation. The deferrals))~~ cannot resume deferrals sooner than six months after his/her deferrals ceased. Deferrals will begin the month immediately following the month that the ~~((participation agreement is signed. The six month waiting period shall not apply to participants who are on leave without pay as discussed in WAC 415-528-040))~~ resumption of deferrals is requested.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-075 Investment options. Each participant shall designate on his/her participation agreement the investment option(s) in which ~~((he/she))~~ the participant wishes to have funds invested. The investment option(s) shall be selected from those options made available for this purpose from time to time by the state investment board after consultation with the employee retirement benefits board.

~~((The state investment board may make available as options for investment:~~

~~(1) A fixed rate investment or pool of investments including deposits with a credit union, savings and loan association, mutual savings bank and fixed annuities;~~

~~(2) Specified mutual fund shares, shares of an investment company, or variable annuities; or~~

~~(3) Fixed or variable life insurance, or other options permitted by law. In the event that a selected investment option experiences a loss, the participant's benefits payable hereunder shall likewise reflect a loss, rather than income, for the period.))~~

Nothing in this section shall require the state investment board to invest any amount in the investments selected. The state investment board may open, change or close investment options according to its investment policy, or change investment managers for any investment option. When an investment option is closed or substantially changed, the state investment board may transfer the funds invested in that option to the investment option that, in the board's judgment, most closely represents the investment characteristics of the investment option being closed or changed.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-080 Designation of beneficiaries. Each participant shall have the right to designate a beneficiary or beneficiaries to receive accumulated deferrals in the event of the participant's death. If no such designation is in effect on a participant's death, the beneficiary shall be the surviving spouse. If there be no such surviving spouse, then the beneficiary shall be the participant's estate. A participant may change his/her beneficiary designation at any time by filing ~~((a change of beneficiary))~~ the appropriate form with the department. ~~((A participant may also change his/her beneficiary designation by completing the beneficiary designation portion of a participation agreement form.))~~

The participant may name:

(1) A designated organization or person (including without limitation his/her unborn or later adopted children). If unborn or later adopted children are to be included, the designation must so indicate. The date of birth must be furnished for any living person who is named as a beneficiary.

(2) His or her estate.

(3) A trust which is in existence, or which is to be established under the participant's last will. For an existing trust, the participant must provide a copy of the trust document and the name, address, and telephone number of the current trustee, and the tax identification number.

The participant may name contingent beneficiaries in addition to primary beneficiaries.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-085 Distribution to participant after separation from service. After separation from service, ~~((accumulated deferrals))~~ the participant shall be paid ~~((to the participant))~~ his/her accumulated deferrals in one or more installments as elected by the participant pursuant to WAC ~~((415-512-090))~~ 415-501-490.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-086 Distribution in the event of death of participant. Should the participant die at any time, whether before or after separation from service, accumulated deferrals shall be paid to the beneficiary or beneficiaries designated by the participant pursuant to WAC ~~((415-512-080))~~ 415-501-480. The accumulated deferrals shall be paid out as provided in WAC ~~((415-512-080))~~ 415-501-480 through ~~((415-512-110))~~ 415-501-500. If no beneficiary is designated ~~((as provided in the participation agreement)),~~ or if the designated beneficiary does not survive the participant by a period of thirty days, then a lump sum or series of ~~((payments))~~ distributions shall be paid, in accordance with WAC ~~((415-512-080))~~ 415-501-480 through ~~((415-512-110))~~ 415-501-500, to the surviving spouse, or if none, a lump sum shall be paid to the estate of the participant.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-087 Distribution in event of death of beneficiary. In the event a beneficiary survives the participant by thirty days and becomes entitled to receive accumulated deferrals, accumulated deferrals shall become payable to the beneficiary's estate ~~((on the twenty-fifth day of))~~ in the second month following the beneficiary's death, unless benefits are being paid in the form of an annuity, in which case the disposition of the remaining amount shall be determined by the annuity contract. Such annuity contracts shall be issued pursuant to the rules set forth in WAC ~~((415-512-110))~~ 415-501-500.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-090 Elections regarding distribution. Each participant (or in the event of death, each beneficiary other than an organization, an estate, or a trust) shall elect when ~~((his/her payout))~~ distribution will begin and the ~~((payout period.~~

~~((1) Election preconditions and irrevocability. Except as otherwise provided in WAC 415-512-110(8) the election regarding the date when payment will begin shall be made when a participant separates from service (or dies having sep-~~

arated from service and having previously elected when payment will begin):

Once made, the election regarding when payout will begin is irrevocable except as described in subsection (2) of this section as to the participant or beneficiary making the election, unless:

(a) The participant or beneficiary, more than thirty days prior to the elected date payment is to begin, elects to postpone the original date. Only one such postponement is allowed; or

(b) The participant, after separating from service is again hired by the employer and, before the originally elected date payment is to begin, reenrolls in the plan.

(2) If a participant has elected, under subsection (1)(a) of this section, to defer the commencement of distributions beyond the first permissible payout date, then the participant may make an additional election to further defer the commencement of distributions, provided that the election is filed before distributions actually begin and the later commencement date meets the required distribution commencement date provisions of Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code. A participant may not make more than one such additional deferral election after the first permissible payout date.

For purposes of the preceding paragraph, the "first permissible payout date" is the earliest date on which the plan permits payments to begin after separation from service, disregarding payments to a participant who has an unforeseeable emergency or attains age seventy and one-half, or under the in-service distribution provisions of the plan:

(3) Timing of election:

(a) A participant who separates from service other than by reason of death, must make an election no later than sixty days after separation from service. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110;

(b) A beneficiary, other than an organization, estate or trust, where the participant was not already receiving payments, must make an election no later than sixty days after the participant's death. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(i) A court-appointed guardian; or

(ii) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act."

Where a legal guardianship is not obtained, and where the participant has not previously named a custodian under the Washington Uniform Transfers to Minors Act as described above, or if such custodian has been named but dies or is unable or unwilling to serve, the plan may, follow-

ing the expiration of one hundred eighty days after the participant's death, request a court of competent jurisdiction to establish a custodianship under the Washington Uniform Transfers to Minors Act, chapter 11.114 RCW, irrespective of the amount at issue.

Once a custodianship has been established either by the participant's prior designation or by court order, the plan will transfer the funds in the deceased participant's account to the named custodian:

A transfer may be made only for one minor, and only one person may be the custodian, as set forth in the Washington Uniform Transfers to Minors Act. Written confirmation of delivery by the custodian constitutes a sufficient receipt and discharge of the plan for the deceased participant's account balance transferred to the custodian.

The custodian will have sixty days after the date of transfer to make an election regarding the payout period and when the payout will begin under this section.

(4) Election regarding method of payment. The participant (or beneficiary) who makes an election regarding the date payment will begin, may also elect the period over which payments will be made. The payout period election may be made either at the time he/she elects a beginning date for payout or at any time not later than sixty days prior to the date payout is to begin. Once having made this election, the participant (or beneficiary, other than an organization, estate, or trust) may change the payout period election not later than thirty days prior to the date payout is to begin. Such a beneficiary may also make this election where the participant was already receiving payments but, as provided in WAC 415-512-110 (3)(a), must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the payout period election not later than sixty days after the death of the participant and payout will be suspended following the participant's death until the beneficiary either makes a payout period election or begins receiving payment as provided in subsection (6) of this section. Provided, if the participant was receiving payout in the form of an annuity contract, then the successor's right shall be limited by the terms of that contract.

(5) How elections are made. A participant or beneficiary makes elections allowed under this section by completing and filing applicable payment request forms with the department. Only a court-appointed guardian may elect between a monthly and a lump sum benefit on behalf of the minor.

(6) Consequences in absence of a timely election regarding time of payment. Absent a timely election regarding when payout is to begin, payout will begin on the central payroll date nearest the twenty-fifth day of the month following the month in which the election period ends, and will be made, in a lump sum if the accumulated deferrals as of the end of the election period are less than twenty-five thousand dollars or, if the accumulated deferrals are twenty-five thousand dollars or more, in monthly installments over a period of one hundred twenty months or such lesser period:

(a) As may be necessary under the minimum payout requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

~~(b) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.~~

~~(7) Effects of certain employment changes. Transfers from the plan are allowed in the circumstances described in WAC 415-512-015(2).~~

~~(8) Consequences in absence of a timely election regarding method of payment. In the absence of a timely election regarding the period of time over which payment will be made, payment will be made in the manner described in subsection (6) of this section.~~

~~(9) Payment to an organization, estate, or trust. Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 415-512-110(3)) distribution method.~~

(1) Election regarding distribution date. For the purposes of this section, distribution date is the date on which distribution is to begin, disregarding payments to a participant who has an unforeseeable emergency or attains age seventy and one-half, or under the in-service distribution provisions of the plan.

(a) Distribution date election preconditions. Except as otherwise provided in WAC 415-501-500, the election regarding the distribution date shall be made by the participant when the participant separates from service, or by the beneficiary, when the participant dies having separated from service and having previously elected a distribution date.

(b) Distribution date election irrevocability. Once made, the election regarding distribution date is irrevocable, unless:

(i) The participant or beneficiary as provided in (a) of this subsection, more than thirty days prior to the elected date distribution is to begin, elects to postpone the original date. Only one such postponement is allowed.

Such a participant or beneficiary may elect to postpone his/her original distribution date only if the election to postpone is filed thirty days before the date distribution actually begins and the later distribution date meets the requirements of Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code; or

(ii) The participant, after separating from service is again hired by an employer and, thirty days before the originally elected date distribution is to begin, reenrolls in the plan.

(c) Timing of distribution date election.

(i) A participant who separates from service other than by reason of death must make a distribution date election no later than sixty days after notification of the participant's separation from service has been received by the department from the participant's employer(s). Distribution must begin within the time prescribed by WAC 415-501-500;

(ii) A beneficiary, other than an organization, estate or trust, where the participant was not already receiving distributions, must make a distribution date election no later than sixty days after notification of the participant's death. Distribution must begin within the time prescribed by WAC 415-501-500. The plan will not distribute to a minor beneficiary if the department does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act."

Where a legal guardianship is not obtained, and where the participant has not previously named a custodian under the Washington Uniform Transfers to Minors Act as described above, or if such custodian has been named but dies or is unable or unwilling to serve, the plan may, following the expiration of one hundred eighty days after the participant's death, request a court of competent jurisdiction to establish a custodianship under the Washington Uniform Transfers to Minors Act, chapter 11.114 RCW, irrespective of the amount at issue.

Once a custodianship has been established either by the participant's prior designation or by court order, the plan will transfer the funds in the deceased participant's account to the named custodian.

A transfer may be made for only one minor, and only one person may be the custodian, as set forth in the Washington Uniform Transfers to Minors Act. Written confirmation of delivery by the custodian constitutes a sufficient receipt and discharge of the plan for the deceased participant's account balance transferred to the custodian.

The custodian will have sixty days after the date of transfer to make an election regarding the distribution period and when the distribution will begin under this section.

(2) Election regarding distribution method. For the purposes of this section, distribution method is the period over which accumulated deferrals will be distributed or the amount of accumulated deferrals to be distributed.

(a) Distribution method election preconditions. The participant (or beneficiary) who makes a distribution date election may also elect the distribution method. The distribution method election may be made either at the time the participant or beneficiary elects a distribution date or at any time not later than thirty days prior to the distribution date.

(b) Distribution method election irrevocability. Once having made the distribution method election, the participant or beneficiary (other than an organization, estate, or trust) may change the distribution method election not later than thirty days prior to the distribution date. The election of a distribution method becomes irrevocable thirty days prior to the date that the participant's distribution is to begin.

A beneficiary may make the distribution method election where the participant was already receiving distributions but, as provided in subsection (1)(c) of this section, the beneficiary must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the distribution method election not later than sixty days after the notification of death of the participant. Distribution will be suspended following the participant's death until the beneficiary either makes a distribution method election or begins receiving distribution as provided in subsection (4) of this section. Provided, if the participant was receiving distribution in the form of an annuity contract, then the bene-

beneficiary's right shall be limited by the terms of that contract. The election of a distribution method becomes irrevocable thirty days prior to the date that the beneficiary's distribution is to begin.

(3) **How elections are made.** A participant or beneficiary makes elections allowed under this section by completing and filing the appropriate forms with the department. Only a court-appointed guardian may elect between installments and a lump sum benefit on behalf of a minor.

(4) **Consequences in absence of a timely election regarding distribution date.** Absent a timely election regarding when distribution is to begin:

(a) If the accumulated deferrals as of the end of the election period are less than twenty-five thousand dollars, the distribution will be made in a lump sum within thirty days of when the election period ended.

(b) If the accumulated deferrals are twenty-five thousand dollars or more, the distribution to a participant will be made in monthly installments over a period of one hundred twenty months or such lesser period:

(i) As may be necessary under the minimum distribution requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

(ii) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.

(5) **Consequences in absence of a timely election regarding distribution method.** In the absence of a timely election distribution method, distribution will be made in the manner described in subsection (4) of this section.

(6) **Effects of certain employment changes.** Transfers from the plan are allowed in the circumstances described in WAC 415-501-415.

(7) **Distribution to an organization, estate, or trust.** Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 415-501-500.

(8) **Distribution date and method cannot change after distribution begins.** Once distribution to the participant or beneficiary begins, the elections made under this section as to the distribution date or distribution method, may not be changed.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-095 Domestic relations orders. ((+) Domestic relation orders, which establish a right of the non-participant to a portion of a participant's account after the participant separates from service, will be honored at the discretion of the department:

(a) Only if the plan participant is eligible for, or is in actual payout status; and

(b) Based upon the capabilities of the deferred compensation program recordkeeping system.

(2) The plan will honor domestic relation orders by either:

(a) Recognizing that there is a lien against the plan's assets (provided the order establishes a fixed or determinable future amount to be paid); or

(b) Establishing a separate account for the nonparticipant spouse.) Domestic relations orders establish a right of the (ex) spouse to a portion of a participant's account after the participant separates from service.

(1) Order requirements. The department may, at its discretion, honor a court ordered or court approved decree of dissolution, decree of legal separation, or property settlement agreement incident to a court decree of dissolution or legal separation. In order for the department to honor the court ordered or court approved document, it must:

(a) Direct disbursement to (ex) spouse as a specified portion of the proceeds expressed as a current dollar amount or as a percentage of the value of the participant's deferred compensation account as of a specific date; and

(b) Require the participant to begin receiving distribution of proceeds from the plan not later than the April 1st immediately following the close of the year in which the participant separates from service; and

(c) Specify whether or not the participant, if he/she goes to work for another employer who offers an eligible Section 457 plan, shall have the right to transfer funds to the employer's Section 457 plan; and

(d) Be from a court of competent jurisdiction, be certified, and be personally served upon the department in a manner provided by the civil rules of superior court or applicable statute; and

(e) Provide a limitation, expressed as a cumulative dollar amount, above which the participant may not request and receive hardship withdrawals.

(2) A separate account for the (ex) spouse will be established for an order that is in compliance with subsection (1) of this section and honored by the department. Such an account will be established with the amount specified in subsection (1)(a) of this section.

(3) Distribution. If a participant has separated from service and makes an irrevocable distribution date election, distribution to the (ex) spouse will be made when distribution begins to the participant. The (ex) spouse may choose the method of distribution as provided in WAC 415-501-500.

(4) The department cannot honor an order directing immediate distribution into court, or to the spouse of an employee-participant.

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-512-110 Distribution of deferrals. (1) General rule. ((Assuming a timely)) Once a timely distribution date election ((is allowed and)) has been made pursuant to WAC ((415-512-090)) 415-501-490, ((payment)) distribution(s) will be made in at least annual, substantially nonincreasing amounts. ((Payments)) Distributions are also subject to the limitations in subsections (2) through (8) of this section.

(2) Distribution to participant. A participant must either:

(a) Receive his/her entire ~~((interest))~~ value of accumulated deferrals prior to the later of:

(i) The April 1st immediately following the close of the calendar year in which the participant attains age seventy and one-half; or

(ii) The April 1st immediately following the close of the calendar year in which the participant separates from service with the employer; or

(b) Begin receiving the value of his/her ~~((interest))~~ accumulated deferrals not later than the time specified in (a) of this subsection and receive it over a period not longer than one of the following:

(i) The life of the participant;

(ii) The life of the participant and a beneficiary designated by the participant;

(iii) The life expectancy of the participant; or

(iv) The life expectancy of the participant and ~~((a designated beneficiary))~~ the life expectancy of the participant's spouse.

~~((Payment))~~ Distribution must be sufficiently rapid to satisfy the requirements of Section 457 (d)(2)(B)(i)(I) and Section 401 (a)(9)(G) of the Internal Revenue Code.

Once ~~((payments))~~ distributions to a participant begin, ~~((the participant may accelerate the payment schedule only))~~ distribution may not be changed except in the event of an unforeseeable emergency (and subject to the provisions of WAC ~~((415-524-010))~~ 415-501-510 regarding such emergencies).

(3) Distribution to beneficiaries.

(a) When distribution begins prior to the participant's death, then ~~((payout))~~ distribution must be made at least as rapidly as it was being made to the participant. When the beneficiary is an organization, estate or trust, then ~~((payment))~~ distribution will be payable in a lump sum ~~((on))~~ in the ~~((twenty-fifth day of the))~~ second month following the participant's death.

(b) When distribution does not begin prior to the participant's death, and is to be made:

(i) To an organization, estate or trust, then ~~((payment))~~ distribution will be payable in a lump sum ~~((on))~~ in the ~~((twenty-fifth day of the))~~ second month following the participant's death;

(ii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, not to begin within one year of the participant's death, then ~~((payment))~~ distribution must be made ~~((within))~~ over a period ending no later than five years ~~((of))~~ after the participant's death. The plan will not distribute to a minor beneficiary if ~~((it))~~ the department does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC ~~((415-512-090(3)(b)))~~ 415-501-490;

(iii) To a living beneficiary designated by the participant other than the participant's surviving spouse, and, by election, beginning within one year of the participant's death, then

~~((payment))~~ distribution must be made ~~((within))~~ over a period ending no later than fifteen years ~~((of))~~ after the participant's death. The plan will not distribute to a minor beneficiary if it does not receive proof that the minor has either:

(A) A court-appointed guardian; or

(B) A custodian whom the participant during his or her lifetime designated in a beneficiary designation, will, trust or other instrument exercising a power of appointment, followed in substance by the words: "As custodian for (name of minor) under the Washington Uniform Transfers to Minors Act." See WAC ~~((415-512-090(3)(b)))~~ 415-501-490;

(iv) To the participant's surviving spouse, whether as designated beneficiary, or by default, then ~~((payment))~~ distribution must begin prior to the April 1st immediately following ~~((the latter of))~~ the close of the plan year in which the participant would have attained age seventy and one-half or, if later, the year in which the participant separated from service. ~~((Payment))~~ Distribution may be made over the lifetime of the surviving spouse or over a period not longer than the life expectancy of the surviving spouse.

(4) For purposes of this section, life expectancies will be computed by use of the expected return multiples in Treasury Department Regulation 1.72-9 or, if distribution is to be effected through a contract issued by an insurance company, by use of the mortality tables of such company.

(5) Except as provided in subsection (6) of this section, periodic ~~((payments))~~ distributions made by the department must be at least fifty dollars per month if paid monthly, and six hundred dollars per year, if paid annually.

(6) An annuity may be purchased from an insurance company that has a contract with the department or its designee. The minimum amount to purchase a monthly annuity is one hundred thousand dollars. The minimum amount for an annuity paid quarterly is twenty-five thousand dollars.

(7) Notwithstanding anything in this plan to the contrary, distributions from the plan will be made in compliance with the minimum distribution rules of Section 457 (d)(2) of the Internal Revenue Code, and in compliance with Treasury Department Regulations issued under Sections 401 (a)(9) and 457 (d)(2) of the Internal Revenue Code.

(8) Voluntary in-service distribution: A participant who is an active employee of an eligible employer shall receive a distribution of the total amount payable to the participant under the plan if the following requirements are met:

(a) The total amount payable to the participant under the plan does not exceed five thousand dollars (or the dollar limit under Section 411 (a)(11) of the Internal Revenue Code, if greater);

(b) The participant has not previously received an in-service distribution of the total amount payable to the participant under the plan;

(c) No amount has been deferred under the plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

(d) The participant elects to receive the distribution.

NEW SECTION

The follow sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
415-512-010	415-501-410
415-512-015	415-501-415
415-512-020	415-501-420
415-512-030	415-501-430
415-512-040	415-501-440
415-512-050	415-501-450
415-512-070	415-501-470
415-512-075	415-501-475
415-512-080	415-501-480
415-512-085	415-501-485
415-512-086	415-501-486
415-512-087	415-501-487
415-512-090	415-501-490
415-512-095	415-501-495
415-512-110	415-501-500

UNFORESEEABLE EMERGENCY

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-524-010 Unforeseeable emergency. (1) ~~((Payout))~~ Distribution request. Notwithstanding any other provisions in plan chapter((s)) 415-501 ~~((through 415-568))~~ WAC, in the event of an unforeseeable emergency, a participant ~~((or a beneficiary entitled to accumulated deferrals))~~ may request the department to ~~((pay out))~~ distribute all or a portion of accumulated deferrals. If the ~~((application for payment))~~ request is approved by the department, ~~((payment))~~ distribution will be made within sixty days following such an approval. The amount paid shall be limited strictly to that amount reasonably necessary to satisfy the emergency need.

For purposes of this plan, an unforeseeable emergency shall be severe financial hardship to the participant resulting from:

(a) A sudden and unexpected illness or accident of the participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the participant,

(b) Loss of the participant's property due to casualty, or

(c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, ~~((payment))~~ distribution shall not be made to the extent that such hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise;

(ii) By liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or

(iii) By cessation of deferrals under the plan.

Examples of what shall not be considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

A divorce does not constitute an "unforeseeable emergency" or "severe financial hardship."

(2) Applications for review. All applications for review of decisions on requests for ~~((pay out))~~ distribution of accumulated deferrals due to an unforeseeable emergency shall follow the procedure established in WAC 415-08-015.

(3) Mandatory suspension. Unforeseeable emergency requests received by the department, whether approved or denied, will cause a mandatory suspension of the participant as established in WAC 415-501-470.

(4) Pursuant to WAC 415-501-500, once distributions to a participant begin, the distributions may not be changed except in the event of an unforeseeable emergency and subject to the provisions of this section.

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-524-010	415-501-510

LEAVE OF ABSENCE

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-528-010	415-501-520

AMENDMENT OR TERMINATION OF PLAN

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-532-010 Termination of plan. The employer or the department may at any time terminate this plan. Upon such termination, accumulated deferrals will be paid pursuant to ~~((chapter 415-512))~~ WAC 415-501-410 through 415-501-500 of the plan. The participants' deferrals will cease.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-532-020 Amendment of plan. The department may ~~((also))~~ amend the provisions of this plan at any time: Provided, however, That no amendment shall affect the rights of participants or their beneficiaries regarding accumulated deferrals at the time of the amendment.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
415-532-010	415-501-530
415-532-020	415-501-540

RELATIONSHIP TO OTHER PLANS

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-536-010 Retirement and Social Security not reduced. It is intended that, pursuant to Section 457 of the Internal Revenue Code, the amount of deferred compensation will not be considered as current compensation for purposes of federal income taxation. Such amounts will, however, be included as compensation in determining benefits or rights under the employer's group insurance, other retirement plans and FICA. ~~((Payments))~~ Distributions under this plan will supplement retirement and death benefits payable under the employer's group insurance and other retirement plans.

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-536-010	415-501-550

TRANSFER IN LIEU OF CASH

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-540-010 Assets in lieu of cash. Upon the occurrence of any event requiring the ~~((payment))~~ distribution of accumulated deferrals under this plan, the department may, in its sole discretion, elect to honor a request from the participant to substitute the transfer in kind and assignment of any asset which the employer has acquired, at fair market value.

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-540-010	415-501-560

NONASSIGNABILITY CLAUSE

AMENDATORY SECTION (Amending WSR 98-20-047, filed 9/30/98, effective 10/31/98)

WAC 415-544-010 Accumulated deferrals not assignable. Neither the participant, nor the participant's beneficiary or beneficiaries, nor any other designee, has any right to sell, assign, transfer, commute, or otherwise convey the right to receive any ~~((payments))~~ distributions under the plan. These ~~((payments))~~ distributions and right thereto are nonassignable and nontransferable. Unpaid accumulated deferrals are not subject to attachment, garnishment, or execution and are not transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law. In the event of any attempt to assign or transfer, the state investment board and the department will have no liability.

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-544-010	415-501-570

ASSETS

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-548-010	415-501-580

PARTICIPATION BY DEPARTMENT OFFICERS AND EMPLOYEES AND MEMBERS OF THE EMPLOYEE RETIREMENT BENEFITS BOARD

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-552-010 Participation by department officers and employees and members of the employee retirement benefits board. Department officers and employees and members of the employee retirement benefits board, who are otherwise eligible, may participate in the plan under the same terms and conditions as apply to other participants; but such ~~((an))~~ officers, employees, or board members shall not participate in any department or board action uniquely affecting their own participation.

PERMANENT

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-552-010	415-501-590

EMPLOYER PARTICIPATION

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-556-010 Employer contributions. The employer may, pursuant to ~~((a changed or new participation agreement filed by a participant as specified in))~~ WAC ~~((415-512-050))~~ 415-501-450 or ~~((415-512-070))~~ 415-501-470, add additional deferred compensation for services to be rendered by the employee to the employer during any calendar month, provided:

(1) The employee has elected to have such additional compensation deferred, invested, and distributed, pursuant to this plan, prior to the calendar month in which the compensation is earned; and

(2) Such additional deferred compensation, when added to all other deferred compensation under the plan, does not exceed the maximum deferral permitted by ~~((chapter 415-512))~~ WAC 415-501-410 through 415-501-500.

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-556-010	415-501-600

INVESTMENT RESPONSIBILITY

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
415-560-010	415-501-610

DEPARTMENT POWERS

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-564-010 Plan prevails. In the event any form or other document used in administering this plan ~~((including but not limited to enrollment forms and marketing materials;))~~ conflicts with the terms of the plan, the terms of the plan shall prevail.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-564-020 Decision binding. The department is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding on the participant and any beneficiary thereof.

A participant or beneficiary may file a petition for review under chapter 415-04 WAC or an application under WAC 415-08-015(2) for review of a decision to deny an application for distribution pursuant to WAC 415-501-510.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-564-040 Tax status not guaranteed. The department does not:

(1) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of the participant's participation in this plan;

(2) Assume any liability for a participant's compliance with the Internal Revenue Code.

The participant should consult with ~~((the participant's))~~ his/her own representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in this plan.

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-564-050 Department may require court order. The department or the employer, if in doubt concerning the correctness of their action in making a ~~((payment))~~ distribution of accumulated deferrals, may suspend ~~((payment))~~ distribution until satisfied as to the correctness of the ~~((payment))~~ distribution or the person to receive the ~~((payment))~~ distribution or to allow the filing in any state court of competent jurisdiction of a civil action seeking a determination of the amounts to be paid and the persons to receive them. The department and the employer shall comply with the final orders of the court in any such suit; and the participant, for the participant and the participant's beneficiary or beneficiaries, consents to be bound thereby. Whenever ~~((payment))~~ distribution of accumulated deferrals is suspended pursuant to this section, the time for a participant or beneficiary making any election under WAC ~~((415-512-090))~~ 415-501-490 shall not begin until amount(s) and person(s) entitled are determined either by a written agreement of all parties concerned or by a court judgment that has become final.

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
415-564-010	415-501-360
415-564-020	415-501-370

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415-564-030	415-501-305
415-564-040	415-501-320
415-564-050	415-501-380
415-564-060	415-501-390

APPLICABLE LAW

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
415-568-010	415-501-710
415-568-020	415-501-720

**WSR 00-11-108
PERMANENT RULES
CLOVER PARK
TECHNICAL COLLEGE**

[Filed May 19, 2000, 8:50 a.m.]

Date of Adoption: May 10, 2000.

Purpose: To make changes to the student conduct code and various technical amendments.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Adopted under notice filed as WSR 00-08-105 on April 5, 2000.

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 38, Repealed 14.

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.

May 12, 2000

N. P. Robinson

Vice-President for

Operations and Facilities

AMENDATORY SECTION (Amending WSR 92-19-091, filed 9/16/92, effective 10/17/92)

WAC 495C-134-010 Rules coordinator. The rules coordinator for Clover Park Technical College (~~as design-~~

~~ated by the president is~~) shall have an office located at the president's office, with the following mailing address:

~~(G. James Capelli Sr. Vice President)~~ Rules Coordinator
Clover Park Technical College
4500 Steilacoom Boulevard S.W.
~~(Tacoma)~~ Lakewood, WA 98499-4098

WSR 00-11-115

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed May 19, 2000, 4:27 p.m., effective June 30, 2000]

Date of Adoption: May 19, 2000.

Purpose: Chapter 296-402A WAC, Electrical evaluation/certification laboratory accreditation.

These rules describe the methods required to obtain recognition and accreditation of electrical product(s) certification and/or field evaluation laboratories. These rules are necessary to provide assurance to the general consuming public that electrical products have been tested for safety and identified for their intended use.

A new, state-initiated chapter 296-402A WAC is being adopted to:

- Apply clear rule-writing principles to the current chapter 296-402 WAC (see proposed chapter 296-402A WAC).
- Move existing chapter 296-402 WAC requirements into new sections of chapter 296-402A WAC (see proposed chapter 296-402A WAC).
- Remove outdated and redundant language to make the rules easier to use and understand (see proposed chapter 296-402A WAC).
- Reorganize and restructure rule sections to make the rules easier to use (see proposed chapter 296-402A WAC).
- Add definitions for easier use and understanding of the rule (see proposed WAC 296-402A-030).
- Clarify the differences between product certification requirements and field evaluation requirements (see proposed WAC 296-402A-370 through 296-402A-690).
- Change the accreditation period from 2 years to 5 years to decrease the administrative burden on testing labs and the department (see proposed WAC 296-402A-060).
- Modify the calculation of renewal fees from 50% of the initial accreditation amount (which could be as much as \$2650) to 50% of the initial filing fee (which is \$500.00) which is \$250.00. This change results in a decreased renewal fee (see proposed WAC 296-402A-110).
- Correct the amount of time to appeal (currently in WAC 296-402-200) from 15 days to 20 days and that the notice of intent to revoke, suspend, or refuse to renew must be sent to the last known address by

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certified mail (in new WAC 296-402A-260). These requirements are found in RCW 19.28.310.

Citation of Existing Rules Affected by this Order: Repealing chapter 296-402 WAC, Electrical testing laboratory accreditation, 296-402-010 Foreword, 296-402-020 Purpose and scope, 296-402-030 Definitions, 296-402-040 Organization, 296-402-050 Professional and ethical business practices, 296-402-060 Quality control system, 296-402-070 Personnel, 296-402-080 Calibration—Verification and maintenance of facilities and equipment, 296-402-090 Plans for certification programs, 296-402-100 Records, 296-402-110 Product certification program, 296-402-120 Product assurance (follow-up) activities, 296-402-130 Laboratory approval program implementation, 296-402-140 Initial laboratory evaluation, 296-402-150 Renewals, 296-402-160 Conditions of accreditation, 296-402-170 Penalties, 296-402-180 Notification of change, 296-402-190 Revocation and suspension procedures, and 296-402-200 Appeal procedures.

Statutory Authority for Adoption: RCW 19.28.060.

Other Authority: Chapter 19.28 RCW.

Adopted under notice filed as WSR 00-07-137 on March 22, 2000.

Changes Other than Editing from Proposed to Adopted Version: **WAC 296-402A-030 Definitions**, as a result of public testimony the following change(s) was made:

(4): A change was made to this section to clarify that the laboratory and not the certification mark is accredited by the state of Washington.

(17): Added the word "federal" to clarify the agency that does Nationally Recognized Testing Laboratory (NRTL) accreditation.

WAC 296-402A-110 What fees are involved in receiving or renewing accreditation by the state of Washington?

As a result of public testimony the following change(s) was made:

Add the wording "All existing accreditations" to clarify that the additional fees are only for added categories done after the initial accreditation.

WAC 296-402A-240 Is there an opportunity to confer with the department after notice of intent to suspend, revoke, or refusal to renew?

Added the language that the request for a conference must be in writing to clarify how to initiate a conference.

WAC 296-402A-260 Who may appeal and what is the time allowed to enter an appeal?

As a result of public testimony the following change(s) was made:

This section was amended to clarify when an appeal must be filed and that the twenty-calendar day requirement starts after the department's decision is sent.

WAC 296-402A-270 What is the procedure for appealing a suspension, revocation, or refusal to renew?

The title was changed to address the appeal of all decisions made by the department.

WAC 296-402A-400 What does the evaluation report include?

As a result of public testimony the following change(s) was made:

Added that the address of where the evaluated product is or will be installed must be included in the evaluation report. This change is appropriate for field evaluations because it identifies the site of the product relative to the evaluation report. Also reordered to follow more logical flow of information.

WAC 296-402A-420 Must the laboratory maintain control of field evaluation marks?

As a result of public testimony the following change(s) was made:

This section was moved to WAC 296-402A-675 because it relates to the field evaluation mark requirements.

WAC 296-402A-425 Are there other requirements regarding the field evaluation mark?

As a result of public testimony the following change(s) was made:

This section was removed because these requirements are covered in WAC 296-402A-690.

WAC 296-402A-430 How does the laboratory verify maintenance and calibration of facilities and/or equipment?

As a result of public testimony the following change(s) was made:

Changed the word "adequate" to "equivalent."

WAC 296-402A-620 What products can a field evaluation laboratory evaluate?

As a result of public testimony the following change(s) was made:

Replaced "accept" with "review or recognize."

WAC 296-402A-630 Must an evaluation laboratory apply to perform each field evaluation?

As a result of public testimony the following change(s) was made:

Eliminated the requirement that permission must be received within two working days. The department must still be notified two working days prior to the field evaluation so that the department has the opportunity to grant or deny the request prior to the work being done.

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 67, Amended 0, Repealed 20.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 67, Amended 0, Repealed 20.

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 67, Amended 0, Repealed 20.

Effective Date of Rule: June 30, 2000.

May 19, 2000

Gary Moore

Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-402-010	Foreword.
WAC 296-402-020	Purpose and scope.
WAC 296-402-030	Definitions.
WAC 296-402-040	Organization.
WAC 296-402-050	Professional and ethical business practices.
WAC 296-402-060	Quality control system.
WAC 296-402-070	Personnel.
WAC 296-402-080	Calibration—Verification and maintenance of facilities and equipment.
WAC 296-402-090	Plans for certification programs.
WAC 296-402-100	Records.
WAC 296-402-110	Product certification program.
WAC 296-402-120	Product assurance (follow-up) activities.
WAC 296-402-130	Laboratory approval program implementation.
WAC 296-402-140	Initial laboratory evaluation.
WAC 296-402-150	Renewals.
WAC 296-402-160	Conditions of accreditation.
WAC 296-402-170	Penalties.
WAC 296-402-180	Notification of change.
WAC 296-402-190	Revocation and suspension procedures.
WAC 296-402-200	Appeal procedures.

Chapter 296-402A WAC**ELECTRICAL EVALUATION/CERTIFICATION
LABORATORY ACCREDITATION****GENERAL**NEW SECTION

WAC 296-402A-010 What is the statutory authority for this chapter? Electricians and electrical installations RCW 19.28.010, 19.28.060, 19.28.065, and 19.28.070 authorize this chapter.

NEW SECTION

WAC 296-402A-020 What is the scope and purpose of this chapter? This chapter describes the methods required to obtain recognition and accreditation of electrical product(s) certification and/or field evaluation laboratories by the state of Washington. This chapter provides assurance to the general consuming public that electrical products have been tested for safety and identified for their intended use.

NEW SECTION

WAC 296-402A-030 Definitions. (1) "**Accreditation**" is a determination by the department that a laboratory meets the requirements of this chapter and is therefore authorized to offer electrical products for sale in the state of Washington.

(2) "**ANSI**" means American National Standards Institute.

(3) A "**category list**" is a list of nonspecific product types determined by the department.

(4) A "**certified electrical product**" is an electrical product to which a laboratory, accredited by the state of Washington, has the laboratory's certification mark attached.

(5) A "**certification mark**" is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

(6) A laboratory "**certification program**" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority, regulating the evaluation of electrical products for certification marking by a certification laboratory.

(7) "**Department**" means the department of labor and industries.

(8) "**Electrical board**" means the board established in accordance with electricians and electrical installations RCW 19.28.065.

(9) An "**electrical products certification laboratory**" is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

(10) An "**electrical products evaluation laboratory**" is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

(11) A "**field evaluation program**" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority regulating the testing and evaluation of electrical products for field evaluation marking.

(12) "**Field evaluated**" means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

(13) "**Field evaluation mark**" is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with

appropriate standards or that the product has been evaluated for specific end uses.

(14) "Labeled" means an electrical product to which a certification mark accredited by the state of Washington is attached.

(15) A "laboratory" may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

(16) A "laboratory operations control manual" is a document to establish laboratory operation procedures and may include a laboratory quality control manual.

(17) "NRTL" means Nationally Recognized Testing Laboratory accredited by the Federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 CFR 1910.7.

(18) A "quality control manual" is a document to maintain the quality control of the laboratory's method of operation. It consists of specified procedures and information for each test method responding to the requirements of the product standard. Specific information must be provided for portions of individual test methods when needed to comply with the standard's criteria or otherwise support the laboratory's operation.

NEW SECTION

WAC 296-402A-040 When is an electrical product considered safe? An electrical product is considered to be safe when it is either certified by a laboratory accredited by the department or labeled with a field evaluation mark by a laboratory accredited by the department.

ACCREDITATION—GENERAL REQUIREMENTS

NEW SECTION

WAC 296-402A-050 Where do I obtain the forms and procedures for submitting an application for accreditation? The department's chief electrical inspector's office provides forms and procedures enabling applicants to submit the data necessary for evaluation or accreditation.

NEW SECTION

WAC 296-402A-060 What is the period of accreditation? The accreditation period of an NRTL will be valid for the period of accreditation of the NRTL by OSHA.

The accreditation of a non-NRTL will be valid for the period of five years from the date of the department's accreditation.

NEW SECTION

WAC 296-402A-070 Is an on-site inspection of a laboratory requesting initial accreditation or renewal required? On-site inspection of the laboratory may be required during the initial application process or the renewal process. Technically qualified representative(s) of the

department will evaluate for compliance with accreditation criteria.

NEW SECTION

WAC 296-402A-080 When can the on-site inspection be waived? On-site inspection is not required for:

- NRTL recognized laboratories requesting approval as certification laboratories using standards for which NRTL recognition has been approved.

The department may waive on-site inspection for:

- Laboratories recognized or accredited by another state determined to provide an accreditation program acceptable to the department.

- NRTL recognized laboratories requesting approval as certification laboratories for using other standards for which NRTL recognition has not been approved.

NEW SECTION

WAC 296-402A-090 Who pays for the on-site inspection? The applicant must pay all costs associated with the on-site inspection.

NEW SECTION

WAC 296-402A-100 Do NRTL recognized laboratories have to apply for accreditation with the department?

Yes. For purposes of chapter 19.28 RCW, the department must accredit all laboratories which certify and/or field evaluate electrical products offered for sale in the state of Washington. A NRTL requesting approval as a certification laboratory will be approved for accreditation by the department upon completion of the application process.

NEW SECTION

WAC 296-402A-110 What fees are involved in receiving or renewing accreditation by the state of Washington?

Initial filing fee	\$ 500.00
Initial accreditation fee:	
One product category	\$ 250.00
Each additional category	\$ 100.00
for the next nineteen categories	each
Maximum for twenty categories	\$2150.00
or more	
Renewal fee:	50% of initial filing fee
All existing accreditations	
Each additional category for the next nine-	\$ 100.00
teen categories	each
Maximum for twenty categories or more	\$2150.00

NEW SECTION

WAC 296-402A-130 When does a laboratory need to apply for renewal of accreditation? The laboratory must

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apply for renewal of accreditation at least thirty days prior to the accreditation expiration date. The department will renew accreditation for the period specified in WAC 296-402A-060 or notify the renewing laboratory of the department's reason(s) of refusal following receipt of the completed form and renewal fee. Accreditation may be renewed or refused for one or more electrical product category(ies).

NEW SECTION

WAC 296-402A-140 Who determines the adequacy of a laboratory for accreditation? The department accepts or denies laboratory accreditation. Adequacy is determined when a laboratory provides evidence to the department that all the requirements of this chapter are met. Adequacy is determined by the department and prior to making a determination the department may require information and documentation to be provided by the laboratory.

NEW SECTION

WAC 296-402A-150 Is continued accreditation subject to review by the department? Accreditation is subject to review when deemed necessary by the department. The laboratory must pay all costs associated with on-site review.

NEW SECTION

WAC 296-402A-160 What conditions are required to obtain and maintain accreditation? Every accredited laboratory must continue to satisfy all the conditions specified in this chapter during the period of the accreditation. A non-NRTL accredited laboratory must furnish the department an annual report detailing the extent of its activities for the year. The report must include, but not be limited to:

- (1) The number of factory inspections.
- (2) Organizational structure.
- (3) Statement of ownership.
- (4) Laboratory equipment verification.
- (5) Client accreditation programs.

(6) Reports of litigation, which in any way were the result of or will affect any accreditation or testing of products covered by this chapter.

(7) Assessment of recordkeeping (i.e., certification/evaluation plans, certification/evaluation reports).

NEW SECTION

WAC 296-402A-170 How is notification of accreditation results made? The department will notify the applicant of the accreditation results. A letter of accreditation from the department is proof of the accreditation of a laboratory.

NEW SECTION

WAC 296-402A-180 What categories of electrical products can the laboratory certify or evaluate after accreditation is obtained? The laboratory will be approved to certify only those categories identified and authorized by the department. The department will approve and list electrical

product category(ies) the laboratory is qualified to certify or evaluate. The accreditation letter will indicate the electrical product category(ies) for which accreditation is issued.

NEW SECTION

WAC 296-402A-190 Is electrical product acceptance in each category all-inclusive? No. The department may exclude specific electrical products from acceptance. When required, the laboratory must provide evidence, acceptable to the department, that the laboratory is qualified to certify or field evaluate the specific electrical product. Laboratory recognition as an NRTL for the standard(s) used to certify or field evaluate an electrical product will be acceptable evidence. The standards used for certification or field evaluation must be determined by the department to be acceptable and applicable to the electrical product being certified or field evaluated.

SUSPENSION OR REVOCATION

NEW SECTION

WAC 296-402A-200 What happens if the laboratory fails to comply with the requirements for accreditation? Any laboratory failing to comply with the requirements of this chapter or submitting false information may have accreditation revoked or suspended for one or more electrical product category(ies).

NEW SECTION

WAC 296-402A-210 Can the department suspend or revoke the accreditation? The department may suspend or revoke the accreditation of any laboratory found to be in non-compliance with this chapter or the laws of the State of Washington.

NEW SECTION

WAC 296-402A-220 Must the department provide written notice of intent to suspend, revoke or refusal to renew? Yes. Prior to suspension, revocation, or refusal to renew the accreditation of a laboratory, written notice of such intent must be served by the department by certified mail to the last known address.

NEW SECTION

WAC 296-402A-230 What must the laboratory do if department accreditation is suspended, revoked, or not renewed? The laboratory must immediately notify all manufacturers whose products are covered by the accreditation that such products manufactured subsequent to the departmental revocation and offered for sale in the state of Washington can no longer bear the laboratory's label that identified it as a certified product in the state of Washington. A laboratory, whose accreditation has been suspended, may not reapply for accreditation during the period of such suspension. A

laboratory, whose accreditation has been revoked, may reapply for accreditation no sooner than one year after the date of revocation of accreditation.

NEW SECTION

WAC 296-402A-240 Is there an opportunity to confer with the department after notice of intent to suspend, revoke, or refusal to renew? Yes. Within fifteen calendar days of receipt of the notice of intent, the affected laboratory may request a conference before the department. The request for a conference must be in writing and stays the effect of notice of intent until the department makes its final determination.

APPEAL

NEW SECTION

WAC 296-402A-250 Can a laboratory appeal a decision of the department? Yes. If the affected laboratory disagrees with the decision of the department, the laboratory may appeal to the electrical board.

NEW SECTION

WAC 296-402A-260 Who may appeal and what is the time allowed to enter an appeal? Only the affected laboratory may appeal the department's decision. The appeal must be filed within the later of twenty calendar days after the notice of intent to suspend, revoke, or refuse to renew is sent by certified mail to the last known address of the holder of the accreditation, or within twenty calendar days after the final determination by the department as referenced in WAC 296-402A-240 is sent to the last known address of the holder of the accreditation.

NEW SECTION

WAC 296-402A-270 What is the procedure for appealing a decision of the department? An appeal must be made in writing to the department chief electrical inspector, as secretary to the electrical board. The written appeal must state the decision of the department that is being appealed and the relief that is desired.

NEW SECTION

WAC 296-402A-290 How is a formal appeal made? A written request for a formal appeal must be made per the requirements of WAC 296-402A-260 through 296-402A-270 and accompanied by a certified check in the amount of two hundred dollars made payable to the department. The deposit will be returned to the appealing party if the decision of the department is not sustained or upheld. If the decision of the department is sustained or upheld, the deposit will be used to pay the expenses of holding the hearing, and any balance remaining after the payment of expenses will be paid into the electrical license fund.

A formal appeal will be held in conformance with the requirements of the Administrative Procedure Act, chapter 34.05 RCW and will be assigned by the electrical board to an administrative law judge.

NEW SECTION

WAC 296-402A-300 Where is other appeal information located? See chapter 296-13 WAC and chapter 34.05 RCW for additional information on appeals before the electrical board.

BUSINESS STRUCTURE, PRACTICES, AND PERSONNEL

NEW SECTION

WAC 296-402A-310 What type of business organization is required of the laboratory? The laboratory must be an independent, third-party organization with no organizational, managerial, financial, design, or promotional affiliation with manufacturers, suppliers, installers, or vendors of products covered under its certification or evaluation programs.

The laboratory must have an adequate diversity of clients or activity so that the loss or award of a specific contract regarding certification or evaluation would not be a deciding factor in the financial well being of the laboratory.

NEW SECTION

WAC 296-402A-320 What professional business practices must the laboratory meet? The laboratory must adequately:

(1) Perform the examinations, tests, evaluations, and inspections required under the certifications programs in accordance with the designated standards and procedures.

(2) Assure that reported values accurately reflect measured and observed data.

(3) Limit work to that for which competence and capacity is available.

(4) Treat test data, records, and reports as proprietary information.

(5) Respond and attempt to resolve complaints contesting certifications and evaluation results.

(6) Maintain an independent relationship between its clients, affiliates, and other organizations so the laboratory's capacity to give certifications and evaluations objectively and without bias is not adversely affected.

(7) Notify the department within thirty calendar days should it become unable to conform to any of the requirements of this chapter.

NEW SECTION

WAC 296-402A-330 Must the laboratory notify the department of any business changes? Yes. Laboratories accredited under this chapter must notify the department within thirty working days of any of the following:

- (1) Change in company name and/or address.
- (2) Changes in major test equipment which affect the ability to perform work for which accredited.
- (3) Changes in principal officers, key supervisory and responsible personnel in the company including the director of testing and engineering services, director of follow-up services, and the laboratory supervisor.
- (4) Change in independent status.

NEW SECTION

WAC 296-402A-340 What is a certification or evaluation program plan? The laboratory must develop and maintain a certification or evaluation program plan that includes, but is not limited to:

- (1) The procedures and authority to ensure the product complies with the standard(s) established by the program.
- (2) A quality control system.
- (3) Adequate personnel to perform the certification or evaluation.
- (4) Verification and maintenance of facilities and/or equipment.
- (5) Sample selection as applicable for product certifications, and for component testing as necessary for field evaluations.

The plan must demonstrate that the laboratory has adequate personnel, facilities, and equipment to perform all certifications and testing for which it is accredited by the state of Washington. These elements must be contained in the laboratory operations control manual.

NEW SECTION

WAC 296-402A-350 What quality control requirements must the laboratory meet? The laboratory must develop and maintain a quality control system adequate to assure the accuracy and technical integrity of its work as follows:

- (1) The laboratory's quality control system must include a quality control or laboratory operations control manual.
- (2) The quality control or laboratory operations control manual must be adequate to guide a testing technician or inspector in conducting the inspection, evaluation, and/or test in accordance with the test methods and procedures required for the laboratory's certification and/or evaluation program(s).
- (3) The laboratory must have a current copy of its quality control or laboratory operations control manual available in the laboratory for use by laboratory personnel.

NEW SECTION

WAC 296-402A-360 What personnel requirements must the laboratory meet? Competent personnel who must have training, technical knowledge, and experience adequate to perform the tests, examinations, and evaluations for the certification and/or evaluation activities for which recognition is sought must staff the laboratory.

The laboratory must:

(1) Provide adequate safeguards protecting the employment status of personnel from the influence or control of manufacturers, vendors, or installers of electrical products certified or tested by the laboratory.

(2) Develop and maintain a job description for each technical position category.

(3) Assure the competency of its staff to perform assigned tasks through individual yearly observation and/or examination by a person(s) qualified by the person who has technical responsibility for the laboratory.

(4) Develop and maintain records of the results and dates of the observation or examination of personnel performance.

(5) Maintain information on the training, technical knowledge, and experience of personnel.

(6) Develop and maintain an adequate training program assuring that new or untrained personnel will be able to perform assigned tasks properly and uniformly.

RECORDKEEPING AND REPORTING—GENERAL

NEW SECTION

WAC 296-402A-370 What type of records must the laboratory maintain? The laboratory must develop and maintain records and reports of those testing, inspection, certification, and evaluation activities associated with each program for which accreditation is sought. The laboratory must retain these records for a minimum of three years.

NEW SECTION

WAC 296-402A-380 Is the laboratory required to make records available to the department? Yes. The laboratory must make available to the department, upon request, all records required by the department to verify compliance with this chapter.

PRODUCT CERTIFICATION—RECORDKEEPING AND REPORTING

NEW SECTION

WAC 296-402A-390 What must be included in certification reports? Certification reports must contain, as applicable:

- (1) Name and address of the laboratory.
- (2) Pertinent data and identification of tests or inspections.
- (3) Name of client.
- (4) Appropriate product title.
- (5) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997).
- (6) Description and identification of the sample including, as necessary, where and how the sample was selected.
- (7) Identification of the test, inspection, or procedure as specified for certification or evaluation by the standard.
- (8) Known deviations, additions to, or exclusions from evaluation and certification activities in order to be appropriate.

ate for new or innovative products not contemplated by the standard.

(9) Measurements, examinations, derived results, and identification of test anomalies.

(10) A statement as to whether or not the results comply with the requirements of the standard.

(11) Signature of person(s) having responsibility for the report.

(12) Raw data, calculations, tables, graphs, sketches, and/or photographs generated during certification or evaluation must be maintained if not included in the report.

(13) Control forms documenting the receipt, handling, storage, shipping, and testing of samples.

(14) The laboratory must maintain records of its quality control checks and audits for monitoring its test work associated with its certification programs, including:

(a) Records of products assurance (follow-up) test results; and

(b) Records of detected errors and discrepancies and actions taken subsequent to such detection.

(15) The laboratory must maintain a record of written complaints and disposition thereof.

(16) The laboratory must retain records required by these criteria for a minimum of three years after cessation of the certification or evaluation.

FIELD EVALUATION—RECORDKEEPING AND REPORTING

NEW SECTION

WAC 296-402A-400 What does the evaluation report include? (1) Name and address of the laboratory.

(2) Name of client.

(3) Address where the evaluated product is or will be installed.

(4) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997).

(5) Description and identification of the nonlisted and nonlabeled component(s) requiring evaluation by applicable standard(s).

(6) Description of the overall product evaluated to include full nameplate data and equipment type.

(7) A statement as to whether or not the results comply with the requirements of the standard.

(8) Pertinent test evaluation data and identification of tests or inspections including anomalies.

(9) Signature of person(s) having responsibility for the report.

(10) Any condition of acceptability or restrictions on use/relocation.

(11) Serial number(s) of the field evaluation label(s) applied must be included with the equipment identification.

(12) The labor and industries department file identification number.

NEW SECTION

WAC 296-402A-410 Who gets a copy of the evaluation report? (1) The department's chief electrical inspector.

(2) Local electrical inspection office.

(3) Client.

FACILITIES AND EQUIPMENT

NEW SECTION

WAC 296-402A-430 How does the laboratory verify maintenance and calibration of facilities and/or equipment? The laboratory must provide adequate evidence of the calibration, verification, and maintenance of the facilities and equipment specified for each certification or evaluation.

Verification and maintenance of facilities and equipment must include as applicable, but not be limited to:

(1) Equipment description.

(2) Name of manufacturer.

(3) Model, style, serial number, or other identification.

(4) Equipment variables subject to calibration and verification.

(5) Statement of the equipment's allowable error and tolerances of readings.

(6) Calibration or verification procedure and schedule.

(7) Dates and results of last calibrations or verifications.

(8) Specified maintenance practices.

(9) Calibration and/or verification of equipment used.

(10) Name of personnel or outside contractor providing the calibration or verification service.

(11) Traceability to National Institute of Standards and Technology or other equivalent standard reference authority.

STANDARDS

NEW SECTION

WAC 296-402A-440 Must standards documents be available for use by laboratory personnel? Yes. The laboratory must have copies available, for laboratory personnel use, of applicable standards and other documents referred to or used in performing each certification or test for which approval is sought.

NEW SECTION

WAC 296-402A-450 What standards may be used for electrical product certification or evaluation? The standard(s) used, as the basis of the electrical product certification or evaluation program, must be a department approved product safety standard that is determined to provide an adequate level of safety or define an adequate level of safety performance.

NEW SECTION

WAC 296-402A-460 What product safety standards are approved by the department? Generally, such standards will:

(1) Be recognized by ANSI as an electrical product safety standard.

(2) Be compatible with and be maintained current with periodic revisions of applicable national codes and installation standards.

(3) Be developed by a standards developing organization under a method providing for input and consideration of views of industry groups, experts, users, consumers, and governmental authorities, and others having broad experience in the electrical products safety field.

NEW SECTION

WAC 296-402A-470 Are any product safety standards automatically accepted? Yes. All ANSI safety designated electrical product standards are deemed acceptable for their intended use without further qualification.

NEW SECTION

WAC 296-402A-480 What is required if the product safety standard is not ANSI? Generally, such standards will:

- Be recognized in the United States as an electrical product safety standard.
- Be compatible with and be maintained current with periodic revisions of applicable national codes and installation standards.
- Be developed by a standards developing organization under a method providing for input and consideration of views of industry groups, experts, users, consumers, and governmental authorities, and others having broad experience in the electrical products safety field.

If a laboratory desires to use a standard other than an ANSI standard, the department will evaluate the proposed standard to determine that it provides an adequate level of safety. If a standard meeting the criteria of WAC 296-402A-450 and 296-402A-460 has been recognized by the department for use in similar certification or evaluation programs, the laboratory must identify and justify all differences between the proposed standard and the standard previously recognized by the department.

NEW SECTION

WAC 296-402A-490 What if there is no product safety standard that meets the criteria for department approval? Where there is no standard meeting the above-cited criteria for the equipment under consideration, the department will evaluate the proposed standard to determine that it provides an adequate level of safety. The laboratory must identify and justify the adequacy of the standard or other specifications used as a source of requirements.

PRODUCT CERTIFICATION—GENERAL

NEW SECTION

WAC 296-402A-500 What must the electrical product certification program contain? The program must contain test procedure(s), standard(s) used, certification agreement(s), method(s) of identification of products, follow-up inspection, and other laboratory procedures and authority necessary to ensure that the product complies with the standards (requirements) established by the program.

NEW SECTION

WAC 296-402A-510 Must all components of certified electrical products be certified for safety? Yes. All components of certified or tested products must be labeled or evaluated for compliance with all standards and conditions of use applicable to such components.

NEW SECTION

WAC 296-402A-520 Is there a directory listing authorized products? Yes. The laboratory must publish an *Annual Product Directory* identifying products that are authorized to bear the laboratory's certification mark. The products directory must briefly describe the program, the products covered, the name of the manufacturer or vendor of the certified products, and the identification of the published standards or the compiled requirements on which the program is based. The product directory must be available to the public. Supplemental up-to-date information must be available to the public at the office of the laboratory during normal business hours.

CERTIFICATION LABORATORY/MANUFACTURER AGREEMENT

NEW SECTION

WAC 296-402A-530 What must be included in a laboratory certification agreement with a manufacturer? Measures to provide for manufacturer compliance with the provisions of the product standard and laboratory control of the use of the certification mark must be embodied in an agreement between the manufacturer and the certification laboratory. The certification agreement must:

- (1) Require the manufacturer to provide information and assistance as needed by the laboratory to conduct the necessary product conformity and production assurance evaluation.
- (2) Allow the laboratory's representative(s) access to the manufacturer's facilities during working hours for inspection and may allow audit activities without prior notice.
- (3) Restrict the manufacturer's application of certification marks to products that comply with requirements of the product standard.
- (4) Secure the manufacturer's agreement to the publication of notice by the certification laboratory for any product

already available in the marketplace that does not meet the safety standard.

(5) Require reevaluation of products whenever the standard covering the product is revised.

(6) Require the laboratory to notify the manufacturer's personnel responsible for and authorized to institute product recall in the case of a hazard.

(7) Provide for control of certification marks by the laboratory.

(8) Require that the laboratory provide the manufacturer with a report of original product evaluation. The report must document conformity with applicable product standards by test results and other data.

(9) Require the identification of the manufacturer(s) of the product and the location(s) where the product is produced.

CERTIFICATION MARK

NEW SECTION

WAC 296-402A-540 Who owns the certification mark? The laboratory owns the certification mark.

NEW SECTION

WAC 296-402A-550 Do certification marks need to be registered? Yes. The mark must be registered as a certification mark with the United States Patent and Trademark Office.

NEW SECTION

WAC 296-402A-560 Are there other requirements regarding the certification mark? Yes. The certification mark must:

(1) Not be readily transferable from one product to another.

(2) Be directly applied to each unit of production in the form of labels or markings suitable for the environment and use of the product. When the physical size of the unit does not permit individual marking, markings may be attached to the smallest package in which the unit is marketed.

(3) Include the name or other appropriate identification of the certification laboratory.

(4) Include the product category.

(5) The laboratory must have a system of controls and records for all marks. The records must include marks removed or otherwise voided. See WAC 296-402A-390.

NEW SECTION

WAC 296-402A-570 When can a certification mark be applied to the product? Prior to authorizing the use of a certification mark on a product, the laboratory must:

(1) Determine by examination and/or tests that representative samples of the product comply with the requirements (standards). Components of certified products must comply with the applicable safety requirements (standards) or be listed. Evaluation of the product design must be made on rep-

resentative production samples or on prototype product samples with subsequent verification that factory productions are the same as the prototype.

(2) Determine that the manufacturer has the necessary facilities, test equipment, and control procedures to ensure that continuing production of the product complies with the requirements.

(3) If the certification mark is not applied at the manufacturing facility, the laboratory must provide prior notification to the department of its intent to affix the certification mark in the field.

CERTIFICATION LABORATORY PRODUCT ASSURANCE/FOLLOW-UP

NEW SECTION

WAC 296-402A-580 Must the laboratory require assurance or follow-up with the manufacturer to verify continued product acceptability? Yes. The laboratory must develop and maintain a factory follow-up inspection program and manual to determine continued compliance of certified products with the applicable standard.

NEW SECTION

WAC 296-402A-590 What must be in the follow-up inspection file? The follow-up file must include the:

(1) Conditions governing the use of the certification mark on products.

(2) Identification of the products authorized for certification.

(3) Identification of manufacturer and plant location at which manufacture and certification are authorized.

(4) Description, specifications, and requirements applicable to the product.

(5) Description of processes needed for control purposes.

(6) Description of the manufacturer's quality assurance program when used as part of the follow-up program.

(7) Description of inspections and tests to be conducted by the manufacturer and the laboratory.

(8) Description of follow-up tests to be conducted in the laboratory.

(9) Description of the form and means of applying the certification mark.

NEW SECTION

WAC 296-402A-600 What follow-up procedures and activities are required? Follow-up procedures and activities must include:

(1) Periodic inspections at the factory with testing at the factory or certification laboratory of representative samples selected from production and, if appropriate, from the market.

(2) Periodic auditing or surveillance of the manufacturer's quality assurance program through the witnessing of manufacturer's tests, review of the manufacturer's records, and verification of the manufacturer's produced data.

(3) Investigation of alleged field failures upon department request.

(4) Procedures for control of the use of the certification mark by:

(a) Keeping records of the release and use of certification marks.

(b) Removal of marks from noncomplying products.

(c) Return or destruction of unused marks when the authority to use the marks is terminated.

(d) Legal action.

NEW SECTION

WAC 296-402A-610 What is the required frequency of follow-up inspections? The frequency of follow-up inspections must not be less than four times per year during production, unless adequate data is provided to the department to justify less frequent inspections. If there is no production during the year, at least one follow-up inspection is to be completed. The frequency of follow-up inspections must be sufficient to provide a reasonable check on the method(s) the manufacturer exercises to assure that the product bearing the certification mark complies with the applicable standards.

FIELD EVALUATION REQUIREMENTS—GENERAL

NEW SECTION

WAC 296-402A-620 What products can a field evaluation laboratory evaluate? The field evaluation laboratory may perform evaluations on any products or product categories previously approved by the department. NRTL recognition may be accepted by the department as a basis for approval to perform field evaluations. Since OSHA does not review or recognize laboratories for field evaluation purposes, laboratories seeking accreditation from the department for field evaluation may be required to provide additional justification of capability such as, but not limited to: Record-keeping, employee standards and proficiency, equipment requirements, and other requirements described in this chapter.

NEW SECTION

WAC 296-402A-630 Must an evaluation laboratory apply to perform each field evaluation? Yes. The laboratory must request permission from the department in writing two working days prior to conducting any field evaluation of an electrical product to be installed in any jurisdiction in the state.

NEW SECTION

WAC 296-402A-640 What must be included in the scope of a field evaluation? The scope will depend on the status of the item to be evaluated as follows:

(1) A new piece of equipment must have a complete evaluation of all components and the assembly as provided

by the manufacturer. For example: An industrial machine with a control panel, remote motors, sensors, controls, and other utilization equipment.

(2) A product that has been modified internally or by an addition must have only those portions evaluated that were affected by the modification. For example: A switchboard with multiple sections that has a section added would only need the new section, the one section immediately adjacent, and any control modifications evaluated.

NEW SECTION

WAC 296-402A-650 When there is more than one unit of a product, does each product unit need to be evaluated? Yes. Each unit that receives a field evaluation mark applied by the field evaluation laboratory must have sufficient inspections and/or testing completed to ensure it is in essential conformance with the applicable product standard(s).

NEW SECTION

WAC 296-402A-660 Can field evaluations be performed in the manufacturer's facility? The laboratory may perform preliminary evaluation, in the manufacturer's facility. Final evaluation and acceptance of the product must be made on-site at the location of final installation, unless waived by the department.

FIELD EVALUATION MARK

NEW SECTION

WAC 296-402A-670 When can the field evaluation mark be applied to the product? Only laboratory personnel may apply the field evaluation mark after final acceptance of the product. The field evaluation label must be applied on-site at the location of the final installation, unless waived by the department.

NEW SECTION

WAC 296-402A-675 Must the laboratory maintain control of field evaluation marks? Yes. The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. Only the field evaluation laboratory personnel may apply the field evaluation marks. The records must include the labels removed or otherwise voided.

NEW SECTION

WAC 296-402A-680 Can a product marked with a field evaluation mark be relocated or supplied from a different power source? Yes. A field evaluated product may be relocated or fed from a different power source if not prohibited by the field evaluation mark or the field evaluation report.

NEW SECTION

WAC 296-402A-690 Are there other requirements regarding the field evaluation mark? Yes. The field evaluation mark must:

- (1) Not be readily transferable from one product to another.
- (2) Be directly applied by the laboratory personnel to each unit of production in the form of labels or markings suitable for the environment and use of the product.
- (3) Include the name or other appropriate identification of the certification laboratory.
- (4) Include a unique evaluation laboratory reference number. The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. The records must include labels removed or otherwise voided. See WAC 296-402A-400.

**WSR 00-11-119
PERMANENT RULES
BOARD OF
PILOTAGE COMMISSIONERS**

[Filed May 22, 2000, 8:58 a.m., effective July 1, 2000]

Date of Adoption: May 11, 2000.

Purpose: To establish a Puget Sound pilotage district annual tariff for pilotage services.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-300.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 00-08-106 on April 5, 2000.

Changes Other than Editing from Proposed to Adopted Version: The adopted tariff is 0.03% less of a decrease than the -2.88% proposed, resulting in a total decrease of 2.85% in all tariff categories except transportation.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: July 1, 2000.

May 18, 2000
Peggy Larson
Administrator

AMENDATORY SECTION (Amending WSR 99-12-027, filed 5/25/99, effective 7/1/99)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, ((+1999)) 2000, through 2400 hours June 30, ((2000)) 2001.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	per LOA rate schedule in this section
Boarding fee:	((\$37.00)) <u>\$36.00</u>
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift Dead ship	Double LOA Zone I
Dead ship towing charge:	Double LOA
LOA of tug+ LOA of tow+ beam of tow	Zone

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Waterway and bridge charges:

Ships up to 90' beam:
A charge of ((~~\$195.00~~)) \$189.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of ((~~\$93.00~~)) \$90.00 per bridge.

Ships 90' beam and/or over:

A charge of ((~~\$262.00~~)) \$255.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of ((~~\$184.00~~)) \$179.00 per bridge.
(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second

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and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Compass adjustment	(\$261.00) <u>\$254.00</u>
Radio direction finder calibration	(\$261.00) <u>\$254.00</u>
Launching vessels	(\$393.00) <u>\$382.00</u>
Trial trips, 6 hours or less (Minimum (\$732.00) <u>\$714.00</u>)	(\$122.00) <u>\$119.00</u> per hr.
Trial trips, over 6 hours (two pilots)	(\$244.00) <u>\$238.00</u> per hr.
Shilshole Bay – Salmon Bay	(\$153.00) <u>\$149.00</u>
Salmon Bay – Lake Union	(\$119.00) <u>\$116.00</u>
Lake Union – Lake Washington (plus LOA zone from Webster Point)	(\$153.00) <u>\$149.00</u>
Cancellation charge	LOA Zone I <u>\$119.00</u> per hour

Cancellation charge—Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.)

LOA Zone II \$119.00 per hour

Docking delay after anchoring: ~~(\$122.00)~~ \$119.00 per hour.

Applicable harbor shift rate to apply, plus ~~(\$122.00)~~ \$119.00 per hour standby. No charge if delay is 60-minutes or less. If the delay is more than 60 minutes, charge is ~~(\$122.00)~~ \$119.00 for every hour or fraction thereof.

Sailing delay: ~~(\$122.00)~~ \$119.00 per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is ~~(\$122.00)~~ \$119.00 for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period.

Slowdown: ~~(\$122.00)~~ \$119.00 per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of ~~(\$122.00)~~ \$119.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Tonnage charges:
0 to 20,000 gross tons:

Additional charge to LOA zone mileage of ~~(\$0.0062)~~ \$0.0060 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:
Additional charge to LOA zone mileage of ~~(\$0.0634)~~ \$0.0616 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
In excess of 50,000 gross tons, the charge shall be ~~(\$0.0759)~~ \$0.0737 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles: ~~(\$122.00)~~ \$119.00 per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of ~~(\$122.00)~~ \$119.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

March Point or Anacortes	\$ 144.00
Bangor	84.00
Bellingham	158.00
Bremerton	44.00
Cherry Point	175.00
Dupont	85.00
Edmonds	27.00
Everett	52.00
Ferndale	173.00
Manchester	66.00
Mukilteo	52.00
Olympia	108.00
Point Wells	27.00
Port Gamble	77.00
Port Townsend (Indian Island)	109.00
Seattle	15.00
Semiahmoo (Blaine)	196.00
Tacoma	56.00
Tacoma Smelter	66.00
Winslow	42.00

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- (a) Intraharbor transportation for the Port Angeles port area -transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
- (b) Interport shifts: Transportation paid to and from both points.
- (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
- (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
- (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.80 per mile. Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Delinquent payment charge: 1 1/2% per month after 45 days from first billing.

Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

(LOA	ZONE I Intra-Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
Up to 449	184	287	498	746	1008	1310
450-459	190	293	501	758	1024	1316
460-469	194	298	509	770	1039	1322
470-479	200	306	516	786	1042	1325
480-489	205	312	518	801	1048	1331
490-499	208	316	525	815	1061	1336
500-509	219	321	533	825	1068	1346
510-519	221	327	538	837	1080	1350
520-529	224	339	547	841	1089	1363
530-539	232	344	554	851	1107	1377
540-549	235	349	566	860	1125	1389
550-559	240	360	570	873	1133	1403
560-569	249	375	581	880	1144	1417
570-579	254	379	585	884	1156	1426
580-589	266	386	597	892	1164	1441
590-599	278	393	601	896	1180	1457

(LOA	ZONE I Intra-Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
600-609	287	405	609	898	1194	1464
610-619	305	410	621	903	1207	1477
620-629	317	415	627	913	1220	1495
630-639	333	422	634	915	1230	1507
640-649	346	432	641	918	1242	1519
650-659	371	440	652	926	1257	1535
660-669	378	444	658	930	1270	1546
670-679	391	456	664	946	1285	1555
680-689	397	465	673	957	1296	1572
690-699	410	473	683	973	1310	1603
700-719	428	488	696	983	1335	1621
720-739	454	501	714	998	1363	1650
740-759	473	525	728	1008	1389	1678
760-779	491	544	744	1024	1417	1702
780-799	516	567	758	1039	1441	1731
800-819	536	585	773	1044	1464	1757
820-839	554	604	792	1061	1495	1778
840-859	578	630	805	1072	1519	1809
860-879	599	652	821	1101	1546	1834
880-899	621	671	837	1127	1572	1861
900-919	639	692	852	1154	1603	1888
920-939	659	714	873	1180	1621	1912
940-959	683	733	885	1207	1650	1937
960-979	699	755	900	1230	1678	1966
980-999	724	773	916	1257	1702	1990
1000 & over	744	799	931	1285	1731	2017))

LOA	ZONE I Intra-Harbor	ZONE II 0-30 Miles	ZONE III 31-50 Miles	ZONE IV 51-75 Miles	ZONE V 76-100 Miles	ZONE VI 101 Miles & Over
Up to 449	179	279	484	725	979	1272
450 - 459	185	285	487	736	995	1278
460 - 469	188	289	494	748	1009	1284
470 - 479	194	297	501	763	1012	1287
480 - 489	199	303	503	778	1018	1293
490 - 499	202	307	510	792	1030	1298
500 - 509	213	312	518	801	1037	1307

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LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
510 - 519	215	318	523	813	1049	1311
520 - 529	218	329	531	817	1058	1324
530 - 539	225	334	538	826	1075	1337
540 - 549	228	339	550	835	1093	1349
550 - 559	233	350	554	848	1100	1363
560 - 569	242	364	564	855	1111	1376
570 - 579	247	368	568	859	1123	1385
580 - 589	258	375	580	866	1130	1399
590 - 599	270	382	584	870	1146	1415
600 - 609	279	393	591	872	1160	1422
610 - 619	296	398	603	877	1172	1434
620 - 629	308	403	609	887	1185	1452
630 - 639	323	410	616	889	1195	1464
640 - 649	336	420	623	892	1206	1476
650 - 659	360	427	633	899	1221	1491
660 - 669	367	431	639	903	1233	1502
670 - 679	380	443	645	919	1248	1511
680 - 689	386	452	654	929	1259	1527
690 - 699	398	459	663	945	1272	1557
700 - 719	416	474	676	955	1297	1575
720 - 739	441	487	693	969	1324	1603
740 - 759	459	510	707	979	1349	1630
760 - 779	477	528	723	995	1376	1653
780 - 799	501	551	736	1009	1399	1682
800 - 819	521	568	751	1014	1422	1707
820 - 839	538	587	769	1030	1452	1727
840 - 859	561	612	782	1041	1475	1757
860 - 879	582	633	797	1069	1502	1782
880 - 899	603	652	813	1095	1527	1808
900 - 919	621	672	827	1121	1557	1834
920 - 939	640	693	848	1146	1574	1858
940 - 959	663	712	860	1172	1603	1882
960 - 979	679	733	874	1195	1630	1910
980 - 999	703	751	890	1221	1653	1933
1000 - 1019	744	799	931	1285	1731	2017
1020 - 1039	766	823	959	1324	1783	2078
1040 - 1059	789	848	988	1363	1836	2140
1060 - 1079	813	873	1017	1404	1892	2204
1080 - 1099	837	899	1048	1446	1948	2270
1100 - 1119	862	926	1079	1490	2007	2338
1120 - 1139	888	954	1112	1534	2067	2408

LOA	ZONE	ZONE	ZONE	ZONE	ZONE	ZONE
	I	II	III	IV	V	VI
	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
1140 - 1159	915	983	1145	1580	2129	2481
1160 - 1179	942	1012	1179	1628	2193	2555
1180 - 1199	971	1043	1215	1677	2259	2632
1200 - 1219	1000	1074	1251	1727	2326	2711
1220 - 1239	1030	1106	1289	1779	2396	2792
1240 - 1259	1061	1139	1327	1832	2468	2876
1260 - 1279	1093	1173	1367	1887	2542	2962
1280 - 1299	1125	1209	1408	1944	2618	3051
1300 - 1319	1159	1245	1450	2002	2697	3142
1320 - 1339	1194	1282	1494	2062	2778	3237
1340 - 1359	1230	1321	1539	2124	2861	3334
1360 - 1379	1267	1360	1585	2188	2947	3434
1380 - 1399	1305	1401	1633	2253	3035	3537
1400 - 1419	1344	1443	1681	2321	3126	3643
1420 - 1439	1384	1486	1732	2390	3220	3752
1440 - 1459	1426	1531	1784	2462	3317	3865
1460 - 1479	1468	1577	1837	2536	3416	3981
1480 - 1499	1512	1624	1893	2612	3519	4100
1500 & Over	1558	1673	1949	2691	3624	4223

PERMANENT

**WSR 00-11-121
PERMANENT RULES
PERSONNEL RESOURCES BOARD**

[Filed May 22, 2000, 2:34 p.m., effective July 1, 2000]

Date of Adoption: May 11, 2000.

Purpose: This new rule will allow institutions of higher education to participate in the police corps program.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 00-06-048 on February 28, 2000.

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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2000.

May 17, 2000

Dennis Karras

Secretary

NEW SECTION

WAC 251-19-085 Appointment—Police corps program. Appointment may be made of an applicant, upon meeting the minimum qualifications and passing the examination and completing the required training, to implement the terms and conditions of the federal Police Corps Act. This appointment will become permanent upon successful completion of the probationary or trial service period. Eligibles who are appointed and have gone through the Police Corps program shall be in the classified service of an institution. Eligibles who are appointed shall have the rights and benefits provided by these rules to other classified employees.

WSR 00-11-122

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed May 22, 2000, 2:35 p.m., effective July 1, 2000]

Date of Adoption: May 11, 2000.

Purpose: This modification was needed to allow the use of the reduction in force transition pool program on a permanent basis.

Citation of Existing Rules Affected by this Order: Amending WAC 356-30-331.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 00-06-047 on February 28, 2000.

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: July 1, 2000.

May 17, 2000

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 93-16-022, filed 7/23/93, effective 8/23/93)

WAC 356-30-331 Reduction in force—Transition pool program. ~~((The director of personnel or designee may waive the appropriate rules to implement the reduction in force transition pool resolution adopted by the board on July 8, 1993.))~~ The department of personnel is responsible for administering the reduction in force transition pool program. The director shall develop and implement appropriate operating procedures to facilitate this program.

(1) To administer the program, the director or designee may waive provisions of Title 356 WAC that:

(a) Require employees seeking transfer and voluntary demotion in lieu of reduction in force to meet approved minimum qualifications;

(b) Authorize only the director to waive minimum qualifications;

(c) Allow qualifying examinations for transfers or voluntary demotions; and

(2) The program applies to:

(a) All permanent employees separated by reduction in force or notified by the agency personnel representative that they are at risk of reduction in force; and

(b) Return to work employees in those agencies that are participating in the return to work pilot program.

(3) Agencies, including those agencies with local list authority, shall adhere to the operating procedures established by the director.

(4) Employees participating in the reduction in force transition pool program shall have no right of appeal within this program.

WSR 00-11-123

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 22, 2000, 2:38 p.m.]

Date of Adoption: May 22, 2000.

Purpose: To (1) establish a grade and standards for fresh red raspberries that are destined for freezing, puree, juice stock and other processing uses; (2) establish standards for red raspberry puree stock and juice stock red raspberries; (3) establish container marketing requirements for red raspberries; and (4) specify how red raspberries may be used, processed and sold. Red raspberries destined for fresh market are exempt from this rule.

Statutory Authority for Adoption: Chapters 15.17 and 69.04 RCW.

Adopted under notice filed as WSR 00-11-112 on May 19, 2000.

Changes Other than Editing from Proposed to Adopted Version: Deleted definition "damage"; WAC 16-143-030 after the word washed, added "or cleaned as necessary,"; WAC 16-143-030(3) added "seriously" before damaged; and WAC 16-143-030(5) deleted "of the ten percent" after the words two percent. These changes will benefit those affected.

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 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.

May 22, 2000

James M. Jesernig
Director

Chapter 16-143 WAC

RED RASPBERRY GRADES AND STANDARDS

NEW SECTION

WAC 16-143-010 What is the purpose of this chapter? The purpose of this chapter is to:

- (1) Establish a grade and standards for fresh red raspberries that are destined for freezing, puree, juice stock and other processing uses;
- (2) Establish standards for red raspberry puree stock and juice stock red raspberries;
- (3) Establish container marking requirements for red raspberries; and
- (4) Specify how red raspberries may be used, processed and sold.

Red raspberries destined for fresh market are exempt from this rule.

NEW SECTION

WAC 16-143-020 What definitions apply to this chapter? The following definitions apply to this chapter:

- (1) "**Containers**" includes pails, trays, barrels, drums, tanks, transport vessels, or other bulk containers used to store or contain red raspberries intended for further processing.
- (2) "**Graded**" means red raspberries that have been visually inspected and determined to meet the standards set forth in WAC 16-143-030.
- (3) "**Juice stock red raspberries**" means any red raspberries destined for the production of red raspberry juice, red raspberry juice concentrate, or any other product listed in WAC 16-143-080. Washington No. 1 processing grade red raspberries as defined in this chapter or unclassified red raspberries may be used for juice stock.

(4) "**Pasteurized**" means the product has been subjected to heat or other approved treatment sufficient to kill harmful microorganisms.

(5) "**Serious damage**" means any defect, or any combination of defects, which seriously detract from the appearance, or the edible or marketing quality of the red raspberry. Red raspberries which are badly deformed, leaky, moldy, decayed, or from which the core has not been removed shall be considered seriously damaged.

(6) "**Ultra-filtration**" means filtering to a very high level sufficient to remove foreign material including microorganisms and mold from the product.

(7) "**Washington No. 1 processing grade red raspberries**" are defined in WAC 16-143-030.

(8) "**Well-colored**" means that the whole surface of the red raspberry shows a color characteristic of a mature red raspberry.

(9) "**Well-developed**" means that the red raspberry is not misshapen because of anthracnose injury, frost injury, lack of pollination, insect injury, or other causes.

NEW SECTION

WAC 16-143-030 What are the Washington No. 1 processing grade standards for red raspberries? To qualify for the Washington No. 1 processing grade, red raspberries must be washed, or cleaned as necessary, sorted and graded at a licensed food processing facility and must meet the following standards:

- (1) The red raspberries must be well-colored and well-developed;
- (2) The red raspberries must be free from cores, mold, decay, dirt, leaves, or other foreign material;
- (3) The red raspberries must not be seriously damaged by shriveling, moisture, disease, or insects;
- (4) The red raspberries must not have more than eight of twenty-five fields with mold hyphae as determined by the Howard Mold Count or equivalent analysis.

(5) Not more than ten percent by volume of the red raspberries in any lot may fail to meet the requirements for Washington No. 1 processing grade because of serious damage by any cause, and not more than two percent may be affected by mold or decay. Individual samples may contain not more than one and one-half times this tolerance, even if the average of all the samples from the lot are within this specified tolerance.

NEW SECTION

WAC 16-143-040 When are red raspberries considered "unclassified"? Red raspberries that:

- (1) Fail to meet the Washington No. 1 processing grade standards; or
- (2) Are not graded; or
- (3) Are in unmarked containers, are considered "unclassified." The term "unclassified" means no grade has been applied to the lot.

NEW SECTION

WAC 16-143-050 What type of markings will be acceptable on each container? Marking requirements for red raspberry containers are:

(1) Washington No. 1 processing grade red raspberry containers may be marked with the name and address of the grower, packer, shipper, and must be prominently marked with the grade "Washington No. 1 Processing Grade Red Raspberries."

(2) Any combination of Washington No. 1 processing grade red raspberries and unclassified red raspberries must be in containers prominently marked "juice stock red raspberries."

(3) Unclassified red raspberries must be in containers that are prominently marked "juice stock red raspberries."

NEW SECTION

WAC 16-143-060 How may Washington No. 1 processing grade red raspberries be used, processed or sold? Washington No. 1 processing grade red raspberries may be used or sold for straight pack, individually quick frozen (IQF), puree stock, puree concentrate, juice, juice concentrate, or for any other type of use.

NEW SECTION

WAC 16-143-070 What are the requirements of red raspberry puree stock? Red raspberry puree stock must be red raspberries that meet Washington No. 1 processing grade standards and have been graded and cleaned, washed, and sorted in a licensed food processing facility to remove harmful or foreign material.

NEW SECTION

WAC 16-143-080 How must product designated or marked as juice stock red raspberries be used, processed or sold? Product designated or marked as "juice stock red raspberries" must be used and sold only for processing into wine, ultra-filtered, or pasteurized juice products or juice concentrate filtered sufficiently to remove foreign material including mold from the product, or for distilling.

NEW SECTION

WAC 16-143-090 What uses are prohibited for juice stock red raspberries? Red raspberries designated or marked as "juice stock red raspberries" may not be sold or used to produce puree, puree concentrate or any red raspberry products other than those designated in WAC 16-143-080.

NEW SECTION

WAC 16-143-100 What are the restrictions on use of adulterated red raspberries or red raspberry products? Any red raspberries or red raspberry products that are adulterated under RCW 69.04.210, including through the deliberate addition of moldy product, or any red raspberries or red rasp-

berry products containing unacceptable levels of filth or mold, may not be sold or processed for any purpose.

NEW SECTION

WAC 16-143-110 Where may guidelines for safe production of red raspberries be found? Guidelines for the safe production of red raspberries and other agricultural products may be found in the Food and Drug Administration's *Good Agricultural Practices Guidelines*. This document can be obtained on request from the Washington State Department of Agriculture, Food Safety Program, P.O. Box 42560, Olympia, WA 98504-2560.

WSR 00-11-130**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed May 22, 2000, 3:23 p.m., effective July 1, 2000]

Date of Adoption: May 22, 2000.

Purpose: WAC 388-478-0055 SSI standards, is being amended to pass along the federal 2.4% cost-of-living adjustment (COLA) for the SSI program. There is no change in the SSI state supplement amounts except for individuals living alone. To remain within legislatively-directed spending levels, state supplement amounts were temporarily lowered by \$1 per month for October through December and are now being returned (increased by \$1) to the pre-October levels. Standards tables have been reformatted to include information previously contained in footnotes.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0055 SSI standards.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.057.

Adopted under notice filed as WSR 00-08-058 on March 31, 2000.

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: July 1, 2000.

May 22, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

PERMANENT

AMENDATORY SECTION (Amending WSR 99-18-063, filed 8/30/99, effective 10/1/99)

WAC 388-478-0055 SSI standards. (1) Supplemental Security Income (SSI) is a cash assistance program for needy individuals and couples who meet federal disability guidelines as aged, blind or disabled. Since the SSI program began in January 1974, the state of Washington has supplemented the federal benefit level with state funds, known as the SSI state supplement. Persons found eligible for SSI receive cash

assistance based on the combined federal and state supplement benefit levels, minus countable income.

(2) Effective ~~((October 1, 1999))~~ **January 1, 2000**, the federal, state and combined benefit levels for an eligible individual and couple are:

(a) ~~((Area I))~~ **Living alone area 1:** King, Pierce, Snohomish, Thurston, and Kitsap Counties.

~~((i) Living alone (own household or alternate care, except nursing homes or medical institutions)).~~

	Federal Benefit Level	State Supplement Benefit Level	Combined Federal/State Benefit Level
LIVING ALONE			
Individual	\$ 500.00	\$26.00	\$ 526.00
Individual with One Essential Person ¹	\$ 750.00	\$21.00	\$ 771.00
Couple, both Eligible	\$ 751.00	\$21.00	\$ 772.00
Couple with One Essential Person ²	\$ 751.00	\$21.00	\$ 772.00
Couple includes Ineligible Spouse	\$ 500.00	\$167.20	\$ 667.20

~~(ii) Shared living (supplied shelter):~~

	Federal Benefit Level	State Supplement Benefit Level	Combined Benefit Level
SHARED LIVING			
Individual	\$ 333.34	\$4.81	\$ 338.15
Individual with One Essential Person ³	\$ 500.00	\$5.30	\$ 505.30
Couple, Both Eligible	\$ 500.67	\$5.30	\$ 505.97
Couple includes One Essential Person ⁴	\$ 500.67	\$5.30	\$ 505.97
Couple includes Ineligible Spouse	\$ 333.34	\$102.76	\$ 436.10

~~(b) Area II: All counties other than the above.~~

~~(i) Living alone (own household or alternate care, except nursing homes or medical institutions):~~

	Federal Benefit Level	State Supplement Benefit Level	Combined Federal/State Benefit Level
LIVING ALONE			
Individual	\$ 500.00	\$ 5.55	\$ 505.55
Individual with One Essential Person ¹	\$ 750.00	\$0	\$ 750.00
Couple, Both Eligible	\$ 751.00	\$0	\$ 751.00
Couple with One Essential Person ²	\$ 751.00	\$0	\$ 751.00
Couple includes Ineligible Spouse	\$ 500.00	\$137.25	\$ 637.25

~~(ii) Shared living (supplied shelter):~~

	Federal Benefit Level	State Supplement Benefit Level	Combined Benefit Level
SHARED LIVING			
Individual	\$ 333.34	\$4.81	\$ 338.15
Individual with One Essential Person ³	\$ 500.00	\$5.30	\$ 505.30
Couple, Both Eligible	\$ 500.67	\$5.30	\$ 505.97
Couple includes One Essential Person ⁴	\$ 500.67	\$5.30	\$ 505.97
Couple includes Ineligible Spouse	\$ 333.34	\$102.76	\$ 436.10

~~(e) Residing in a medical institution: Area I and II~~

	Federal Benefit Level	State Supplement Benefit Level	Combined Benefit Level
MEDICAL INSTITUTION			
Individual	\$30.00	\$11.62	\$41.62))

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LIVING ALONE - Own household or alternate care, except nursing homes or medical institutions

	<u>Federal Benefit Level</u>	<u>State Supplement Benefit Level</u>	<u>Combined Federal/State Benefit Level</u>
<u>Individual</u>	\$ 512.00	\$27.00	\$ 539.00
<u>Individual with:</u>	\$ 769.00	\$21.00	\$ 790.00
<u>One essential person</u>			
<u>Individual with:</u>	\$512 for the eligible individual plus \$257 for each essential person (no state supplement)		
<u>Multiple essential persons</u>			
<u>Individual with an ineligible spouse</u>	\$ 512.00	\$ 167.20	\$ 679.20
<u>Couple</u>	\$ 769.00	\$21.00	\$ 790.00
<u>Couple with one or more essential persons</u>	\$ 769 for eligible couple plus \$257 for each essential person (no state supplement)		

(b) Living alone area 2: All other counties.

LIVING ALONE - Own household or alternate care, except nursing homes or medical institutions

	<u>Federal Benefit Level</u>	<u>State Supplement Benefit Level</u>	<u>Combined Federal/State Benefit Level</u>
<u>Individual</u>	\$ 512.00	\$6.55	\$ 518.55
<u>Individual with:</u>	\$ 769.00	\$0.00	\$ 769.00
<u>One essential person</u>			
<u>Individual with:</u>	\$512 for the eligible individual plus \$257 for each essential person (no state supplement)		
<u>Multiple essential persons</u>			
<u>Individual with an ineligible spouse</u>	\$ 512.00	\$ 137.25	\$ 649.25
<u>Couple</u>	\$ 769.00	\$0.00	\$ 769.00
<u>Couple with one or more essential persons</u>	\$ 769 for eligible couple plus \$257 for each essential person (no state supplement)		

(c) Shared living for both Area 1 and 2.

	<u>Federal Benefit Level</u>	<u>State Supplement Benefit Level</u>	<u>Combined Federal/State Benefit Level</u>
<u>SHARED LIVING</u>			
<u>Individual</u>	\$ 341.34	\$4.81	\$ 346.15
<u>Individual with:</u>	\$ 512.00	\$5.30	\$ 517.30
<u>One essential person</u>			
<u>Individual with:</u>	\$341.34 for the eligible individual plus \$170.67 for each essential person (no state supplement)		
<u>Multiple essential persons</u>			
<u>Individual with an ineligible spouse</u>	\$ 341.34	\$ 102.76	\$ 444.10
<u>Couple</u>	\$ 512.67	\$5.30	\$ 517.97
<u>Couple with one or more essential persons</u>	\$512.67 for eligible couple plus \$170.67 for each essential person (no state supplement)		

(d) Residing in a medical institution: Area 1 and 2

	<u>Federal Benefit Level</u>	<u>State Supplement Benefit Level</u>	<u>Combined Benefit Level</u>
<u>MEDICAL INSTITUTION</u>			
<u>Individual</u>	\$30.00	\$11.62	\$41.62

((d)) (e) Mandatory income level (MIL) for grandfathered claimant. "Grandfathered" refers to a person who qualified for assistance from the state as aged, blind, or disabled, was converted from the state to federal disability assistance under SSI in January 1974, and has remained continuously eligible for SSI since that date.

The combined federal/state SSI benefit level for MIL clients is the higher of the following:

(i) The state assistance standard they received in December 1973, except for those converted in a "D" living arrangement (residing in a medical institution at the time of conversion), plus the federal cost-of-living adjustments (COLA) since then; or

(ii) The current standard.

(*Eligible individual with more than one essential person living alone: \$ 500.00 for the eligible individual plus \$ 250.00 for each essential person (no state supplement).)

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~~²Eligible couple with one or more essential persons living alone: \$ 751.00 for eligible couple plus \$ 250.00 for each essential person (no state supplement).~~

~~³Eligible individual with more than one essential person in shared living: \$ 333.34 for eligible individual plus \$ 166.66 for each essential person (no state supplement).~~

~~⁴Eligible couple with one or more essential persons in shared living: \$ 500.67 for eligible couple plus \$ 166.66 for each essential person (no state supplement).~~

**WSR 00-11-131
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed May 23, 2000, 9:03 a.m.]

Date of Adoption: May 23, 2000.

Purpose: To meet the criteria set forth in Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-93-010.

Statutory Authority for Adoption: RCW 88.02.070, 88.02.100.

Adopted under notice filed as WSR 00-07-065 on March 13, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 23, 2000

Fred Stephens

Director

AMENDATORY SECTION (Amending WSR 98-16-029, filed 7/29/98, effective 7/30/98)

WAC 308-93-010 Definitions. Unless the context clearly indicates otherwise, the following definitions apply to the rules in this chapter:

- (1) "Bare boat" means a vessel rented without a crew.
- (2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel (~~for which such certificate is issued~~) and certifying the first conveyance of (~~said~~) the vessel after its manufacture.
- (3) "Charter vessel" means a vessel rented with a crew.
- (4) "Commercial fishing vessel" means a vessel primarily used for commercial or charter fishing.

(5) "Cruising license" means an annual certificate issued by U.S. Customs Service under 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry. This term is interchangeable with U.S. Customs Cruising Permit and U.S. Customs Cruising License.

(6) "Decal" means an emblem or tab displayed on a vessel as proof of annual registration.

(7) "Declaration of value form" means the department of licensing form used to declare the value for purposes of assessing excise tax when a vessel is acquired by lease, trade, gift, is homemade, or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

~~((6))~~ (8) "Department" means the department of licensing.

(9) "Director" means the director of the department of licensing.

~~((7))~~ "Display permit" means the document issued by the department, its agents or subagents, for display on the vessel for which it was issued under the authority of WAC 308-93-055 or 308-93-056.

~~((8))~~ (10) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

~~((9))~~ (11) "Exclusively" means solely and without exception.

~~((10))~~ (12) "Foreign vessel" means a vessel registered in accordance with the laws of another (~~state~~) jurisdiction.

~~((11))~~ (13) "Houseboat" means any vessel as defined in RCW 88.02.010(1). For registration and certificate of ownership purposes, a houseboat does not include any building on a float used in whole or in part for human habitation as a single-family dwelling which is not powered by self propulsion by mechanical means or wind.

~~((12))~~ (14) "Identification documents" means the registration receipt and display permit issued under the authority of WAC 308-93-055 or 308-93-056.

~~((13))~~ (15) "Indian reservation" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian reservations" by the United States Department of the Interior.

(16) "Indian tribe" means an Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

(17) "Indian" means a person on the tribal rolls of the Indian tribe occupying an Indian reservation.

(18) "Issuing authority" means a state that has a vessel numbering system approved by the Coast Guard (~~or the Coast Guard where a number system has not been approved~~). (Also see definition for out of country vessel.)

~~((14))~~ (19) "Joint tenancy with rights of survivorship" means owners who own a vessel in joint tenancy with the right to own individually if one of them dies.

(20) "Legal owner/secured party" means a person(~~;~~) or business, (~~or institution~~) having a security interest in a vessel perfected in accordance with RCW 88.02.070 or the reg-

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~~istered owner of a vessel unencumbered by a security interest or the lessor of a vessel unencumbered by a security interest.~~

~~((15)) (21) "Lifeboat" means watercraft used exclusively for lifesaving purposes.~~

~~((16)) (22) "Manufacturer's ((statement)) certificate of origin" ((MSO)) (MCO) or "Manufacturer's ((ertificate)) statement of origin" ((MCO)) (MSO) means a certificate issued by a manufacturer describing the vessel and certifying the first conveyance of the vessel after manufacture.~~

~~((17)) (23) "Out of country vessel" means a vessel registered or numbered by the laws of ((a)) another country ((other than the United States,)) or has a valid United States Customs Service Cruising License.~~

~~((18)) (24) "Overall length" means a straight-line measurement ((of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement)) from the tip of the bow to the stern of the vessel down the centerline but not including boomkins, swim ladders, outboard engines, or other extremities.~~

~~((19)) (25) "Paperless title" means electronic ownership record.~~

~~((20)) (26) "Person" includes every natural person, firm, copartnership, corporation, association or organization.~~

~~((21)) (27) "Previous ownership document" means the last issued certificate of ownership.~~

~~(28) "Primarily" means the principal purpose for which a vessel is used ((when considered in conjunction with all of its uses)).~~

~~((22)) (29) "Principle use" means ((when a vessel is used, or is to be used, on waters of this state for one hundred eighty three days or more)) the jurisdiction where the vessel is located the majority of the year.~~

~~((23)) (30) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.~~

~~((24) "Release of interest" means the act of signing over any ownership in a vessel. A release of interest is also a notarized or certified document relinquishing interest in a vessel.~~

~~(25)) (31) "Registered owner," and "owner," are synonymous terms used interchangeably, meaning a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.~~

~~(32) "Registration numbers" are numbers configured in accordance with 33 C.F.R. 174.23 and:~~

~~(a) Uniquely identify the vessel;~~

~~(b) Are assigned by the department when you apply for initial registration or were previously assigned WN numbers by the Coast Guard; and~~

~~(c) Are printed on your registration and ownership certificates.~~

~~(33) "Release of interest" is a notarized or certified document releasing interest in a vessel or the original certificate of ownership signed by the registered and/or legal owner as listed on the certificate of ownership.~~

~~(34) "Renewal notice" and "special mailer" means the notice to renew a vessel registration mailed by the department to the owner.~~

~~((26)) (35) "Tender" means watercraft that is used to provide direct transportation between that vessel and the shore and for no other purpose used exclusively to furnish transportation from a larger vessel to shore and return.~~

~~((27)) (36) "Time share charters" means leased vessels where none of the parties leasing the vessel under a "time share" option agreement is acquiring an equity in the vessel and there is no option to buy.~~

~~((28)) (37) "United States Customs Service Cruising License" means an annual certificate issued by U.S. Customs Service under 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry.~~

~~((29)) (38) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.~~

~~((30)) (39) "Unsolicited business contact" for purposes of public disclosure means any person or business requesting owner information with the intent of using that information to promote the sale of any goods or services.~~

~~(40) "Valid marine document" means a document issued by the ((United States)) Coast Guard which declares it to be a ((vessel to be a)) United States documented vessel ((of the United States)).~~

~~((31) "Vessel data form" means the form, approved by the department, completed by the applicant describing the vessel.~~

~~(32)) (41) "Waters of this state" means any waters within the territorial limits of this state.~~

~~(42) "Vessel registration number" is a Washington registration number issued to vessels, just as a license plate with unique letter number combinations is issued to vehicles.~~

WSR 00-11-133

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Filed May 23, 2000, 11:17 a.m.]

Date of Adoption: May 23, 2000.

Purpose: Chapter 468-14 WAC, Small business and minority contractors.

Citation of Existing Rules Affected by this Order: Repealing chapter 468-14 WAC, Small business and minority contractors.

Statutory Authority for Adoption: RCW 47.28.030.

Adopted under preproposal statement of inquiry filed as WSR 00-07-027 on April 5 [March 3], 2000.

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 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 5.

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.

May 23, 2000

Gerald E. Smith

Deputy Secretary, Operations

WSR 00-11-137
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-50—Filed May 23, 2000, 2:34 p.m.]

Date of Adoption: April 7, 2000.

Purpose: To amend WAC 232-12-047, 232-12-051, 232-12-054, 232-12-068, 232-12-257, 232-16-700, 232-28-02202, 232-28-248, 232-28-266, 232-28-272 and 232-28-273; and to adopt WAC 232-28-276, 232-28-278, and 232-28-279.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-047, 232-12-051, 232-12-054, 232-12-068, 232-12-257, 232-16-700, 232-28-02202, 232-28-248, 232-28-266, 232-28-272, and 232-28-273.

Statutory Authority for Adoption: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780.

Adopted under notice filed as WSR 00-06-088 (WAC 232-12-047), WSR 00-06-089 (232-12-051), WSR 00-06-090 (232-12-054), WSR 00-06-091 (232-12-068), WSR 00-06-094 (232-12-257), WSR 00-06-093 (232-16-700), WSR 00-06-097 (232-28-02202), WSR 00-06-095 (232-28-248), WSR 00-06-096 (232-28-266), WSR 00-06-099 (232-28-272), WSR 00-06-092 (232-28-273), WSR 00-06-086 (232-28-276), WSR 00-06-087 (232-28-278), and WSR 00-06-085 (232-28-279) on March 1, 2000.

Changes Other than Editing from Proposed to Adopted Version: **WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—Region two.**

A. Agency Reason for Adoption: Clarification and correction.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: None.

WAC 232-28-248 Special closures and firearm restriction areas.

A. Agency Reason for Adoption: Persons with modern firearm tags may hunt with archery or muzzleloader equipment during modern firearm seasons in these areas.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: Under restricted and prohibited hunting areas:

- Section 4: Added hunters, who may also take a black bear and/or cougar with the appropriate license/tag options. This phrase was added because the Muckleshoot Tribe and WDFW want to open bear and cougar seasons in the Green River Watershed for deer permit hunters.
- Section 5: Changed GMU 484 to 652 to correct a number change this year.

Under the Big Game Closures Section:

- Section 5: Eliminated the word Island from Schafer Island Road, for correction of the road name.

Under the firearm restriction areas:

- Franklin, Grant, Adams counties, eliminated the Wahluke Slope firearm restriction because WDFW no longer manages this area.
- King County, changed GMU 484 to 652, GMU 484 is now part of Region 6.
- Pierce County, changed GMU 484 to 652, GMU is now part of Region 6 and eliminated the word shotgun from muzzleloader shotgun because the county ordinance does not ban muzzleloader shotguns.
- San Juan County, eliminated the firearm restriction, BLM had requested a firearm restriction in this area, but WDFW does not recommend firearm restrictions except for safety reasons.

WAC 232-28-266 Landowner damage hunts.

A. Agency Reason for Adoption: Continues successful landowner program to address agricultural damage issues.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: Changed the title to read 2000-01 instead of 2001-01.

WAC 232-28-273 Moose, bighorn sheep, and mountain goat seasons and permit quotas.

A. Agency Reason for Adoption: Moose surveys in the Mt. Spokane area (GMU 124) indicate that the bull:cow ratio is about 24:100 and is below the desired management level of 50 to 55:100. The proposed change in moose permits would shift the sex ratio toward the desired level.

Bighorn sheep abundance continues to decline in the Vulcan Mt. area (Sheep Unit 2) due to a recent disease (muscle-worm) outbreak. Similarly, sheep abundance is declining in the Tucannon River area (Sheep Unit 3) due to mite infestation. Suspending harvest in Vulcan Mt. and Tucannon River is recommended.

In goat units 4-8 and 4-32, the % kids (3-year average) has dropped below management guidelines and the number of goats seen/hunter-day is critically low. Reliable information on goat abundance and survival is lacking. Eliminating harvest in these areas is recommended.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences:

- Added moose Kettle River hunt, added because moose populations are growing and additional hunting opportunity is available.
- Added moose Mt. Spokane A hunt, added because moose populations are growing and additional hunting opportunity is available.

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- Changed the 49 Degrees North moose hunt permit level from 13 to 18, added because moose populations are growing and additional hunting opportunity is available.
- Changed the Three Forks moose hunt permit level from 4 to 6, added because moose populations are growing and additional hunting opportunity is available.
- Changed the Umtanum bighorn sheep hunt permit level from 3 to 1, because of population declines.
- Changed the Cleman Mountain bighorn sheep permit level from 3 to 5, because of population increases.
- Changed the wording under who may apply for a 2000 Mountain Goat Permit Hunt, for clarity.
- Eliminated Goat Unit 4-34 Pratt River boundary description, we no longer have a hunt there.

WAC 232-28-272 Black bear and cougar seasons and regulations.

A. Agency Reason for Adoption: The recommendation to shorten the fall black bear season in GMUs 101-117 is the result of overharvest, as indicated by our management guidelines. In that area, the male and female median age fails to meet management goals. The increased harvest likely was the result of the poor berry crop in 1998, which made bears more vulnerable to hunters. The proposed change recommends delaying the opening day by 35 days to avoid the ill effects of berry failures in the future. In contrast, an evaluation of the percent female in the harvest and median ages of males and females reveals that additional hunter opportunity exists in the North Cascades BBMU. As such, the proposed change delays the closure of the fall season by about 15 days. The recommendation to open a limited entry black bear hunt in GMU 485 was proposed by the Mucklehoot Indian Tribe and is supported by regional biologists.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: Under Black Bear Seasons:

- Changed the General Western season GMUs from 407-410, 454, 466-520, 524-574, 601-684; to 407, 410, 454, 466, 490-520, 524-574, 601-684 (this was changed in the tables for all three years), this was changed to correct an error.
- Eliminate the Green River hunt, this change was made because only the Green River deer permit hunters will be able to hunt the Green River Unit for deer.

Under the Bag Limit Section:

- To simplify the section we eliminated the outside of GMUs... wording.

Under the Hunting Method Section:

- To simplify we eliminated the sentence starting with "Cougar may also be hunted with a...."

WAC 232-28-276 Official hunting hours and small game seasons.

A. Agency Reason for Adoption: Small game seasons are set to provide recreational hunting opportunity and conserve small game resources.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: Under the Coyote Section:

- Changed GMU 304 to GMU 245, the unit has been renumbered.

Under the Turkey Section:

- Added the last sentence for clarification: The season limit is three (3) birds per year.

Under the Bird Dog Training Section:

- Corrected an error, changed season dates for all three years from Aug. 1-Mar. 30 to be Aug. 1-Mar. 31.

Under the Canada Goose September Season:

- Separated out Western Washington Goose Management Areas 1 and 3 from the remainder of the state, because the bag limit is appropriate for those areas. We need to harvest more geese in those two management areas.

WAC 232-12-047 Unlawful firearms for hunting.

A. Agency Reason for Adoption: The proposed rule changes will make it easier for hunting license buyers to understand and comply with equipment rules for hunting seasons.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences:

Subsection (b), made centerfire one word; dropped the period before 22 and added the word caliber to correct an error.

Subsection (c), made centerfire one word; dropped the period before 24 and added the word caliber, to correct an error.

Subsection (f), a handgun that does not meet the following criteria:

- (i) Have a minimum barrel length of 4 inches, per manufacturers specification, and fire a centerfire cartridge.

Subsection (g), added "any rimfire cartridge" to unlawful firearms to prevent their use.

WAC 232-12-051 Muzzleloading firearms.

A. Agency Reason for Adoption: A number of non-metal sights are now manufactured and are factory-installed for use on muzzleloading firearms. There has been widespread misunderstanding about the legality of such sights, and the proposed changes clarify and authorize the use of such sights.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences:

Subsection (2), deleted the period before 40 caliber, to correct a punctuation error.

Subsection (3), deleted the period before 50 caliber, to correct a punctuation error.

WAC 232-12-054 Bow and arrow requirements.

A. Agency Reason for Adoption: The current arrow weight requirements are more restrictive than the archery industry standards. The proposed changes apply the industry standard.

The proposed minimum arrow length maintains the concept of primitive hunting for archers.

Disabled hunters have requested authorization to hunt during archery seasons with a crossbow. The proposed changes allow the director to issue permits for such hunting opportunities.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: Subsection (2), changed the wording from "draw weight and" to "draw weight or"; also changed the arrow length requirement from 18 to 20 inches to conform to Pope and Young standards.

Subsection (7), the agency recommended allowing Persons of Disability to be able to use a crossbow during archery seasons. The Fish and Wildlife Commission voted against this proposal. The wording in subsection (7) remains "it is unlawful to hunt wildlife with a crossbow."

WAC 232-12-068 Nontoxic shot requirement for waterfowl, coot, and snipe hunting.

A. Agency Reason for Adoption: Lead shot is currently used for hunting of game birds (other than waterfowl, coot, and snipe) and game animals in areas used by waterfowl and other wildlife. Elimination of lead shot will result in healthier wildlife populations on WDFW lands and WDFW operated pheasant release sites, where lead deposition poses potential hazards to wildlife.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences:

- To clarify we changed the Two Rivers and Wallula Segments of the Corps of Engineer's McNary Wildlife Area to read: Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge.
- Added Chehalis River Pheasant release site and Raymond Airport pheasant release site because these areas also have significant waterfowl use.

WAC 232-12-257 Control of unattended decoys.

A. Agency Reason for Adoption: Waterfowl hunter conflicts on department lands have necessitated additional restrictions to ensure fair access by all public hunters.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences:

- Struck out the whole section and replaced with the new version to provide more accurate legal clarification of the intent of the regulation.

WAC 232-16-700 Swinomish Spit Game Reserve.

A. Agency Reason for Adoption: The change was requested by area hunters to provide more recreational opportunity.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: None.

WAC 232-28-278 Deer general seasons and special permits.

A. Agency Reason for Adoption: The proposed deer hunting seasons will maintain most hunting opportunities from current seasons.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences:

Under the Modern Firearm Deer Seasons Table:

- Western Washington Blacktail Deer: Added GMU 636 to the 2 pt. min legal deer column, to correct an omission.
- Eastern Washington Whitetail Deer added the exception: Except closed in GMUs 157, 290, 329, 342, 371, and PLWMA 201. This change was made because the units listed are permit only units.
- Changed the dates for the Late Buck, Eastern Washington Whitetail Deer season to November 6-19, 2000, November 5-19, 2001, and November 4-19, 2002 to provide more hunting opportunity in GMUs 105-124.
- Changed wording for Hunters 65 and over, to correct an error.
- Late Western Washington Blacktail Deer section: Added GMU 636 as a 2 pt. min GMU, to correct an omission.
- Added AHE season section in GMUs 127-142, to add more hunting opportunity for AHE hunters.

Under the Archery Deer Seasons:

- Rearranged wording in the special notes section to clarify the intent.
- Eastern Washington Mule Deer - (Sept. 1-30 season) changed GMU 181 to GMU 204 to provide 15 more days of early archery hunting in GMUs 186 and 203.
- Eastern Washington Mule Deer - (Sept. 1-15 season) added GMUs 181 and 186 eliminated GMU 387, to correct errors.

Under the Late Archery Deer Seasons Table:

- Western Washington Blacktail Deer - added except buck only in GMU 672 to the Nov. 22-Dec 31 season, because of hairlip losses antlerless deer seasons are recommended to be curtailed.
- Eastern Washington Whitetail Deer - changed date from Nov 20 to Nov 10 in 2002 for GMU 101, to correct an error in dates.
- Eastern Washington Whitetail Deer - changed dates for GMUs 105, 117, 121, 124 to November 22-December 15 for whitetail, any deer; and changed GMU 127 to November 22-December 15 for white-tail, 3 pt. min or antlerless.

Under Muzzleloader Deer Seasons:

- Western Washington Blacktail Deer - eliminated GMU 578 from any buck, it is already listed under 2 pt. min.
- Eastern Washington Whitetail Deer - added GMUs 243 and 250 to correct omissions.
- Eastern Washington Mule Deer - added GMUs 243, 244, and 245, and eliminated the word through to provide more opportunity.
- Late Eastern Washington Whitetail Deer - changed GMU 284 from 3 pt. to 3 pt. or antlerless to provide more opportunity.
- Late Eastern Washington Mule Deer - changed GMU 284 from 3 pt. to 3 pt. or antlerless to provide more opportunity.

Under Firearm Restricted Deer Hunts:

- Hunting Method section - added the last sentence to allow modern firearm hunters to hunt with a muzzleloader equipped with a scope in firearm restriction areas.

Under Modern Firearm Deer Permit Hunts:

- Blue Mtns. Foothills A hunt - changed GMUs to read 149, 154, 162-166 from 149-154, 162-166 for clarification.
- Beezeley East hunt - corrected the spelling of the word Beezeley (was Beazeley).
- Desert A hunt - 20 permits any buck changed to 15 permits any deer to allow permit hunters to take a doe and fairly allocate permits based on success.
- Quilomene A hunt - changed number of permits from 100 to 110, to reflect current success.
- Umtanum A hunt - changed number of permits from 105 to 100, to reflect current success.
- East Klickitat hunt - date changed from Oct. 14-23 to Oct. 14-22 and the number of permits changed from 25 to 50. Date changed because of a mistake. Permit level increased because of damage complaints.

Under Muzzleloader Only Deer Permit Hunts:

- Quilomene B hunt - changed the number of permits from 35 to 15 because of recent success data information.
- Desert C - changed the number of permits from 2 to 3 because of recent success data information.

Under Archery Only Deer Permit Hunts:

- Desert D hunt - dates changed from Nov. 27-Dec. 8 to Sept. 16-Oct. 6, to provide better dates for archers.
- Quilomene C hunt - changed number of permits from 110 to 90 to reflect current changes in success rates.
- Umtanum C hunt - changed number of permits from 100 to 75 to reflect current changes in success rates.
- Alkali E hunt - changed number of permits from 90 to 35 to reflect current changes in success rates.

Under Special Deer Permit Hunts for Hunters 65 or Older:

- Walla Walla hunt - changed date from Oct. 14-24 to read Oct. 14-22, to correct a date error.

Eliminated the AHE Special Deer Permit Hunts (Palouse hunt), because this permit hunt was changed to a general season hunt.

WAC 232-28-279 Elk general seasons and special permits.

A. Agency Reason for Adoption: The purpose is to provide hunting recreation and help prevent damage to agricultural and horticultural crops. The anticipated effect will be to maintain hunting opportunity and reduce liability to damage claims from elk damage.

B. Changes, If Any, from the Text of Proposed Rule and Reasons for Differences: Under 3 Point GMUs: Added Muzzleloader Area 941.

Modern Firearm Elk Seasons Table:

- The title in the table heading should read Elk Tag instead of Tag Area to be consistent with the rest of the season tables.
- Eastern Washington - changed GMU 121 east of Hwy 395 to 124 east of Hwy 395 to correct an error.

- Eastern Washington - eliminated GMUs 127 and 130 from permit only listing because there is an AHE hunt in this area in December.
- Eastern Washington - changed date from Oct. 26-Nov. 4 to Oct. 26-Nov. 3 to correct an error.

Early Archery Elk Seasons Table:

- Eastern Washington - changed GMU 382 to 334 in the any elk section because 382 is open to modern firearm hunters and 334 is open to archery only.
- Eastern Washington - separated the middle section into two separate sections (a spike bull and a spike bull or antlerless section) to correct an error.
- Western Washington - added GMUs 652 and 654 to the 3 pt. min or antlerless section to allow antlerless hunting. Damage complaints are an issue in these units.

Late Archery Elk Seasons Table:

- Eastern Washington - added GMU 346 to provide more hunting areas.

Early Muzzleloader Elk Seasons Table:

- Eastern Washington - added GMU 250 to spike bull seasons to correct an omission.
- Western Washington - added GMU 660 to 3 pt. min seasons to correct an omission.
- Western Washington - eliminated GMU 501 3 pt. min because also listed as 3 pt. min or antlerless.

Late Muzzleloader Elk Seasons Table:

- Eastern Washington - changed dates for the late hunt in part of GMU 368 to November 11-15, 2000, November 10-14, 2001, and November 9-13, 2002 to prevent an overlap with archery seasons.
- Western Washington - changed date for GMUs 501 and 505 for the year 2000 to November 22-December 8 to correct and error.

Special Elk Hunts Open to Specified Tag Holders Section:

- Under Hunting Method: The last sentence about firearm restriction areas was added to allow modern firearm hunters to hunt with muzzleloaders equipped with a scope in firearm restriction areas.

Modern Firearm Bull Permits Section:

- Mountain View A hunt - changed number of permits from 8 to 7 to reflect changes in success rates.
- Peaches Ridge A hunt - changed number of permits from 53 to 51 to reflect changes in success rates.
- Goose Prairie A hunt - changed number of permits from 127 to 118 to reflect changes in success rates.
- Bethel A hunt - changed number of permits from 90 to 86 to reflect changes in success rates.
- Rimrock A hunt - changed number of permits from 96 to 88 to reflect changes in success rates.
- The Margaret A and Toutle A: Dates were changed from Nov. 1-14 to Nov. 4-12 to correct a date error.
- The Dickey A hunt was eliminated because the unit is recommended to be open in general seasons.

Modern Firearm Elk Permit Hunts:

- The Minot Peak hunt was changed to muzzleloader only and dropped as a modern firearm hunt.
- Changed the permit number for Peaches Ridge A to 53 to reflect changes in success rates.

- Changed the permit number for Toutle A to 85 to reflect changes in success rates.
- Puyallup A hunt - added 2001 to the date for clarification.
- Deschutes A hunt - added 2001 to the date for clarification.

Muzzleloader Bull Permits Section:

- The Dickey B hunt was eliminated because this unit was opened to general seasons.
- Rimrock C hunt - changed number of permits from 13 to 12 to reflect changes in success rates.

Muzzleloader Permit Hunts Section:

- Changed the name of the Dayton A&B hunts to Columbia A&B, added GMU 163 to both of them. GMU 163 was added because of damage complaints. The name was changed to reflect the additional unit.
- Added a new hunt Cowiche D, October 7-13, Antlerless, EM, GMU 368, 100 permits.
- Changed the permit number from 7 to 75 on the Malaga C hunt, to correct an error.
- The Stella B, Mossyrock A, and Randle A hunts were identified as damage hunts, for information.
- The Minot Peak elk modern firearm permit hunt was moved to the muzzleloader permit hunts section. The date changed from October 9-15 to October 7-13 to be consistent with the muzzleloader early seasons. "WF or" was deleted from the elk tag prefix.

Archery Permit Hunts:

- The Dickey C hunt was eliminated, because the unit is now open in general seasons.
- Mountain View C hunt - changed number of permits from 20 to 8 to reflect changes in success rates.
- Peaches Ridge C hunt - changed number of permits from 154 to 54 to reflect changes in success rates.
- Observatory C hunt - changed number of permits from 31 to 34 to reflect changes in success rates.
- Goose Prairie C hunt - changed number of permits from 108 to 170 to reflect changes in success rates.
- Rimrock D hunt - changed number of permits from 49 to 65 to reflect changes in success rates.
- Cowiche D hunt - changed number of permits from 30 to 22 to reflect changes in success rates.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 11, 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.
May 22, 2000
Debbie Nelson
for Kelly D. White, Chairman
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 98-53, filed 4/22/98, effective 5/23/98)

WAC 232-12-047 Unlawful firearms for hunting. (1)

It is unlawful to hunt any big game with:

~~((1))~~ (a) A fully automatic firearm.

~~((2))~~ A handgun that does not meet the following criteria:

(a) For deer, bear, or cougar

(i) Be a minimum of .24 caliber;

(ii) Have a minimum barrel length of 4 inches, per manufacturer's specification; and

(iii) Fire a centerfire cartridge which uses a mushrooming or expanding type bullet that develops a minimum of 500 foot-pounds of energy at 100 yards.

(b) For all other big game species:

(i) Be a minimum of .24 caliber;

(ii) Have a minimum barrel length of 4 inches, per manufacturer's specification; and

(iii) Fire a centerfire cartridge which uses a mushrooming or expanding type bullet that develops a minimum of 750 foot-pounds of energy at 100 yards.

(3) A rifle with a bore diameter less than .240 of an inch (6mm), or barrel length less than 16 inches, except that cougar may be hunted with a .22 caliber centerfire rifle.

(4) A rifle cartridge with a bullet weighing less than 85 grains, or that develops less than 900 foot pounds of energy at 100 yds, except that cougar may be hunted with a rifle cartridge with a mushrooming or expanding type bullet weighing greater than 50 grains.

~~(5) A rifle cartridge containing a bullet other than a mushrooming or expanding type designed for big game hunting.~~

~~(6))~~ (b) A centerfire cartridge less than 22 caliber for cougar.

(c) A centerfire cartridge less than 24 caliber for any other big game.

(d) A shotgun, provided that a 20 gauge, or larger shotgun, using shells loaded with slugs or buckshot size #1 or larger, may be used to hunt deer, bear, and cougar.

~~((7) A muzzle loader that does not meet the definition as provided in WAC 232-12-051-))~~ (e) A shotgun for any other big game, except that a 12 gauge or 10 gauge shotgun using slugs may be used.

(f) A handgun that does not meet the following criteria: Have a minimum barrel length of four inches, per manufacturer's specification, and fire a centerfire cartridge.

(g) Any rimfire cartridge.

(2) It is unlawful to hunt game birds with a shotgun capable of holding more than three shells.

(3) It is unlawful to hunt game birds or game animals, except bullfrogs, in a manner other than with a firearm, a bow and arrow, or by falconry.

(4) It is unlawful to hunt game animals or game birds with a shotgun larger than 10 gauge.

(5) It is unlawful to hunt game birds with a rifle or pistol, with the exception of blue grouse, spruce grouse and ruffed grouse.

~~((It is unlawful to hunt wildlife with a crossbow.))~~

AMENDATORY SECTION (Amending Order 450, filed 7/5/90, effective 8/5/90)

WAC 232-12-051 Muzzleloading firearms. (1) It is unlawful to carry or possess any firearm during special muzzleloading seasons which does not meet the following specification for a muzzleloader. A muzzleloading firearm is loaded from the muzzle and uses black powder or a black powder substitute as recommended by the manufacturer for use in muzzleloading firearms. A muzzleloading firearm has a single or double barrel of at least 20 inches, rifled or smooth-bored. Ignition is to be wheel lock, matchlock, flintlock, or percussion using original style percussion caps that fit on the nipple and are exposed to the elements. Sights must be ~~((metal)) open, peep or of other open sight design.~~ Fiber optic sights are legal. Telescopic sights or sights containing glass are prohibited. It is unlawful to have any electrical device or equipment attached to a muzzleloading firearm while hunting.

(2) A muzzleloading firearm used for deer must fire a single, nonjacketed lead projectile of nominal ~~((-)40~~ caliber or larger, except that buckshot size #1 or larger may be used in a smoothbore of ~~((-)60~~ caliber or larger.

(3) A muzzleloading firearm used for all other big game must fire a single, nonjacketed lead projectile of nominal ~~((-)50~~ caliber or larger, or fire a single, nonjacketed lead projectile of at least 170 grains.

(4) This section shall not apply to the carrying of a handgun designed to be charged with black powder only.

(5) This section shall not apply to persons lawfully hunting game birds with a shotgun.

(6) Only one barrel of a double barrel muzzleloader may be charged with a load at any one time while hunting in a muzzleloading season except in specified firearm restricted areas.

AMENDATORY SECTION (Amending Order 427, filed 1/24/90, effective 2/24/90)

WAC 232-12-054 Bow and arrow requirements. (1) It is unlawful for any person to hunt big game animals with a bow that possesses less than 40 pounds of pull measured at twenty-eight inches or less draw length or has a greater than 65% reduction (let off) in holding weight at full draw.

(2) It is unlawful to hunt big game animals with any arrow, including broadhead, measuring less than 20 inches in length, weighing less than ~~((400 grains (400 gr.) or)) 6 grains per pound of draw weight and~~ having sharp broadhead blade or blades less than seven-eighths inches wide. It is unlawful to hunt with a broadhead blade unless the broadhead is unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum

blade width forming a smooth line toward the feather end of the shaft and such line does not angle toward the point.

(3) It is unlawful for any person to carry or have in his possession any firearm while in the field archery hunting, during the bow and arrow season specified for that area.

(4) It is unlawful to shoot at wildlife with an arrow from a vehicle or from, across or along the maintained portion of a public highway.

(5) It is unlawful to use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw or in a firing position.

(6) It is unlawful to have any electrical equipment or device(s) attached to the bow or arrow while hunting.

(7) It is unlawful to hunt wildlife with a crossbow.

AMENDATORY SECTION (Amending Order 99-118, filed 8/11/99, effective 9/11/99)

WAC 232-12-068 Nontoxic shot requirements ~~((for waterfowl, coot, and snipe hunting))~~. It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for waterfowl, coot, or snipe. Nontoxic shot includes steel shot, bismuth-tin shot (nominally 97 parts bismuth: 3 parts tin with <1 percent residual lead), tungsten-iron shot (nominally 40 parts tungsten: 60 parts iron with <1 percent residual lead), tungsten-polymer shot (nominally 95.5 parts tungsten: 4.5 parts polymer with <1 percent residual lead), tungsten-matrix shot (nominally 95.9 parts tungsten: 4.1 parts polymer with <1 percent residual lead), or tin shot (99.9 percent tin with <1 percent residual lead) ~~((when hunting for waterfowl, coot, or snipe))~~.

It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for game birds or game animals in the following areas:

Bridgeport Bar segment of the Well's Wildlife Area
Chehalis River pheasant release site
Dungeness Recreation Area
Hunter Farms pheasant release site
Lake Terrell Wildlife Area (including Tennant Lake and other segments)

Raymond Airport pheasant release site
Skagit Wildlife Area (all segments)
Snoqualmie Wildlife Area (all segments)
Sunnyside Wildlife Area
Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge
The Driscoll Island, Hegdahl, and Kline Parcel segments of the Sinlahekin Wildlife Area

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-257 ~~((Control of unattended decoys))~~
Use of waterfowl decoys on department lands. ~~((It is unlawful to leave duck or goose decoys unattended on lands or water owned, leased or controlled by the department. Duck or goose decoys left unattended in excess of one hour may be removed by a wildlife agent.))~~ (1) On days open to waterfowl

PERMANENT

hunting, persons using lands or waters controlled by the department shall not:

(a) Place waterfowl decoys prior to 4:00 a.m.;

(b) Allow or permit waterfowl decoys to be unattended or not in their immediate control for a period greater than one hour; or

(c) Fail to remove waterfowl decoys within two hours after the close of established daily hunting hours.

(2) On days closed to waterfowl hunting, persons using lands or waters controlled by the department shall not place waterfowl decoys except as authorized by permit of the director.

(3) This regulation shall be enforced under RCW 77.15.400.

AMENDATORY SECTION (Amending Order 98-158, filed 8/13/98, effective 9/13/98)

WAC 232-16-700 Swinomish Spit Game Reserve. It shall be unlawful to hunt wild animals and wild birds within the following described boundary November ((+)) 15 through March 31, and it shall be unlawful to hunt brant at any time within the following described boundary: Beginning at the Burlington Northern railroad tracks on the west shoreline of the Swinomish Channel; thence in a northwesterly direction along the west side of the Swinomish Channel to the red channel mark buoy N "20" (as indicated on Navigation Map #18427, 13th Ed., July 16, 1983); thence 6,000 feet ENE (east-northeast); thence 3,300 feet SSE (south-southeast); thence 4,200 feet SW (southwest) to the dike at the south end of Padilla Bay; thence continue westerly along said dike to the intersection of the Burlington Northern railroad tracks and the east shoreline of the Swinomish Channel; thence continue along said railroad tracks (across swing bridge) to the west shoreline of the Swinomish Channel and the point of beginning.

AMENDATORY SECTION (Amending Order 00-05, filed 1/24/00, effective 2/24/00)

WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—Region two.

GMU 203-PASAYTEN (Okanogan and Whatcom counties): The Pasayten Wilderness Area.

GMU 204-OKANOGAN EAST (Okanogan and Ferry counties): Beginning on the eastern shore of Osoyoos Lake and the Washington-Canadian border; east on the border to the Kettle River near Ferry customs office; south along the Kettle River to the mouth of Toroda Creek at Toroda; west along Toroda Creek to the Toroda Creek Road (County Roads 502 and 9495); west and south on the Toroda Creek Road to State Highway 20 at Wauconda; east on State Highway 20 to Republic; south on State Route 21 to the north boundary of the Colville Indian Reservation; west on the reservation boundary to the Okanogan River; north along the Okanogan River and the eastern shore of Osoyoos Lake to the point of beginning.

GMU 209-WANNACUT (Okanogan County): Beginning at the Canadian border station near Nighthawk on the Washington-Canadian border; east on the border to the west shore of Lake Osoyoos; south along the west shore of Lake Osoyoos and the Okanogan River to the bridge at Tonasket and County Road 7 (9400); south on County Road 7 to the North Pine Creek-Aeneas Lake Road (9437); southwest on the Pine Creek-Aeneas Lake Road to the Horse Springs Coulee Road (4371); north on the Horse Springs Coulee Road to the Loomis-Oroville Highway (9425) near Spectacle Lake; west on the Loomis-Oroville Highway to Loomis; north on the Loomis-Oroville Highway past Palmer Lake to Nighthawk and the Allemandi Road; north on the Allemandi Road to the Similkameen Road; north on the Similkameen Road to the border station on the Washington-Canadian border and the point of beginning.

GMU 215-SINLAHEKIN (Okanogan County): Beginning at the eastern boundary of the Pasayten Wilderness and the Washington-Canadian border; east on the border to the border station near Nighthawk and the Similkameen Road; southeast on the Similkameen Road to the Allemandi Road; south on the Allemandi Road to Nighthawk and the Loomis-Oroville Road (USFS Road 9425); south on the Loomis-Oroville Road through Loomis to the Horse Springs Coulee Road (USFS Road 4371) near Spectacle Lake; south on the Horse Springs Coulee Road to the Aeneas Lake-Pine Creek Road (USFS Road 9400); northeast on the Aeneas Lake-Pine Creek Road to the Okanogan River; south along the Okanogan River to the town of Riverside and U.S. Highway 97; north on U.S. Highway 97 to the South Pine Creek-Fish Lake Road (USFS Road 9410); west on the South Pine Creek-Fish Lake Road along the south shore of Fish Lake to the Conconully-Sinlahekin Road (USFS Road 4015); southwest on the Conconully-Sinlahekin Road along the north shore of Conconully Lake to Conconully and the Salmon Creek North Fork Road (USFS Roads 2361, 38, and 2820); north on the Salmon Creek North Fork Road over Lone Frank Pass to USFS Road 39; north on USFS Road 39 to Long Swamp and the Middle Fork Toats Coulee Road; east on the Middle Fork Toats Coulee Road (USFS Road 39) to Iron Gate Road (USFS Road 500); northwest on Iron Gate Road to its end; north and east on Trails 533 and 341 to the eastern boundary of the Pasayten Wilderness; north on the wilderness boundary to the Washington-Canadian border and the point of beginning.

GMU 218-CHEWUCH (Okanogan County): Beginning at Harts Pass on the Pacific Crest Trail; north on the Pacific Crest Trail approximately one mile to the boundary of the Pasayten Wilderness; east on the Pasayten Wilderness Boundary to Iron Gate Road (USFS Road 500); south on the Iron Gate Road to the Middle Fork Toats Coulee Creek (USFS Road 39); west and south on the Middle Fork Toats Coulee Creek Road past Long Swamp to the Boulder Creek Road (USFS Road 37); southwest on Boulder Creek Road to the East Chewuch River Road (USFS Road 9137); south on the East Chewuch River Road to Winthrop and State Highway 20; northwest on State Highway 20 to the Pacific Crest

Trail crossing on Highway 20; north on the Pacific Crest Trail to Harts Pass and the point of beginning.

GMU 224-PEARRYGIN (Okanogan County): Beginning at the North Fork Boulder Creek Road (USFS Road 39) and USFS Road 3820; south on Road 3820 through Lone Frank Pass to the North Fork Salmon Creek Road (USFS Road 38); southeast on the North Fork Salmon Creek Road to the County Road 2361; southeast on County Road 2361 to County Road 2017 at Conconully; southwest on County Road 2017 to the North Summit Road (USFS Road 42); southwest on the North Summit Road to State Highway 20 at Loup Loup Summit; west on State Highway 20 through Twisp to the East Chewuch River Road at Winthrop; north on the East Chewuch River Road to the Boulder Creek Road (USFS Road 37); northeast on the Boulder Creek Road to the Middle Fork Boulder Creek Road (USFS Road 39); northeast on the Middle Fork Boulder Creek Road to USFS Road 3820 and the point of beginning.

GMU 231-GARDNER (Okanogan County): Beginning where the Pacific Crest Trail crosses State Highway 20; south and east on State Highway 20; south through the Methow Valley, south through Winthrop to the Twisp River Road at Twisp; west on the Twisp River Road to North Fork Twisp River Trail 432; north on Trail 432 to Trail 426; north and west on Trail 426 to the Pacific Crest Trail; north on the Pacific Crest Trail to State Highway 20 and the point of beginning.

GMU 233-POGUE (Okanogan County): Beginning at the town of Conconully; north on the Sinlahekin Road (USFS Road 4015) to the Fish Lake Road; east on the Fish Lake Road along the south end of Fish Lake to the South Pine Creek Road (USFS Road 9410); east on the South Pine Creek Road to U.S. Highway 97; south on U.S. Highway 97 to the town of Riverside and the Okanogan River; south along the Okanogan River through Omak to the town of Okanogan and State Highway 20; west on State Highway 20 near Loup Loup Summit and the North Summit Road (USFS Road 42); north on the North Summit Road to County Road 2017; north on County Road 2017 to Conconully and the point of beginning.

GMU 239-CHILIWIST (Okanogan County): Beginning at the intersection of State Highway 153 and State Highway 20 south of the town of Twisp; east on State Highway 20 past Loup Loup Summit to the town of Okanogan and the Okanogan River; south along the Okanogan River to the Columbia River and the Okanogan County south boundary; west along the Columbia River to Pateros and State Highway 153; north on State Highway 153 to State Highway 20 and the point of beginning.

GMU 242-ALTA (Okanogan County): Beginning at the junction of the Twisp Pass and Trail 432; east on Trail 432 to Roads End Campground and the Twisp River Road (County Road 9114 and USFS Road 4440); east on the Twisp River Road to Twisp and State Highway 153; south on State Highway 153 to Pateros and the Columbia River; south along Lake Pateros to Wells Dam and U.S. Highway 97; south on

U.S. Highway 97 to Apple Acres Road (USFS Road 8140); west on Apple Acres Road to Antoine Creek Road (USFS Road 8140); northwest on the Antoine Creek Road to USFS Road 8020; north on the USFS Road 8020 to its junction with the South Navarre Road and the South Fork Gold Creek Road (USFS Road 8200 and 4330); north on the South Fork Gold Creek Road to the Okanogan-Chelan County line; northwest on the Okanogan-Chelan County line to the intersection of Trail 432 and the point of beginning.

GMU 243-MANSON (Chelan County): Beginning at the town of Chelan to Lake Chelan; northwest along the north shore of Lake Chelan to the Lake Chelan National Recreation Area Boundary near Flick Creek campground; northeast along the National Recreation Area Boundary to Sawtooth Ridge; southeast along Sawtooth Ridge separating the Chelan and Methow-Twisp river drainages to Fox Peak and USFS Road 8020; southeast on USFS Road 8020 to Antoine Creek Road (USFS Road 8140); southeast on Antoine Creek Road to Apple Acres Road; northeast on Apple Acres Road to U.S. Highway 97; northeast on U.S. Highway 97 to Wells Dam and the Columbia River; southeast along the Columbia River (Chelan-Douglas county line) to the Chelan River; northwest along the Chelan River to the town of Chelan and the point of beginning.

GMU 244-CLARK (Chelan County): Beginning where the Stehekin River flows into Lake Chelan; southeast along the south shore of Lake Chelan to the Glacier Peak Wilderness Boundary at Bearcat Ridge; south, west and north on the wilderness boundary to the Pacific Crest Trail at Kodak Peak; north on the Pacific Crest Trail to North Cascades National Park; north and east on the North Cascades National Park Boundary to Hock Mountain; south along the Lake Chelan National Recreation Area Boundary to Lake Chelan; northwest along the north shore of Lake Chelan to the Stehekin River and the point of beginning.

GMU 245-CHIWAHA (Chelan County): Beginning on the Pacific Crest Trail and the Glacier Peak Wilderness Boundary at Kodak Peak; southeast and north on the wilderness boundary to the Entiat River; southeast along the Entiat River to Ardenvoir and the Mad River Road (USFS Road 5700); northwest on the Mad River Road to the USFS Road 5800; southwest on USFS Road 5800 at French Corral and Eagle Creek Road (USFS Road 7520); southwest on the Eagle Creek Road to State Highway 209 north of Leavenworth; north on State Highway 209 to State Highway 207 near Lake Wenatchee; south on State Highway 207 to U.S. Highway 2 at Coles Corner; west on U.S. Highway 2 to the Pacific Crest Trail at Stevens Pass; north on the Pacific Crest Trail to Kodak Peak and the point of beginning.

GMU 246-SLIDE RIDGE (Chelan County): Beginning on the south shore of Lake Chelan at Bearcat Ridge; southeast along the south shore of Lake Chelan to Twenty-five Mile Creek; southwest along Twenty-five Mile Creek to the Slide Ridge Road (USFS Road 8410); south on the Slide Ridge Road to Stormy Mountain and Trail 1448; northwest on Trail 1448 to Fourmile Ridge Trail 1445; west on the Fourmile Ridge Trail to Fox Creek; southwest along Fox Creek to the

Entiat River; northwest along the Entiat River to the Glacier Peak Wilderness Boundary; north on the wilderness boundary to (~~Lake Chelan, the Lake Chelan National Recreation Boundary and~~) the point of beginning.

GMU 247-ENTIAT (Chelan County): Beginning at Twenty-five Mile Creek on the south shore of Lake Chelan; southeast along Lake Chelan and the Chelan River to the Columbia River; southwest along the Columbia River to the mouth of the Entiat River; northwest along the Entiat River to Fox Creek; northeast along Fox Creek to the Fourmile Ridge Trail 1445; east on the Fourmile Ridge Trail to Trail 1448; southeast on Trail 1448 to Stormy Mountain and the Slide Ridge Road (USFS Road 8410); north on the Slide Ridge Road to Twenty-five Mile Creek; north along Twenty-five Mile Creek to Lake Chelan and the point of beginning.

GMU 248-BIG BEND (Douglas and Grant counties): Beginning on State Highway 17 at the Chalk Hills Road (Road K N.E.); north on the Chalk Hills Road (K & L N.E.) for 4 miles to the east line of Range 26 East; north on the east line of Range 26 to the Columbia River; east along the Columbia River to Grand Coulee Dam and the Feeder Canal; southwest along the Feeder Canal to Banks Lake; south along the west shore of Banks Lake to a point due east from Mold Road (Road 9 N.E.); west from that point on Mold Road through Mold to State Highway 17; north along State Highway 17 to Sim's Corner and State Highway 172; west on State Highway 172 through Mansfield to Mathieson Road (Road B N.E.); north on the Mathieson Road and the West Foster Creek Road (Bridgeport Hill Road) to State Highway 17; east on State Highway 17 to the Chalk Hills Road (Road K N.E.) and the point of beginning.

GMU 249-ALPINE (Kittitas and Chelan counties): Beginning on the Pacific Crest Trail and the Alpine Lakes Wilderness Boundary near Josephine Lake (south of Stevens Pass); east, south and west on the wilderness boundary to the Pacific Crest Trail near Kendall Peak; north on the Pacific Crest Trail to Josephine Lake and the point of beginning.

GMU 250-SWAKANE (Chelan County): Beginning at Stevens Pass on U.S. Highway 2; east on U.S. Highway 2 to Coles Corner and State Highway 207; north on State Highway 207 to State Highway 209 near Lake Wenatchee; southeast on State Highway 209 to the Eagle Creek Road (USFS Road 7520); northeast on Eagle Creek Road to French Corral and USFS Road 5800; northeast on USFS Road 5800 to the Mad River Road (USFS Road 5700); southeast on the Mad River Road to Ardenvoir and the Entiat River; southeast along the Entiat River to the Columbia River; south along the Columbia River to the Wenatchee River; northwest along the Wenatchee River to Leavenworth and Icicle Creek; south and northwest along Icicle Creek to the Alpine Lakes Wilderness Boundary; north on the Alpine Lakes Wilderness Boundary to the Pacific Crest Trail near Josephine Lake; north on the Pacific Crest Trail to Stevens Pass and the point of beginning.

GMU 251-MISSION (Kittitas and Chelan counties): Beginning at the Black Pine Creek Horse Camp near the Alpine Lakes Wilderness Boundary and Icicle Creek; east

along Icicle Creek to the Wenatchee River; south and east along the Wenatchee and Columbia rivers to the mouth of Tarpiscan Creek; west along Tarpiscan Creek and North Fork Tarpiscan Creek and North Fork Road (WDFW Road No. 10.10) to the Colockum Pass Road (WDFW Road 10) to the Naneum Ridge Road (WDFW Road 9); northwest on the Naneum Ridge Road to Wenatchee Mountain; northwest along the ridge past Mission Peak to the Liberty-Beehive Road (USFS Road 9712); northwest on the Liberty-Beehive Road to USFS Road 9716; north on USFS Road 9716 to U.S. Highway 97 at Swauk Pass; northwest on the Kittitas-Chelan County line and Trail 1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; north on the Alpine Lakes Wilderness Boundary to Icicle Creek and the point of beginning.

GMU 254-SAINT ANDREWS (Douglas and Grant counties): Beginning at Mansfield on State Highway 172; east on State Highway 172 to Sim's Corner and State Highway 17; south on State Highway 17 to Buckeye Road (Road 9 N.E.); east on the Buckeye Road to Mold and the Mold Road; east on the Mold Road and continuing due east to the west shore of Banks Lake; south along the west shore of Banks Lake to U.S. Highway 2; west on U.S. Highway 2 to Farmer and State Highway 172; north and east on State Highway 172 to Mansfield and the point of beginning.

GMU 260-FOSTER CREEK (Douglas County): Beginning at Brewster and the Douglas-Okanogan County line; east on the county line (Columbia River) past Bridgeport to the east line of Range 26 East; south on the east line of Range 26 East to Road L N.E.; south on Road L N.E. to the Chalk Hills Road (K & L N.E.); southwest on the Chalk Hills Road to State Highway 17; west on State Highway 17 to the Bridgeport Hill Road; south on the Bridgeport Hill Road to the Dyer Hill Road; north on the Dyer Hill Road to Dyer and the Bonita Flat Road; west on the Bonita Flat Road to the Columbia River (opposite the Okanogan-Chelan County line); north along the river to Brewster and the point of beginning.

GMU 262-WITHROW (Douglas County): Beginning at Dyer and the Dyer Hill Road; south on the Dyer Hill Road to the Bridgeport Hill Road; south 3/4 mile on the Bridgeport Hill Road to Road 18 N.E.; east on Road 18 N.E. to the Mathieson Road (B N.E.); south on the Mathieson Road to State Highway 172; west and south on State Highway 172 to Farmer and U.S. Highway 2; west on U.S. Highway 2 through Waterville to Orondo and the Douglas-Chelan County line; north on the county line (Columbia River) past the Wells Dam to the Bonita Flat Road (opposite the Okanogan-Chelan County line); east on the Bonita Flat Road to Dyer and the point of beginning.

GMU 266-BADGER (Douglas County): Beginning at Orondo and U.S. Highway 2; east on U.S. Highway 2 through Waterville and Douglas to the Westerman Road (K S.W.); south on the Westerman Road to Alston and the Alston Road; west on the Alston Road to the Titchenal Canyon Road; southwest on the Titchenal Canyon Road to the Sheehan Road; south on the Sheehan Road to the Rock Island Grade Road; southwest on the Rock Island Grade Road to the Rock

Island Dam and the Douglas-Chelan County line (Columbia River); north on the county line through Wenatchee to Drondo and the point of beginning, (includes Turtle Rock Island).

GMU 269-MOSES COULEE (Douglas and Grant counties): Beginning on U.S. Highway 2 and the Westerman Road (K S.W.); east on U.S. Highway 2 to the Moses Coulee Road; south on the Moses Coulee Road to the Grant-Douglas County line and the Sagebrush Flat Road; south on the Sagebrush Flat Road to J N.W. Road; south on J N.W. to 20 N.W. Road; west on 20 N.W. Road to the Overen Road; southwest on the Overen Road to the Baird Springs Road; southwest on the Baird Springs Road across State Highway 28 to the Crescent Bar Road; south along the Crescent Bar Road to the Douglas-Kittitas County line (Columbia River); north on the county line to the Rock Island Dam and the Rock Island Grade Road; north on Rock Island Grade Road to the Sheehan Road; north on the Sheehan Road to the Titchenal Canyon Road; north on the Titchenal Road Canyon Road to the Alston Road; east on the Alston Road through Alston to the Westerman Road (K S.W.); north on the Westerman Road to U.S. Highway 2 and the point of beginning.

GMU 272-BEEZLEY (Grant and Douglas counties): Beginning at the junction of Grant, Lincoln and Okanogan County lines near the town of Grand Coulee; south on the Grant County line to Interstate 90; west on Interstate 90 to the Grant-Kittitas County line (Columbia River); north on the county line to the Crescent Bar Road; northeast on the Crescent Bar Road to the Baird Springs Road near Trinidad; northeast on the Baird Springs Road across State Highway 28 to the Overen Road; northeast on the Overen Road to the 20 N.W. Road; east on the 20 N.W. Road to the J N.W. Road; north on the J N.W. Road to the Sagebrush Flats Road; north on the Sagebrush Flats Road to the Grant-Douglas County line and the Moses Coulee Road; north on the Moses Coulee Road to U.S. Highway 2; east on U.S. Highway 2 to the west shore of Banks Lake; north along the west shore of Banks Lake to the feeder canal and to Grand Coulee Dam; up river to the Grant-Lincoln County line and the point of beginning, EXCEPT Private Lands Wildlife Management Area 201, Wilson Creek.

GMU 278-WAHLUKE (Grant and Adams counties): Beginning at the Vantage Bridge on Interstate 90 and the Grant-Kittitas County line (Columbia River); northeast and east on Interstate 90 to Road R SW (Beverly-Burke Road); south along Road R SW to Road 7 SW (Frenchman Hills Road); east along Road 7 SW to State Highway 262 (O'Sullivan Dam Road); east along State Highway 262 to State Highway 17; north on State Highway 17 to Interstate 90; east on Interstate 90 to the Grant-Adams County line; south on Road X S.E. to Road 12 S.E.; west on Road 12 S.E. and west on Grant-Adams County line to State Highway 17; south on State Highway 17 to Muse Road; ((east)) west on Muse Road to State Highway 24; west on State Highway 24 to the Vernita Bridge and the Columbia River (Grant County line); west and north along the Columbia River to the Vantage Bridge on Interstate 90 and the point of beginning.

GMU 284-KAHLLOTUS (Adams County): Beginning on State Highway 17 and the Adams-Grant County line (Road 12 S.E.); east on the Adams-Grant County line (Road 12 S.E.) to Road X S.E.; north on Road X S.E. to the Adams-Lincoln County line (Davis Road); east on the Adams-Lincoln County line (Davis Road) to the Whitman County line; south on the Adams-Whitman County line to the Palouse River; south and west on the Palouse River to State Highway 26; west on State Highway 26 to State Highway 17; north on State Highway 17 to the Adams-Grant County line (12 S.E. Road) and the point of beginning.

GMU 290-DESERT (Grant County): Beginning at the town of George on Interstate 90; east along Interstate 90 to State Highway 17; south along State Highway 17 to State Highway 262 (O'Sullivan Dam Road); west along State Highway 262 to Road 7 SW (Frenchman Hills Road); west along Road 7 SW to Road R SW (Beverly-Burke Road); north along Road R SW to Interstate 90; east along Interstate 90 to the point of beginning.

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-248 ((1999-2000)) Special closures and firearm restriction areas.

RESTRICTED AND PROHIBITED HUNTING AREAS.

These areas are closed by Fish and Wildlife Commission action. Other areas may be closed to hunting by local, state or federal regulations.

IT IS ILLEGAL TO HUNT EXCEPT WHERE PROVIDED IN THE FOLLOWING AREAS:

1. Little Pend Oreille National Wildlife Refuge: The southern part of the Little Pend Oreille National Wildlife Refuge in Stevens County is closed to hunting and discharge of firearms except during the period of Oct. 1-Dec. 31. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 (Bear Creek Road) to the intersection with Road 2.0 (Blacktail Mountain Road) in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.

The Little Pend Oreille National Wildlife Refuge north of the preceding boundary is open to all legally established hunting seasons during September through December.

2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds year round. Both the Little Pend Oreille (1) and Parker Lake (2) closures were established to provide a protected area for the Air Force Military Survival Training Program.

3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
4. Green River (GMU 485): Except for special permit ~~((hunts))~~ hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Fish and Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.
5. McNeil Island: McNeil Island (part of GMU ~~((484))~~ 652) is closed to the hunting of all wild animals (including wild birds) year around.
6. Loo-wit (GMU 522): Closed to hunting and trapping within GMU 522 (Loo-wit).
7. The Voice of America Dungeness Recreation Area County Park in Clallam County is closed to all hunting ~~((from February 1 through September 30))~~ except Wednesdays, weekends, and holidays, from the first weekend in October to the end of January.

BIG GAME CLOSURES

1. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
2. Cathlamet: Beginning in the town of Skamokawa; then east along SR 4 to the Risk Road; then south and east along the Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to the Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning. This area is closed to all deer and elk hunting, to protect the Columbian White-tail Deer.
3. Willapa National Wildlife Refuge: Except for Long Island, Willapa National Wildlife Refuge is closed to all big game hunting.

4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for holders of special elk permits during the established open season. This area is closed to motorized vehicles. Entry is allowed only by Forest Service permit for the duration of the hunt. Any entry into the Mill Creek Watershed at other times is prohibited.
5. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.

FIREARM RESTRICTION AREAS

The firearm restriction areas listed below have been established by the Fish and Wildlife Commission. Centerfire and rimfire rifles are not legal for hunting in these areas.

In firearm restriction areas, hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment except in the GMU ~~((484))~~ 652 restriction area outlined for King County. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloaders or revolver-type handguns meeting the equipment restrictions or legal shotguns firing slugs or ~~((legal))~~ buckshot. ~~((Shotguns are not legal for hunting elk.))~~

COUNTY	AREA
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battleground)
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)
((Franklin, Grant, Adams	Those portions of GMU 281 (Ringold) and GMU 278 (Wahluke) known as the Wahluke Slope Wildlife Area.))
Grays Harbor	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along

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COUNTY	AREA	COUNTY	AREA
	<p>the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.</p> <p>The South Elma restriction applies only during elk seasons:</p> <p>That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on South Bank Road to the Delezene Road; then south on the Delezene Road to ((the K Line Road to the A Line Road; then south on the A Line Road to the T Line Road; then south on the T Line)) a point 1 mile from the South Bank Road; southeast along a line 1 mile southwest of the South Bank Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.</p>		<p>410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.)</p>
		Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newbury Hill Road, north of Newbury Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.
		Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
		Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.
		Pacific	GMU 684 (Long Beach) west of Sand Ridge Road. The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge.
		Pierce	GMU ((484)) 652 (Anderson and Ketron islands) limited to archery, shotgun, and muzzleloader ((shotgun)) . McNeil Island closed to hunting.
Island	That portion of GMU 410 (Island) located on Camano and Whidbey islands.		See GMU 484 restriction area outlined for King County.
Jefferson	Indian and Marrowstone islands.		
King	<p>The area west of Highway 203 (Monroe-Fall City, Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury islands.</p> <p>The following portion of GMU ((484)) 652 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway</p>		<p>GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.</p>
		Snohomish	West of Highway 9.
		Skagit	Guemes Island and March Point north of State Highway 20.
		Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
		Whatcom	Area west of I-5 and north of Bellingham city limits including Lummi Island and Point Roberts.

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AMENDATORY SECTION (Amending WSR 97-05-074, filed 2/19/97, effective 3/22/97)

~~WAC 232-28-266 ((1997-98, 1998-99, 1999-2000))~~
2000-2001, 2001-2002, 2002-2003 Landowner damage hunts.

LANDOWNER DAMAGE HUNTS

Deer:

Tag Required: Deer hunter must have a current valid, unaltered, unnotched deer tag on his/her person.

Hunting Method: Any legal weapon.

Season Framework:

((1997-1998 <u>2000-</u>	1998-1999 <u>2001-</u>	1999-2000))
<u>2001</u>	<u>2002</u>	<u>2002-2003</u>
August 1- March 31	August 1- March 31	August 1- March 31

Location: Statewide

Legal Deer: Antlerless Only

Kill Quota: 600 Statewide

Elk:

Tag Required: Elk hunter must have a current valid, unaltered, unnotched elk tag on his/her person.

Hunting Method: Any legal weapon

Season Framework:

((1997-1998 <u>2000-2001</u>	1998-1999 <u>2001-2002</u>	1999-2000)) <u>2002-2003</u>
August 1- March 31	August 1- March 31	August 1- March 31

Location: Statewide

Legal Elk: Antlerless Only

Kill Quota: 100 Statewide

Special Notes: A landowner with deer/elk damage will enter into a Cooperative Agreement with WDFW and establish a boundary for deer/elk hunt, season dates within the framework and number of animals to be removed. Landowner agrees not to claim damage payments and will allow access to hunters during the general hunting seasons. Landowner selects hunters. A landowner damage access permit provided by the landowner will authorize the hunter to use an unused general deer/elk tag to hunt and kill a legal animal during the prescribed damage hunt season.

AMENDATORY SECTION (Amending Order 98-249, filed 12/22/98, effective 1/22/99)

~~WAC 232-28-272 ((1998-99 and 1999-2000))~~ 2000-2001, 2001-2002 and 2002-2003 Black bear and cougar hunting seasons and regulations.

Black Bear Seasons:

- ~~((1) **General Season in Eastern Washington:** August 1-November 7, 1999, except September 7-November 7, 1999 in that part of GMU 113 north of the line beginning at the mouth of Mill Creek on the Pend Oreille River; E along Mill Creek to Le Clere Creek Rd.; N on Le Clere Creek Rd. to USFS Rd. 1200; E on USFS Rd. 1200 to Pyramid Pass (Colville NFID Panhandle NF boundary); E on USFS Rd. 312 to USFS Rd. 658; N on USFS Rd. 658 to USFS Rd. 219; E on USFS Rd. 219 to the state line and in GMUs 145-186.~~
- ~~(2) **General Season in Western Washington:** August 1-November 15, 1998 and August 1-November 14, 1999, except July 15-November 15, 1998 and July 15-November 14, 1999 on PLWMA 401 and 600 and on Long Island where the seasons are September 1-November 15, 1998 and September 1-November 14, 1999.)~~

<u>Hunt Name</u>	<u>2000 Season</u>	<u>Hunt Area</u>
<u>General Eastern</u>	<u>Aug. 1 - Nov. 5</u>	<u>GMUs 121-142, 203-382, 578, 588</u>
<u>Northeastern</u>	<u>Sept. 5 - Nov. 5</u>	<u>GMUs 101-117</u>
<u>Blue Mt.</u>	<u>Sept. 5 - Nov. 5</u>	<u>GMUs 145-154, 162-186</u>
<u>General Western</u>	<u>Aug. 1 - Nov. 12</u>	<u>GMUs 407, 410, 454, 466, 490-520, 524-574, 601-684</u>
<u>North Cascades</u>	<u>Aug. 1 - Nov. 30</u>	<u>GMUs 418-450, 460</u>
<u>West Side PLW-MAs</u>	<u>July 15 - Nov. 12</u>	<u>PLWMA 401, 600</u>
<u>Long Island</u>	<u>Sept. 1 - Nov. 12</u>	<u>Long Island</u>

<u>Hunt Name</u>	<u>2001 Season</u>	<u>Hunt Area</u>
<u>General Eastern</u>	<u>Aug. 1 - Nov. 4</u>	<u>GMUs 121-142, 203-382, 578, 588</u>
<u>Northeastern</u>	<u>Sept. 4 - Nov. 4</u>	<u>GMUs 101-117</u>
<u>Blue Mt.</u>	<u>Sept. 4 - Nov. 4</u>	<u>GMUs 145-154, 162-186</u>
<u>General Western</u>	<u>Aug. 1 - Nov. 11</u>	<u>GMUs 407, 410, 454, 466, 490-520, 524-574, 601-684</u>
<u>North Cascades</u>	<u>Aug. 1 - Nov. 30</u>	<u>GMUs 418-450, 460</u>
<u>West Side PLW-MAs</u>	<u>July 15 - Nov. 11</u>	<u>PLWMA 401, 600</u>
<u>Long Island</u>	<u>Sept. 1 - Nov. 11</u>	<u>Long Island</u>

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<u>Hunt Name</u>	<u>2002 Season</u>	<u>Hunt Area</u>
<u>General Eastern</u>	<u>Aug. 1 - Nov. 3</u>	<u>GMUs 121-142, 203-382, 578, 588</u>
<u>Northeastern</u>	<u>Sept. 3 - Nov. 3</u>	<u>GMUs 101-117</u>
<u>Blue Mt.</u>	<u>Sept. 3 - Nov. 3</u>	<u>GMUs 145-154, 162-186</u>
<u>General Western</u>	<u>Aug. 1 - Nov. 10</u>	<u>GMUs 407, 410, 454, 466, 490-520, 524-574, 601-684</u>
<u>North Cascades</u>	<u>Aug. 1 - Nov. 30</u>	<u>GMUs 418-450, 460</u>
<u>West Side PLW-MAs</u>	<u>July 15 - Nov. 10</u>	<u>PLWMA's 401, 600</u>
<u>Long Island</u>	<u>Sept. 1 - Nov. 10</u>	<u>Long Island</u>

License Required: A valid big game hunting license which includes black bear as a species option is required to hunt black bear. One black bear transport tag is included with a big game hunting license that has black bear as a species option. A second black bear transport tag must be purchased to take a second bear.

Bag Limit: Two (2) black bear per annual hunting season only one of which may be taken in Eastern Washington (~~east~~ side of GMUs 304, 306, 308 or 316)).

Hunting Method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of hounds and bait to hunt black bear is prohibited statewide.

~~((GMUs Closed to Bear Hunting: 157 (Mill Creek Watershed), 485 (Green River), and 522 (Loo-wit-))~~

Harvest Report Cards: All hunters that purchase a big game hunting license which includes black bear as an option are required to fill out and return their black bear harvest report card(s). Successful hunters must complete the report card(s) and return within 10 days after taking an animal. Unsuccessful hunters are required to complete and return their report card(s) within 10 days after the close of the bear season.

Submitting Bear Teeth: Successful bear hunters must submit the black bear premolar tooth located behind the canine tooth of the upper jaw.

Cougar Season:

General Statewide Season: ~~((August 1, 1998-March 15, 1999 and August 1, 1999-March 15, 2000))~~
Aug. 1, 2000 - Mar. 15, 2001;
Aug. 1, 2001 - Mar. 15, 2002; and
Aug. 1, 2002 - Mar. 15, 2003.

License Required: A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

Bag Limit: Two (2) cougar per annual hunting season. It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

Tag Information: One cougar transport tag is included with a big game license that has cougar as a species option. A second cougar transport tag must be purchased to take a second cougar.

Hunting Method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting cougar. ~~((Cougar may also be hunted with a .22 caliber centerfire rifle with a mushrooming or expanding type bullet weighing greater than 50 grains.))~~ The use of hounds to hunt cougar is prohibited statewide.

~~((GMUs Closed to Cougar Hunting: 157 (Mill Creek Watershed), 485 (Green River), and 522 (Loo-wit-))~~

Harvest Report Cards: All hunters that purchase a big game license which includes cougar as a species option are required to fill out and return their cougar harvest report card. Successful hunters must complete the report card and return within 10 days after taking an animal. Unsuccessful hunters are required to complete and return their report card within 10 days after the close of the cougar season.

Cougar Pelt Sealing: Any person who takes a cougar must notify the department within 72 hours of kill (excluding legal state holidays) and provide the hunter's name, date and location of kill, and sex of animal. The raw pelt of a cougar must be sealed by an authorized department employee within five days of the notification of kill. Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-273 ((1999)) 2000 Moose, bighorn sheep, and mountain goat seasons and permit quotas.

((1999)) 2000 Moose Permit Hunts

Who May Apply: Anyone may apply; EXCEPT those who drew a moose permit previously in Washington State. Only one moose permit will be issued during an individual's lifetime (waived for Mt. Spokane youth hunt).

Bag Limit: One moose of either sex, EXCEPT antlerless only for the Mt. Spokane ((Youth)) B Hunt and the Mt. Spokane Youth Hunt.

<u>Hunt Name</u>	<u>Permit Season</u>	<u>Permit Hunt Boundary Description</u>	<u>Special Restrictions</u>	<u>((1999)) 2000 Permits</u>
<u>Kettle River</u>	<u>Oct. 1-Nov. 30</u>	<u>GMU 101, 105</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>Selkirk Mtns.</u>	<u>Oct. 1-Nov. 30</u>	<u>GMU 113</u>	<u>Any Legal Weapon</u>	<u>15</u>

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Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((1999)) 2000 Permits
Mt. Spokane A	Oct. 1-Nov. 30	GMU 124	Any Legal Weapon	5
Mt. Spokane B	Oct. 1-Nov. 30	GMU 124	Any Legal Weapon	((40)) 15
Mt. Spokane Youth Only*	Oct. 1-Nov. 30	GMU 124	Any Legal Weapon	5
49 Degrees North	Oct. 1-Nov. 30	GMU 117	Any Legal Weapon	((43)) 18
Three Forks	Oct. 1-Nov. 30	GMU 109	Any Legal Weapon	((4)) 6
Hangman	Oct. 1-Nov. 30	GMU 127, 130	Any Legal Weapon	2

*Applicants must be eligible to purchase a youth moose permit application. Youth hunters must be accompanied by an adult during the hunt.

~~((4999))~~ 2000 Mountain Sheep (Bighorn) Permit Hunts

Who May Apply: Anyone may apply; EXCEPT those who drew a bighorn permit previously in Washington State. Only one bighorn sheep permit will be issued during an individual's lifetime.

Bag Limit: One bighorn ram.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((1999)) 2000 Permits
((Vulcan Mountain	Sept. 15-Oct. 10	Sheep Unit 2	Any Legal Weapon	4
Tucannon River	Sept. 15-Oct. 10	Sheep Unit 3	Any Legal Weapon	4)
Selah Butte	Sept. 15-Oct. 10	Sheep Unit 4	Any Legal Weapon	2
Umtanum	Sept. 15-Oct. 10	Sheep Unit 5	Any Legal Weapon	((3)) 1
Cleman Mountain	Sept. 15-Oct. 10	Sheep Unit 7	Any Legal Weapon	((3)) 5
Mt. Hull	Sept. 15-Oct. 10	Sheep Unit 10	Any Legal Weapon	1
Lincoln Cliffs	Sept. 15-Oct. 10	Sheep Unit 12	Any Legal Weapon	1
Quilomene	Sept. 15-Oct. 10	Sheep Unit 13	Any Legal Weapon	3
Swakane	Sept. 15-Oct. 10	Sheep Unit 14	Any Legal Weapon	1

Mountain (Bighorn) Sheep Units:

~~((Sheep Unit 2 Vulcan Mountain: Permit Area: Ferry County north of the Kettle River.~~

~~Sheep Unit 3 Tucannon River: Permit Area: The Tucannon River drainage in Columbia and Garfield counties.)~~

Sheep Unit 4 Selah Butte: Permit Area: That part of Yakima and Kittitas counties between Ellensburg and Yakima east of the Yakima River and north of Selah Creek, west of Interstate 82 and south of Interstate 90.

Sheep Unit 5 Umtanum: Permit Area: Those portions of Yakima and Kittitas counties west of the Yakima River, north of Wenas Creek, and east of USFS Road 1701 to Manastash Lake and its drainage; south and east along the South Fork Manastash Creek to Manastash Creek and the Yakima River.

Sheep Unit 7 Cleman Mountain: Permit Area: That part of Yakima County south of Wenas Creek and east of USFS Road 1701, north of Highway 410 and Highway 12 and west of the Yakima River.

Sheep Unit 10 Mt. Hull: Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake

Andrews; then east to the Dry Gulch Road; then north to the Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

Sheep Unit 12 Lincoln Cliffs: Permit Area: That part of Lincoln County north of Highway 2.

Sheep Unit 13 Quilomene: Permit Area: GMU ~~((s))~~ 329 ~~((and 330)).~~

Sheep Unit 14 Swakane: Permit Area: GMU ~~((316))~~ 250.

~~((1999))~~ 2000 Mountain Goat Permit Hunts

Who May Apply: Anyone may apply; except those who drew a mountain goat permit in Washington state after 1998. Starting in 1999, only one mountain goat permit will be issued during an individual's lifetime.

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. WDFW urges hunters to refrain from shooting nannies with kids. Permit hunters may start hunting Sept. 1 with archery equipment.

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Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((1999)) 2000 Permits
Methow	Sept. 15-Oct. 31	Goat Unit 2-2	Any Legal Weapon	5
Naches Pass	Sept. 15-Oct. 31	Goat Unit 3-6	Any Legal Weapon	3
Bumping River	Sept. 15-Oct. 31	Goat Unit 3-7	Any Legal Weapon	2
Tieton River	Sept. 15-Oct. 31	Goat Unit 3-9	Any Legal Weapon	3
Blazed Ridge	Sept. 15-Oct. 31	Goat Unit 3-10	Any Legal Weapon	6
Kachess Ridge	Sept. 15-Oct. 31	Goat Unit 3-11	Any Legal Weapon	1
((East Ross Lake	Sept. 15-Oct. 31	Goat Unit 4-8	Any Legal Weapon	1))
Jack Mountain	Sept. 15-Oct. 31	Goat Unit 4-9	Any Legal Weapon	1
((Foss River	Sept. 15-Oct. 31	Goat Unit 4-32	Any Legal Weapon	2))
Corral Pass	Sept. 15-Oct. 31	Goat Unit 4-38	Any Legal Weapon	2
Tatoosh	Sept. 15-Oct. 31	Goat Unit 5-2	Any Legal Weapon	5
Smith Creek	Sept. 15-Oct. 31	Goat Unit 5-3	Any Legal Weapon	3
Goat Rocks	Sept. 15-Oct. 31	Goat Unit 5-4	Any Legal Weapon	7

Mountain Goat Units:

Goat Unit 2-2 Methow Area: Permit Area: Okanogan County within the following described boundary: Beginning at the Town of Twisp, westerly along the Twisp River Road (County Road 4440) to Roads End; west up the Twisp Pass Trail 432 to Twisp Pass and the Okanogan County line; northerly along the Okanogan County line through Washington Pass to Harts Pass; southeast down Harts Pass (Road 5400) to Lost River; then along the Lost River-Mazama Road to Mazama; then southwest to State Highway 20; then southeasterly along State Highway 20 to Twisp and the point of beginning.

Goat Unit 3-6 Naches Pass: Permit Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail 980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the ((Yakima)) Yakama Indian Reservation Boundary; then east to USFS Jeep Trail 1137; then west to USFS Road 1070-578 Spur; then west to Road 1000; then north to USFS Road 12; then north to State Highway 12; then west on State Highway 12 to point of beginning.

Goat Unit 3-10 Blazed Ridge: Permit Area: Kittitas and Yakima counties within the following described boundary: Beginning at the mouth of Cabin Creek on the Yakima River; then west along Cabin Creek to the headwaters near Snow-

shoe Butte; then south along the Cascade Crest separating the Green and Yakima river drainage to Pyramid Peak; then southeast along the North Fork, Little Naches, and Naches River to the Yakima River; then north along the Yakima River to the mouth of Cabin Creek and point of beginning.

Goat Unit 3-11 Kachess Ridge: Permit Area: Kittitas County within the following described boundary: Beginning at the mouth of the Kachess River on the Yakima River; then north along the Kachess River and Kachess Lake to USFS Road 4600; then east on USFS Road 4600 to the Cle Elum River; then south along the Cle Elum River and Lake Cle Elum to the Yakima River; then northwest along the Yakima River to the mouth of the Kachess River and point of beginning.

~~((Goat Unit 4-8 East Ross Lake: Permit Area: Whatcom County within the following described boundary: Beginning at the point the U.S.-Canada boundary meets the east boundary of North Cascades National Park; then south along the park boundary to Stetattle Creek; then south down Stetattle Creek to Gorge Lake; then southwest along Gorge Lake to State Highway 20; then east and north along State Highway 20 to Ross Dam; then north along the east shoreline of Ross Lake (Note: Exclude Ruby Arm) to Devil's Creek; then east up Devil's Creek to a tributary extending south to ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue south over this ridge line into the Crater Creek Basin and Crater Creek; then down Crater Creek to its confluence with Ruby Creek; then east up Ruby Creek to Granite Creek; then continue east up Granite to the Cascades Summit; then north along the Cascades Summit to the U.S.-Canada boundary; then west along the Canadian line to the east boundary of North Cascades National Park and the point of beginning. (Notice: Jack Mountain not included in Goat Unit 4-8, East Ross Lake. See description for Goat Unit 4-9, Jack Mountain.))~~

Goat Unit 4-9 Jack Mountain: Permit Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north

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up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

~~((Goat Unit 4-32 Foss River: Permit Area: King and Snohomish counties within the following described boundary: Beginning at intersection of U.S. Highway 2 and the King County line at Stevens Pass; then south along the King County line to the headwaters of the Middle Fork Snoqualmie River near Dutch Miller Gap; then west and south down said river to the confluence with the Dingford Creek; then north and east up said creek to its headwaters intersection with USFS Trail 1005; then north up said trail to Little Myrtle Lake; then west and north to Marlene Lake (approximately 4 miles); then north down the stream outlet from Marlene Lake to the junction with USFS Trail 1002 near Dorothy Lake; then north along said trail to the junction with the East Fork Miller River headwaters; then north down said river to the confluence with the South Fork Skykomish River; then east up said river to the junction with U.S. Highway 2; then east along said highway to the point of beginning.~~

~~Goat Unit 4-34 Pratt River: Permit Area: King County within the following described boundary: Beginning at the point where the Weyerhaeuser Mainline Truck Road intersects the Middle Fork Snoqualmie River (near the confluence of the North Fork and Snoqualmie Rivers); then northeast up the Middle Fork Snoqualmie to its headwaters near Dutch Miller Gap at the King County line; then south along the King County line to Snoqualmie Pass and the intersection with Interstate 90; then west along Interstate 90 to the point nearest the Middle Fork Snoqualmie River (approximately one mile east of North Bend); then north and east up the Middle Fork Snoqualmie River and to the point of beginning.~~

~~Except closed: Snoqualmie Mountain and the watersheds of Denny Creek and South Fork of the Snoqualmie above Denny Creek:))~~

Goat Unit 4-38 Corral Pass: Permit Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to USFS Trail 1188; then northwest along said trail to USFS Trail 1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 5-2 Tatoosh: Permit Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park Boundary and State Highway 123; then south along State Highway 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (USFS Road 52); then northwest along said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park Boundary; then east along the southern park boundary to the point of beginning.

Goat Unit 5-3 Smith Creek: Permit area: Lewis County within the following described boundary: Beginning at the Town of Randle; then east along U.S. Highway 12 to USFS Road 21; then southeast along USFS Road 21 to USFS Road 22; then northeast and northwest along USFS Road 22 to USFS Road 23; then east and northwest on USFS Road 23 to USFS Road 25; then north along USFS Road 25 to Randle and point of beginning.

Goat Unit 5-4 Goat Rocks: Permit Area: Lewis County south of the White Pass Highway (U.S. Highway 12) and east of the Johnson Creek Road (USFS Road 1302).

NEW SECTION

WAC 232-28-276 2000-01, 2001-02, and 2002-03 Official hunting hours and small game seasons.

2000-01 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 2000 to January 31, 2001

Dates (Inclusive)	Western Washington from			Eastern Washington from		
	A.M.	to	P.M.	A.M.	to	P.M.
Fri. Sept. 1	-	Sun. Sept. 3	6:00	7:50	5:45	7:35
Mon. Sept. 4	-	Sun. Sept. 10	6:05	7:40	5:55	7:25
Mon. Sept. 11	-	Sun. Sept. 17	6:15	7:25	6:05	7:10
Mon. Sept. 18	-	Sun. Sept. 24	6:25	7:10	6:10	7:00
Mon. Sept. 25	-	Sun. Oct. 1	6:35	6:55	6:20	6:45
Mon. Oct. 2	-	Sun. Oct. 8	6:45	6:40	6:30	6:30
Mon. Oct. 9	-	Sun. Oct. 15	6:55	6:25	6:40	6:15
Mon. Oct. 16	-	Sun. Oct. 22	7:05	6:15	6:50	6:00

Daylight Savings Time

PERMANENT

2000-01 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 2000 to January 31, 2001

Dates (Inclusive)					Western Washington from			Eastern Washington from		
					A.M.	to	P.M.	A.M.	to	P.M.
Mon.	Oct. 23	-	Sat.	Oct. 28	7:10		6:05	7:00		5:50
				Pacific Standard Time						
			Sun.	Oct. 29	6:20		5:00	6:05		4:45
Mon.	Oct. 30	-	Sun.	Nov. 5	6:25		4:50	6:10		4:40
Mon.	Nov. 6	-	Sun.	Nov. 12	6:35		4:40	6:25		4:30
Mon.	Nov. 13	-	Sun.	Nov. 19	6:45		4:30	6:35		4:20
Mon.	Nov. 20	-	Sun.	Nov. 26	6:55		4:25	6:45		4:15
Mon.	Nov. 27	-	Sun.	Dec. 3	7:05		4:20	6:55		4:10
Mon.	Dec. 4	-	Sun.	Dec. 10	7:15		4:20	7:00		4:05
Mon.	Dec. 11	-	Sun.	Dec. 17	7:20		4:20	7:10		4:05
Mon.	Dec. 18	-	Sun.	Dec. 24	7:25		4:20	7:10		4:10
Mon.	Dec. 25	-	Sun.	Dec. 31	7:25		4:25	7:15		4:10
Mon.	Jan. 1	-	Sun.	Jan. 7	7:30		4:30	7:15		4:20
Mon.	Jan. 8	-	Sun.	Jan. 14	7:25		4:40	7:15		4:30
Mon.	Jan. 15	-	Sun.	Jan. 21	7:20		4:50	7:10		4:40
Mon.	Jan. 22	-	Sun.	Jan. 28	7:15		5:00	7:00		4:50
Mon.	Jan. 29	-	Wed.	Jan. 31	7:10		5:05	6:55		4:50

* These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

2001-02 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 2001 to January 31, 2002

Dates (Inclusive)					Western Washington from			Eastern Washington from		
					A.M.	to	P.M.	A.M.	to	P.M.
				Daylight Savings Time						
Sat.	Sept. 1	-	Sun.	Sept. 2	6:00		7:50	5:45		7:40
Mon.	Sept. 3	-	Sun.	Sept. 9	6:05		7:40	5:50		7:30
Mon.	Sept. 10	-	Sun.	Sept. 16	6:15		7:25	6:00		7:15
Mon.	Sept. 17	-	Sun.	Sept. 23	6:20		7:10	6:10		7:00
Mon.	Sept. 24	-	Sun.	Sept. 30	6:30		6:55	6:20		6:45
Mon.	Oct. 1	-	Sun.	Oct. 7	6:40		6:45	6:30		6:30
Mon.	Oct. 8	-	Sun.	Oct. 14	6:50		6:30	6:40		6:15
Mon.	Oct. 15	-	Sun.	Oct. 21	7:00		6:15	6:50		6:05
Mon.	Oct. 22	-	Sat.	Oct. 27	7:10		6:05	7:00		5:50

PERMANENT

2001-02 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 2001 to January 31, 2002

Dates (Inclusive)				Western Washington			Eastern Washington		
				A.M.	to	P.M.	A.M.	to	P.M.
				Pacific Standard Time					
			Sun.	Oct. 28	6:15		5:00	6:05	4:45
Mon.	Oct. 29	-	Sun.	Nov. 4	6:20		4:50	6:10	4:40
Mon.	Nov. 5	-	Sun.	Nov. 11	6:35		4:40	6:20	4:30
Mon.	Nov. 12	-	Sun.	Nov. 18	6:45		4:35	6:30	4:20
Mon.	Nov. 19	-	Sun.	Nov. 25	6:55		4:25	6:45	4:15
Mon.	Nov. 26	-	Sun.	Dec. 2	7:05		4:20	6:50	4:10
Mon.	Dec. 3	-	Sun.	Dec. 9	7:10		4:20	7:00	4:05
Mon.	Dec. 10	-	Sun.	Dec. 16	7:20		4:20	7:05	4:05
Mon.	Dec. 17	-	Sun.	Dec. 23	7:25		4:20	7:10	4:05
Mon.	Dec. 24	-	Sun.	Dec. 30	7:25		4:25	7:15	4:10
Mon.	Dec. 31	-	Sun.	Jan. 6	7:25		4:30	7:15	4:20
Mon.	Jan. 7	-	Sun.	Jan. 13	7:25		4:40	7:15	4:25
Mon.	Jan. 14	-	Sun.	Jan. 20	7:20		4:45	7:10	4:35
Mon.	Jan. 21	-	Sun.	Jan. 27	7:15		4:55	7:05	4:45
Mon.	Jan. 28	-	Thur.	Jan. 31	7:10		5:05	7:00	4:55

* These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

2002-2003 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 2002 to January 31, 2003

Dates (Inclusive)				Western Washington			Eastern Washington		
				A.M.	to	P.M.	A.M.	to	P.M.
				Daylight Savings Time					
			Sun.	Sept. 1	6:00		7:50	5:45	7:40
Mon.	Sept. 2	-	Sun.	Sept. 8	6:00		7:45	5:45	7:30
Mon.	Sept. 9	-	Sun.	Sept. 15	6:10		7:30	6:00	7:15
Mon.	Sept. 16	-	Sun.	Sept. 22	6:20		7:15	6:10	7:00
Mon.	Sept. 23	-	Sun.	Sept. 29	6:30		7:00	6:20	6:45
Mon.	Sept. 30	-	Sun.	Oct. 6	6:40		6:45	6:30	6:35
Mon.	Oct. 7	-	Sun.	Oct. 13	6:50		6:30	6:40	6:20
Mon.	Oct. 14	-	Sun.	Oct. 20	7:00		6:20	6:50	6:05
Mon.	Oct. 21	-	Sat.	Oct. 26	7:10		6:05	7:00	5:55
				Pacific Standard Time					

PERMANENT

2002-2003 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 2002 to January 31, 2003

Dates (Inclusive)				Western Washington			Eastern Washington		
				from			from		
				A.M.	to	P.M.	A.M.	to	P.M.
		Sun.	Oct. 27	6:15		5:00	6:00		4:50
Mon.	Oct. 28	-	Sun.	Nov. 3	6:20		4:55	6:10	4:50
Mon.	Nov. 4	-	Sun.	Nov. 10	6:30		4:45	6:20	4:30
Mon.	Nov. 11	-	Sun.	Nov. 17	6:40		4:35	6:30	4:20
Mon.	Nov. 18	-	Sun.	Nov. 24	6:50		4:25	6:40	4:15
Mon.	Nov. 25	-	Sun.	Dec. 1	7:00		4:20	6:50	4:10
Mon.	Dec. 2	-	Sun.	Dec. 8	7:10		4:20	7:00	4:10
Mon.	Dec. 9	-	Sun.	Dec. 15	7:15		4:20	7:05	4:10
Mon.	Dec. 16	-	Sun.	Dec. 22	7:20		4:20	7:10	4:10
Mon.	Dec. 23	-	Sun.	Dec. 29	7:25		4:25	7:10	4:15
Mon.	Dec. 30	-	Sun.	Jan. 5	7:25		4:30	7:15	4:15
Mon.	Jan. 6	-	Sun.	Jan. 12	7:25		4:35	7:15	4:25
Mon.	Jan. 13	-	Sun.	Jan. 19	7:20		4:45	7:10	4:35
Mon.	Jan. 20	-	Sun.	Jan. 26	7:15		4:55	7:05	4:45
Mon.	Jan. 27	-	Fri.	Jan. 31	7:10		5:05	7:00	4:55

* These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

2000-01 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS AND FOREST GROUSE*
September 1, 2000 to January 31, 2001

Dates (Inclusive)				Western Washington			Eastern Washington			
				from			from			
				A.M.	to	P.M.	A.M.	to	P.M.	
				Daylight Savings Time						
Fri.	Sept. 1	-	Sun.	Sept. 3	6:00		8:20	5:45		8:05
Mon.	Sept. 4	-	Sun.	Sept. 10	6:05		8:10	5:55		7:55
Mon.	Sept. 11	-	Sun.	Sept. 17	6:15		7:55	6:05		7:40
Mon.	Sept. 18	-	Sun.	Sept. 24	6:25		7:40	6:10		7:30
Mon.	Sept. 25	-	Sun.	Oct. 1	6:35		7:25	6:20		7:15
Mon.	Oct. 2	-	Sun.	Oct. 8	6:45		7:10	6:30		7:00
Mon.	Oct. 9	-	Sun.	Oct. 15	6:55		6:55	6:40		6:45
Mon.	Oct. 16	-	Sun.	Oct. 22	7:05		6:45	6:50		6:30
Mon.	Oct. 23	-	Sat.	Oct. 28	7:10		6:35	7:00		6:20

2000-01 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS AND FOREST GROUSE*
September 1, 2000 to January 31, 2001

Dates (Inclusive)				Western Washington			Eastern Washington		
				A.M.	from to	P.M.	A.M.	from to	P.M.
				Pacific Standard Time					
		Sun.	Oct. 29	6:20		5:30	6:05		5:15
Mon.	Oct. 30	-	Sun.	Nov. 5	6:25		5:20	6:10	5:10
Mon.	Nov. 6	-	Sun.	Nov. 12	6:35		5:10	6:25	5:00
Mon.	Nov. 13	-	Sun.	Nov. 19	6:45		5:00	6:35	4:50
Mon.	Nov. 20	-	Sun.	Nov. 26	6:55		4:55	6:45	4:45
Mon.	Nov. 27	-	Sun.	Dec. 3	7:05		4:50	6:55	4:40
Mon.	Dec. 4	-	Sun.	Dec. 10	7:15		4:50	7:00	4:35
Mon.	Dec. 11	-	Sun.	Dec. 17	7:20		4:50	7:10	4:35
Mon.	Dec. 18	-	Sun.	Dec. 24	7:25		4:50	7:10	4:40
Mon.	Dec. 25	-	Sun.	Dec. 31	7:25		4:55	7:15	4:40
Mon.	Jan. 1	-	Sun.	Jan. 7	7:30		5:00	7:15	4:50
Mon.	Jan. 8	-	Sun.	Jan. 14	7:25		5:10	7:15	5:00
Mon.	Jan. 15	-	Sun.	Jan. 21	7:20		5:20	7:10	5:10
Mon.	Jan. 22	-	Sun.	Jan. 28	7:15		5:30	7:00	5:20
Mon.	Jan. 29	-	Wed.	Jan. 31	7:10		5:35	6:55	5:20

* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for game animals and forest grouse (ruffed, blue, spruce) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

2001-2002 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS AND FOREST GROUSE*
September 1, 2001 to January 31, 2002

Dates (Inclusive)				Western Washington			Eastern Washington			
				A.M.	from to	P.M.	A.M.	from to	P.M.	
				Daylight Savings Time						
Sat.	Sept. 1	-	Sun.	Sept. 2	6:00		8:20	5:45		8:10
Mon.	Sept. 3	-	Sun.	Sept. 9	6:05		8:10	5:50		8:00
Mon.	Sept. 10	-	Sun.	Sept. 16	6:15		7:55	6:00		7:45
Mon.	Sept. 17	-	Sun.	Sept. 23	6:20		7:40	6:10		7:30
Mon.	Sept. 24	-	Sun.	Sept. 30	6:30		7:25	6:20		7:15
Mon.	Oct. 1	-	Sun.	Oct. 7	6:40		7:15	6:30		7:00
Mon.	Oct. 8	-	Sun.	Oct. 14	6:50		7:00	6:40		6:45
Mon.	Oct. 15	-	Sun.	Oct. 21	7:00		6:45	6:50		6:35
Mon.	Oct. 22	-	Sat.	Oct. 27	7:10		6:35	7:00		6:20
				Pacific Standard Time						
			Sun.	Oct. 28	6:15		5:30	6:05		5:15
Mon.	Oct. 29	-	Sun.	Nov. 4	6:20		5:20	6:10		5:10
Mon.	Nov. 5	-	Sun.	Nov. 11	6:35		5:10	6:20		5:00

PERMANENT

2001-2002 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS AND FOREST GROUSE*
September 1, 2001 to January 31, 2002

Dates (Inclusive)					Western Washington from		Eastern Washington from	
	A.M.	to	P.M.	A.M.	to	P.M.		
Mon. Nov. 12 - Sun. Nov. 18	6:45		5:05	6:30		4:50		
Mon. Nov. 19 - Sun. Nov. 25	6:55		4:55	6:45		4:45		
Mon. Nov. 26 - Sun. Dec. 2	7:05		4:50	6:50		4:40		
Mon. Dec. 3 - Sun. Dec. 9	7:10		4:50	7:00		4:35		
Mon. Dec. 10 - Sun. Dec. 16	7:20		4:50	7:05		4:35		
Mon. Dec. 17 - Sun. Dec. 23	7:25		4:50	7:10		4:35		
Mon. Dec. 24 - Sun. Dec. 30	7:25		4:55	7:15		4:40		
Mon. Dec. 31 - Sun. Jan. 6	7:25		5:00	7:15		4:50		
Mon. Jan. 7 - Sun. Jan. 13	7:25		5:10	7:15		4:55		
Mon. Jan. 14 - Sun. Jan. 20	7:20		5:15	7:10		5:05		
Mon. Jan. 21 - Sun. Jan. 27	7:15		5:25	7:05		5:15		
Mon. Jan. 28 - Thur. Jan. 31	7:10		5:35	7:00		5:25		

* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for game animals and forest grouse (ruffed, blue, spruce) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

2002-2003 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS AND FOREST GROUSE*
September 1, 2002 to January 31, 2003

Dates (Inclusive)					Western Washington from		Eastern Washington from	
	A.M.	to	P.M.	A.M.	to	P.M.		
Daylight Savings Time								
		Sun.	Sept. 1	6:00		8:20	5:45	8:10
Mon.	Sept. 2	- Sun.	Sept. 8	6:00		8:15	5:45	8:00
Mon.	Sept. 9	- Sun.	Sept. 15	6:10		8:00	6:00	7:45
Mon.	Sept. 16	- Sun.	Sept. 22	6:20		7:45	6:10	7:30
Mon.	Sept. 23	- Sun.	Sept. 29	6:30		7:30	6:20	7:15
Mon.	Sept. 30	- Sun.	Oct. 6	6:40		7:15	6:30	7:05
Mon.	Oct. 7	- Sun.	Oct. 13	6:50		7:00	6:40	6:50
Mon.	Oct. 14	- Sun.	Oct. 20	7:00		6:50	6:50	6:35
Mon.	Oct. 21	- Sat.	Oct. 26	7:10		6:35	7:00	6:25
Pacific Standard Time								
		Sun.	Oct. 27	6:15		5:30	6:00	5:20
Mon.	Oct. 28	- Sun.	Nov. 3	6:20		5:25	6:10	5:20
Mon.	Nov. 4	- Sun.	Nov. 10	6:30		5:15	6:20	5:00
Mon.	Nov. 11	- Sun.	Nov. 17	6:40		5:05	6:30	4:50
Mon.	Nov. 18	- Sun.	Nov. 24	6:50		4:55	6:40	4:45
Mon.	Nov. 25	- Sun.	Dec. 1	7:00		4:50	6:50	4:40
Mon.	Dec. 2	- Sun.	Dec. 8	7:10		4:50	7:00	4:40

PERMANENT

2002-2003 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS AND FOREST GROUSE*
September 1, 2002 to January 31, 2003

Dates (Inclusive)					Western Washington			Eastern Washington		
					A.M.	to	P.M.	A.M.	to	P.M.
Mon. Dec. 9	-	Sun. Dec. 15		7:15		4:50	7:05		4:40	
Mon. Dec. 16	-	Sun. Dec. 22		7:20		4:50	7:10		4:40	
Mon. Dec. 23	-	Sun. Dec. 29		7:25		4:55	7:10		4:45	
Mon. Dec. 30	-	Sun. Jan. 5		7:25		5:00	7:15		4:45	
Mon. Jan. 6	-	Sun. Jan. 12		7:25		5:05	7:15		4:55	
Mon. Jan. 13	-	Sun. Jan. 19		7:20		5:15	7:10		5:05	
Mon. Jan. 20	-	Sun. Jan. 26		7:15		5:25	7:05		5:15	
Mon. Jan. 27	-	Fri. Jan. 31		7:10		5:35	7:00		5:25	

* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for game animals and forest grouse (ruffed, blue, spruce) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season. The use of hounds to hunt black bear, cougar, and bobcat is prohibited year around.

BOBCAT

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide

Sept. 5, 2000-Mar. 15, 2001; Sept. 4, 2001-Mar. 15, 2002; Sept. 3, 2002-Mar. 15, 2003.

RACCOON

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED on Long Island within Willapa National Wildlife Refuge.

Sept. 5, 2000-Mar. 15, 2001; Sept. 4, 2001-Mar. 15, 2002; Sept. 3, 2002-Mar. 15, 2003.

FOX

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED within the exterior boundaries of the Mount Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 407 and 410.

Sept. 5, 2000-Mar. 15, 2001; Sept. 4, 2001-Mar. 15, 2002; Sept. 3, 2002-Mar. 15, 2003.

COYOTE

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, year around except CLOSED from September 15 to November 30 in the Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 245, and 448 within the external boundaries of the Mount Baker-Snoqualmie, Okanogan, and Wenatchee National Forests. However, coyote may only be killed and/or pursued with hounds during the following period: Sept. 5, 2000-Mar. 15, 2001; Sept. 4, 2001-Mar. 15, 2002; Sept. 3, 2002-Mar. 15, 2003; except coyote may be hunted year around with hounds in Grant, Adams, Benton, and Franklin counties.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

State-wide: Sept. 1-Dec. 31, 2000; Sept. 1-Dec. 31, 2001; Sept. 1-Dec. 31, 2002.

PTARMIGAN, SAGE, AND SHARP-TAILED GROUSE

Season closed state-wide.

Upland Birds

Eastern Washington

Ring-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Youth Season: Sept. 23 and 24, 2000; Sept. 22 and 23, 2001; Sept. 21 and 22, 2002. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 7-Dec. 31, 2000; Oct. 6-Dec. 31, 2001; Oct. 5-Dec. 31, 2002.

PERMANENT

Chukar Partridge

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Regular Season: Oct. 1, 2000-Jan. 15, 2001; Oct. 1, 2001-Jan. 21, 2002; Oct. 1, 2002-Jan. 20, 2003.

Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Regular Season: Oct. 1, 2000-Jan. 15, 2001; Oct. 1, 2001-Jan. 21, 2002; Oct. 1, 2002-Jan. 20, 2003.

Mountain Quail

Season closed throughout Eastern Washington.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

Youth Season: Sept. 23 and 24, 2000; Sept. 22 and 23, 2001; Sept. 21 and 22, 2002. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 7, 2000-Jan. 15, 2001; Oct. 6, 2001-Jan. 21, 2002; Oct. 5, 2002-Jan. 20, 2003.

Yakama Indian Reservation: The 2000-01, 2001-02, 2002-03 Upland bird seasons within the Yakama Indian Reservation shall be the same as the season established by the Yakama Indian Nation.

Western WashingtonRing-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day, with a total of fifteen (15) pheasants in possession at any time.

Youth Season: Sept. 23 and 24, 2000; Sept. 22 and 23, 2001; Sept. 21 and 22, 2002. Open only to youth hunters accompanied by an adult at least 18 years old.

Hunters 65 years of age or older: Sept. 25-29, 2000; Sept. 24-28, 2001; Sept. 23-27, 2002.

Regular Season: Sept. 30-Nov. 30, 2000; Sept. 29-Nov. 30, 2001; Sept. 29-Nov. 30, 2002. 8 a.m. to 4 p.m.; except Dungeness Recreation site (Clallam County) starting Oct. 7, 2000; Oct. 6, 2001; Oct. 5, 2002.

A Western Washington Pheasant Permit is required to hunt pheasant in Western Washington, in addition to a current small game hunting license. Pheasant kills must be recorded. Upon taking a pheasant, the holder of a Western Washington Pheasant Permit must immediately enter on the corresponding space the date and location of kill.

There are three options available:

(1) Full Season Option: Allows the harvest of eight (8) pheasants.

(2) Youth Option: Allows the harvest of eight (8) pheasants by youth hunters.

(3) 3-Day Option: Allows the harvest of four (4) pheasants during three consecutive days.

Every person possessing a Western Washington Pheasant Permit must by December 31, return the permit to the Department of Fish and Wildlife. The number of permits purchased per year is not limited.

A hunter shall select one valid option at the time they purchase their Western Washington Pheasant Permit. It is unlawful to purchase an additional permit until the eight pheasant allowed on the current permit are taken.

Special Restriction: Western Washington pheasant hunters must choose to hunt on either odd-numbered or even-numbered weekend days from 8:00 - 10:00 a.m. at all units of Lake Terrell, Tennant Lake, Snoqualmie, Skagit, Skookumchuck, and Scatter Creek Wildlife Areas, and must indicate their choice on the Western Washington Pheasant Permit by choosing "odd" or "even." Hunters that select the three day option, hunters 65 years of age or older, and youth hunters may hunt during either weekend day morning. Youth hunters must be accompanied by an adult at least 18 years old. Adults must have an appropriately marked pheasant permit.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Oct. 7-Nov. 30, 2000; Oct. 6-Nov. 30, 2001; Oct. 5-Nov. 30, 2002.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) valley or bobwhite quail per day, with a total of thirty (30) valley or bobwhite quail in possession at any time, straight or mixed bag.

Oct. 7-Nov. 30, 2000; Oct. 6-Nov. 30, 2001; Oct. 5-Nov. 30, 2002.

TURKEY

Spring Season

Gobblers and Turkeys with Visible Beards Only.

State-wide: April 15-May 15, 2001; April 15-May 15, 2002; April 15-May 15, 2003.

Fall Season

Either Sex

Permit Only - Asotin, Columbia, Garfield, Klickitat, Skamania, Stevens, and Walla Walla counties, and GMU 133: Oct. 1-5, 2000; Oct. 1-5, 2001; Oct. 1-5, 2002.

Permit Area	Number of Permits
Asotin, Columbia, Garfield, and Walla Walla counties	50
Klickitat and Skamania counties	75
Stevens County	250
GMU 133	30

OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One (1) turkey per day, only two (2) may be killed in Eastern Washington per year, except only one (1) may be killed in Chelan, Kittitas, or Yakima counties; and one per year in Western Washington, except two turkeys may be killed in Klickitat County. The season limit is three (3) birds per year.

Hunting Hours: One-half hour before sunrise to sunset during spring and fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Fish and Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.
5. It is unlawful to bait game birds.

BIRD DOG TRAINING SEASON

Wild upland game birds may be pursued during the dog training season, but may not be killed except during established hunting seasons. Captive raised game birds may be released and killed during dog training if proof of lawful acquisition (invoices) are in possession and the birds are appropriately marked (WAC 232-12-271) (WAC 232-12-044).

Aug. 1, 2000-Mar. 31, 2001; Aug. 1, 2001-Mar. 31, 2002; Aug. 1, 2002-Mar. 31, 2003, except from Sept. 15-Nov. 30, dog training is only allowed from 8:00 a.m. to 4:00 p.m. on designated Western Washington pheasant release sites.

Dog training may be conducted year around on posted portions of: Region One - Espanola (T 24 N, R 40 E, E 1/2 of Sec. 16); Region Three - South L.T. Murray Wildlife Area; Region Four - Fort Lewis Military Base, Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Five - Shillapoo/Vancouver Lake Wildlife Area; Region Six - Scatter Creek Wildlife Area.

HIP REQUIREMENTS:

All hunters age 16 and over of migratory game birds (duck, goose, coot, snipe, mourning dove) are required to complete a Harvest Information Program (HIP) survey form at a license dealer, and possess a Washington Migratory Bird Stamp as evidence of compliance with this requirement when hunting migratory game birds. Youth hunters are required to complete a HIP survey form, and possess a free Washington Youth Migratory Bird Authorization as evidence of compli-

ance with this requirement when hunting migratory game birds.

CANADA GOOSE SEPTEMBER SEASON

Bag and Possession Limits: Western Washington Goose Management Areas 1 and 3: Five (5) Canada geese per day with a total of ten (10) in possession at any time. Remainder of the state: Three (3) Canada geese per day with a total of six (6) in possession at any time.

State-wide: Sept. 9-14, 2000; Sept. 8-13, 2001; Sept. 7-12, 2002.

BAND-TAILED PIGEON

Closed season state-wide.

MOURNING DOVE

Bag and Possession Limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

State-wide: Sept. 1-15, 2000; Sept. 1-15, 2001; Sept. 1-15, 2002.

COTTONTAIL AND SNOWSHOE HARE (OR WASHINGTON HARE)

Bag and Possession Limits: Five (5) rabbits or hares per day, with a total of fifteen (15) in possession at any time, straight or mixed bag.

State-wide: Sept. 1, 2000-Mar. 15, 2001; Sept. 1, 2001-Mar. 15, 2002; Sept. 1, 2002-Mar. 15, 2003.

JACKRABBIT

Closed season state-wide.

CROWS

Bag and Possession Limits: No Limit

State-wide: Oct. 1, 2000-Jan. 31, 2001; Oct. 1, 2001-Jan. 31, 2002; Oct. 1, 2002-Jan. 31, 2003.

FALCONRY SEASONS

Upland Game Bird - Falconry

Daily Bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

State-wide: Sept. 1, 2000-Mar. 15, 2001; Sept. 1, 2001-Mar. 15, 2002; Sept. 1, 2002-Mar. 15, 2003.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ducks, and geese during established seasons.

State-wide: Sept. 1-15 and Oct. 1-Dec. 31, 2000; Sept. 1-15 and Oct. 1-Dec. 31, 2001; Sept. 1-15 and Oct. 1-Dec. 31, 2002.

PERMANENT

Cottontail and Snowshoe Hare - Falconry

Daily Bag: Five (5) rabbits or hares per day, straight or mixed bag.

State-wide: Aug. 1, 2000-Mar. 15, 2001; Aug. 1, 2001-Mar. 15, 2002; Aug. 1, 2002-Mar. 15, 2003; for cottontail and snowshoe hare (or Washington hare).

NEW SECTION

WAC 232-28-278 2000-2002 deer general seasons and 2000 special permits.

Bag Limit: One (1) deer per hunter during the 2000 hunting season. The Fish and Wildlife Commission may authorize two doe permits for damage areas. Any multiple doe permits will be identified by special permit.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Any Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Branched Antler Restrictions: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point GMUs: 437, 558, 574, 578, 588, 636, 654, and 681.

3 Point GMUs: All Mule Deer in 100, 200, and 300 series GMUs; Whitetail Deer in GMUs 127, 130, 133, 136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186.

Permit Only Units: The following GMUs are closed during general seasons: 290 (Desert), 329 (Quilomene), 342 (Umtanum), 371 (Alkali), and 485 (Green River).

GMUs Closed to Deer Hunting: 157 (Mill Creek Watershed) and 522 (Loo-wit).

Blacktail Deer: Any member of blacktail/mule deer (species *Odocoileus hemionus*) found west of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County west of Highway 97.

Mule Deer: Any member of blacktail/mule deer (species *Odocoileus hemionus*) found east of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County east of Highway 97.

Whitetail Deer: Means any whitetail deer (member of the species *Odocoileus virginianus*) except the Columbian Whitetail Deer (species *Odocoileus virginianus leucurus*).

Harvest Report Card: Successful hunters must fill out and return a Game Harvest Report Card within 10 days after taking a deer.

Modern Firearm Deer Seasons

License Required: A valid big game hunting license which includes a deer species option.

Tag Required: Valid modern firearm deer tag on his/her person for the area hunted.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

Hunt Season	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
HIGH BUCK HUNTS					
	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness Areas and Lake Chelan Recreation Area and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail	3 pt. min.
GENERAL SEASON HUNTS					
Western Washington Blacktail Deer	Oct. 14-31	Oct. 13-31	Oct. 12-31	407, 418, 426, 448 through 466, 490, 501 through 520, 524 through 556, 560, 568, 572, 601 through 633, 638 through 673, 684	Any buck
				410, 564	Any deer
				437, 558, 574, 578, 588, 636, 654, 681	2 pt. min.

PERMANENT

Hunt Season	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
Eastern Washington Whitetail Deer	Oct. 14-27	Oct. 13-26	Oct. 12-25	101 through 124, 203 through 382 except closed in GMUs 290, 329, 342, 371 and PLWMA 201	Any whitetail buck
	Oct. 14-22	Oct. 13-21	Oct. 12-20	127 through 154, 162 through 186	Whitetail, 3 pt. min.
Mule Deer	Oct. 14-22	Oct. 13-21	Oct. 12-20	All 100, 200, and 300 series GMUs except closed in GMUs 157, 290, 329, 342, 371, and PLWMA 201	3 pt. min., except any deer in GMU 381
LATE BUCK HUNTS					
Western Washington Blacktail Deer	Nov. 16-19	Nov. 15-18	Nov. 14-17	All 400, 500, and 600 GMUs except closed in GMUs 418, 426, 437, 448, 450, 460, 485, 522, 574, 578, and 588	Any buck except 2 pt. min. in GMUs 558, 636, 654, 681 and any deer in GMUs 410 and 564
Eastern Washington Whitetail Deer	Nov. 6-19	Nov. 5-19	Nov. 4-19	105 through 124	Any whitetail buck
	Nov. 11-19	Nov. 10-18	Nov. 9-17	127 through 142	Whitetail-3 pt. min.
HUNTERS 65 AND OVER, DISABLED, OR YOUTH SEASONS					
Eastern Washington Whitetail Deer	Oct. 14-27	Oct. 13-26	Oct. 12-25	101 through 124	Any whitetail deer
	Oct. 14-22	Oct. 13-21	Oct. 12-20	127 through 142	Whitetail-3 pt. min. or antlerless
DISABLED HUNTERS					
Eastern Washington Whitetail Deer	Oct. 14-22	Oct. 13-21	Oct. 12-20	145 through 154, 162 through 186	Whitetail-3 pt. min. or antlerless
ADVANCED HUNTER EDUCATION (AHE) GRADUATE SEASON					
Eastern Washington Whitetail Deer	Dec. 9-15	Dec. 9-15	Dec. 9-15	GMUs 127-142	Antlerless only

Archery Deer Seasons

License Required: A valid big game hunting license which includes a deer species option.

Tag Required: Valid archery deer tag on his/her person for the area hunted.

Special Notes: Archery tag holders can only hunt during archery seasons with archery equipment.

Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
Early Archery Deer Seasons					
Western Washington Blacktail Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	407 through 426, 448 through 466, 490 through 520, 524 through 556, 560 through 572, 601 through 633, 638 through 673, 684 and Long Island. Bangor Submarine Base within GMU 627 is open for archers with disabilities by permit from the Navy. For information on this hunt call Tom Jones at (360) 396-5097. Special Restrictions: Must be a U.S. Citizen and hunting is open on weekends only.	Any Deer, except buck only in GMUs 506, 530, 550, 568, 672, 673
				.437, 558, 574, 578, 588, 636, 654, 681	2 pt. min. or antlerless
				Alpine Lakes, Glacier Peak, and Olympic Peninsula Wilderness Areas	3 pt. min. or antlerless

PERMANENT

Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
Eastern Washington Mule Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	101 through 127, 204 through 247, 249 through 251, 260, 262, 328, 334 through 340, 346 through 368, 372	3 pt. min.
	Sept. 1-15	Sept. 1-15	Sept. 1-15	130 through 154, 162 through 178, 181, 186, 248, 254, 266, 269, 272, 278, 284, 381, 382	3 pt. min., except any deer in GMU 381
	Sept. 16-30	Sept. 16-30	Sept. 16-30	130 through 154, 162 through 178, 248, 254, 266, 269, 272, 278, 284, 381, 382	3 pt. min. or antlerless, except any deer in GMU 381
Eastern Washington Whitetail Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	101 through 124, 204 through 284	Any deer
	Sept. 1-30	Sept. 1-30	Sept. 1-30	127 through 154, 162 through 186	3 pt. min. or antlerless
Late Archery Deer Seasons					
Western Washington Blacktail Deer	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	588	2 pt. min. or antlerless
	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	558, 636, 681	2 pt. min. or antlerless
				460, 466, 506 through 520, 524, 530, 556, 560, 572, 601, 607 through 618, 638, 648, 673, and Long Island	Any deer, except buck only in GMUs 506, 530, and 673
Nov. 22-Dec. 31	Nov. 21-Dec. 31	Nov. 20-Dec. 31	407, 410, 454, 505, 603, 624, 627, 642, 652, 660 through 672	Any deer, except buck only in GMU 672	
Eastern Washington Mule Deer	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	145, 178	3 pt. min. or antlerless
	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	127	3 pt. min. or antlerless
				209, 215, 233, 243, 250, 346, 352, that part of GMU 360 north of USFS Roads 324, 325 to the intersection of Carmack Canyon; then northeast down Carmack Canyon bottom to the Naches River and north to State Highway 410, GMUs 364, 368	3 pt. min.
			272	3 pt. min. or antlerless	
Eastern Washington Whitetail Deer	Nov. 10-Dec. 15	Nov. 10-Dec. 15	Nov. 10-Dec. 15	101	Any Whitetail
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	209, 215, 233, 272	Any Whitetail
145, 178				3 pt. min. or antlerless	
Eastern Washington Whitetail Deer	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	105, 117, 121, 124	Any Whitetail
				127	3 pt. min. or antlerless

Muzzleloader Deer Seasons

License Required: A valid big game hunting license which includes a deer species option.

Tag Required: Valid muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment.

Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units	Legal Deer
High Buck Hunts	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness Areas, Lake Chelan Recreation Area and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail.	3 pt. min.

PERMANENT

Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units	Legal Deer
Early Muzzleloader Deer Seasons					
Western Washington Blacktail Deer	Oct. 7-11	Oct. 6-10	Oct. 5-9	407, 418, 426, 448, 501, 504, 505, 513, 520, 530, 554, 568, 603, 612, 624, 627, 638, 642, 660, 663, 672, 673, 684	Any buck
				410, 454, 564, 652, 666	Any deer
				437, 578	2 pt. min.
Eastern Washington Whitetail Deer	Oct. 7-11	Oct. 6-10	Oct. 5-9	209, 239, 243, 244, 245, 246, 250, 251, 284	Whitetail, any buck
				133, 142, 145, 149	Whitetail, 3 pt. min.
				109, 117, 124	Whitetail, any deer
Eastern Washington Mule Deer	Oct. 7-11	Oct. 6-10	Oct. 5-9	109, 117, 133, 142, 145, 149, 209, 239, 243, 244, 245, 246, 250, 251, 284, 336, 352, 360, 382	Mule deer, 3 pt. min.
Late Muzzleloader Deer Seasons					
Western Washington Blacktail Deer	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	410, 501, 504, 564, 666, 684, and Muzzleloader Area 926	Any deer
				654	2 pt. min.
				550, 602, 633, 651	Any buck
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	578	2 pt. min.
Eastern Washington Whitetail Deer	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	113	Whitetail, any buck
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	130, 139, 284	Whitetail, 3 pt. min. or antlerless
Eastern Washington Mule Deer	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	130, 284	Mule deer, 3 pt. min. or antlerless
	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	382	3 pt. min.

Firearm Restricted Deer Hunts Open To All Deer Hunters

License Required: Hunting license.

Tag Required: Valid modern firearm, archery or muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs. In firearm restriction areas, modern firearm hunters may hunt with a muzzleloader equipped with a scope.

Firearm Restricted Hunts Open To All Deer Hunters					
Hunting license and deer tag required. Must use hunting method in compliance with tag. Check firearm restrictions. Archery, shotgun, muzzleloader or revolver type handgun only. Hunter orange required.					
Hunt Area	2000 Dates	2001 Dates	2002 Dates	Game Management Units (GMUs)	Legal Deer
Western Washington Blacktail Deer	Oct. 14-31	Oct. 13-31	Oct. 12-31	410, Vashon and Maury Islands	Any deer
	Nov. 22-Dec. 31	Nov. 21-Dec. 31	Nov. 20-Dec. 31	564	Any deer
	Sept. 1-Dec. 31	Sept. 1- Dec. 31	Sept. 1-Dec. 31	Indian Island. Restricted Access.*	Any deer
* Archery only except for one day persons of disability hunt. Archers must qualify during the June to August period to hunt. For information call Bill Kalina at (360) 396-5353.					

Special Deer Permit Hunting Seasons

(Open to Permit Holders Only)

Hunters must purchase a deer hunting license prior to purchase of a permit application.

Hunt Name	2000 Permit Season	Special Restrictions	Boundary Description	2000 Permits
Modern Firearm Deer Permit Hunts (Only modern firearm and muzzleloader deer tag holders may apply)				
Hunters may hunt only with weapon in compliance with tag.				
Sherman	Oct. 14-27	Whitetail, Antlerless	GMU 101	100
Kelly Hill	Oct. 14-27	Whitetail, Antlerless	GMU 105	100
Threeforks	Oct. 14-27	Whitetail, Antlerless	GMU 109	300
Selkirk	Oct. 14-27	Whitetail, Antlerless	GMU 113	25

PERMANENT

Hunt Name	2000 Permit Season	Special Restrictions	Boundary Description	2000 Permits
49 Degrees North	Oct. 14-27	Whitetail, Antlerless	GMU 117	100
Huckleberry	Oct. 14-27	Whitetail, Antlerless	GMU 121	250
Mt. Spokane	Oct. 14-27	Whitetail, Antlerless	GMU 124	800
Mica Peak	Oct. 14-22	Whitetail, Antlerless	GMU 127	160
Cheney	Oct. 14-22	Antlerless	GMU 130	150
Roosevelt	Nov. 6-15	Antlerless	GMU 133	450
Harrington	Nov. 6-15	Antlerless	GMU 136	125
Step toe	Nov. 6-15	Whitetail, Antlerless	GMU 139	200
Almota	Nov. 6-15	Antlerless	GMU 142	225
Mayview	Nov. 6-15	Antlerless	GMU 145	500
Prescott A	Nov. 6-15	Antlerless	GMU 149	400
Prescott B	Nov. 6-15	Antlerless	That portion of GMU 149 north of Hwy 261	150
Blue Creek	Nov. 6-15	Whitetail, Antlerless	GMU 154	200
Dayton	Nov. 6-15	Whitetail, Antlerless	GMU 162	250
Marengo A	Nov. 6-15	Whitetail, Antlerless	GMU 163	150
Marengo B	Nov. 6-15	Antlerless	GMU 163	50
Peola	Nov. 6-15	Antlerless	GMU 178	125
Blue Mtns. Foothills A	Nov. 6-21	Whitetail, 3 Pt. Min. or Antlerless	GMUs 149, 154, 162-166	100
Blue Mtns. Foothills B	Nov. 6-21	Whitetail, 3 Pt. Min. or Antlerless	GMUs 145, 172-181	50
East Okanogan	Nov. 1-15	Any Whitetail	GMU 204	100
West Okanogan	Nov. 1-15	Any Whitetail	GMUs 209, 218-242	100
Sinlahekin	Nov. 1-15	Any Whitetail	GMU 215	50
Chewuch	Nov. 1-15	Any Buck	GMU 218	15
Pearrygin	Nov. 1-15	Any Buck	GMU 224	15
Gardner	Nov. 1-15	Any Buck	GMU 231	15
Pogue	Nov. 1-15	Any Buck	GMU 233	15
Chiliwist	Nov. 1-15	Any Buck	GMU 239	5
Alta	Nov. 1-15	Any Buck	GMU 242	15
Manson	Nov. 1-15	Any Buck	GMU 243	5
Chiwawa	Nov. 1-15	Any Buck	GMU 245	5
Entiat	Nov. 1-15	Any Buck	GMU 247	5
Big Bend A	Oct. 14-22	Antlerless	GMU 248	50
Swakane	Nov. 1-15	Any Buck	GMU 250	5
Mission	Nov. 1-15	Any Buck	GMU 251	5
Badger	Nov. 1-15	Antlerless	GMU 266	75
Beezeley East	Oct. 14-22	Antlerless	That part of GMU 272 in Grant County	300
Kahlotus	Oct. 14-22	Antlerless	GMU 284	100
Desert A	Nov. 1-15	Any Deer	GMU 290	15
Desert B	Nov. 18-26	Antlerless	GMU 290	50
Quilomene A	Nov. 8-23	Any Buck	GMU 329	110
Umtanum A	Nov. 8-23	Any Buck	GMU 342	100
Alkali A	Nov. 8-23	Any Buck	GMU 371	60
Alkali B	Nov. 8-23	Antlerless	GMU 371	25

Hunt Name	2000 Permit Season	Special Restrictions	Boundary Description	2000 Permits
East Klickitat	Oct. 14-22	3 Pt. Min. or Antlerless	GMU 382	50
Green River A	Oct. 7-13	Any Buck	GMU 485	10
Lincoln	Oct. 14-31	Any Deer	GMU 501	80
Stella	Oct. 14-31	Any Deer	GMU 504*	75
Mossyrock	Oct. 14-31	Any Deer	GMU 505	150
Stormking	Oct. 14-31	Any Deer	GMU 510	75
South Rainier	Oct. 14-31	Any Deer	GMU 513	75
Packwood	Oct. 14-31	Any Deer	GMU 516	100
Winston	Oct. 14-31	Any Deer	GMU 520	100
Yale	Oct. 14-31	Any Deer	GMU 554*	50
Marble	Oct. 14-31	2 Pt. Min. or Antlerless	GMU 558	75
Lewis River	Oct. 14-31	Any Deer	GMU 560	100
Siouxon	Oct. 14-31	Any Deer	GMU 572	100
Wind River A	Oct. 14-31	2 Pt. Min. or Antlerless	GMU 574	40
Wind River B	Nov. 16-19	2 Pt. Min.	GMU 574	25
West Klickitat A	Oct. 14-31	2 Pt. Min. or Antlerless	GMU 578	50
West Klickitat B	Nov. 16-19	2 Pt. Min.	GMU 578	35
Grayback A	Oct. 14-31	2 Pt. Min. or Antlerless	GMU 588	125
Grayback B	Nov. 16-19	2 Pt. Min.	GMU 588	50
Pysht**	Oct. 14-31	Any Deer	GMU 603	50
Olympic	Oct. 14-31	Any Deer	GMU 621	40
Coyle	Oct. 14-31	Any Deer	GMU 624	30
Kitsap	Oct. 14-31	Any Deer	GMU 627	20
Mason Lake	Oct. 14-31	Any Deer	GMU 633	70
Skokomish	Oct. 14-31	2 Pt. Min. or Antlerless	GMU 636	80
Wynoochee	Oct. 14-31	Any Deer	GMU 648	100
Satsop	Oct. 14-31	Any Deer	GMU 651	150
North River	Oct. 14-31	Any Deer	GMU 658	60
Minot Peak	Oct. 14-31	Any Deer	GMU 660	100
Capitol Peak	Oct. 14-31	Any Deer	GMU 663	120
Deschutes	Oct. 14-31	Any Deer	GMU 666	80
Skookumchuck A	Oct. 14-31	Any Deer	GMU 667	200

*Firearm Restriction Areas - Muzzleloader or archery equipment only.

**Permit not valid on Merrill and Ring Tree Farm.

Muzzleloader Only Deer Permit Hunts (Only muzzleloader tag holders may apply.)

Green Bluff	Dec. 9-31	Whitetail, Antlerless	That portion of GMU 124 east of Hwy 2	75
Blue Mtns. Foothills C	Nov. 22-Dec. 8	Whitetail, 3 Pt. Min. or Antlerless	GMUs 149-154, 162-166	60
Blue Mtns. Foothills D	Nov. 22-Dec. 8	Whitetail, 3 Pt. Min. or Antlerless	GMUs 172-175, 181	50
Moses Coulee	Dec. 1-31	Antlerless	GMU 269	50
Desert C	Oct. 23-29	Any Deer	GMU 290	3
Quilomene B	Oct. 1-10	Any Buck	GMU 329	15
Umtanum B	Oct. 1-10	Any Buck	GMU 342	10
Alkali C	Sept. 30-Oct. 6	Any Buck	GMU 371	10

Alkali D	Sept. 30-Oct. 6	Antlerless	GMU 371	5
Mason Lake	Oct. 7-13	Antlerless	GMU 633	30
Satsop	Oct. 7-13	Any Deer	GMU 651	50

Archery Only Deer Permit Hunts (Only archery deer tag holders may apply.)

Desert D	Sept. 16-Oct. 6	Any Deer	GMU 290	35
Quilomene C	Nov. 24-Dec. 8	Any Buck	GMU 329	90
Umtanum C	Nov. 24-Dec. 8	Any Buck	GMU 342	75
Alkali E	Nov. 24-Dec. 8	Any Deer	GMU 371	35

Special Deer Permit Hunts for Hunters 65 or older.

Walla Walla	Oct. 14-22	3-Pt. Min. or Antlerless	GMUs 149, 163	100
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Special Youth Deer Permit Hunts (Must be eligible for the youth hunting license and accompanied by an adult during the hunt.)

Blue Mtns. Foothills E	Oct. 14-22	3-Pt. Min. or Antlerless	GMUs 149, 154, 162-166	150
Blue Mtns. Foothills F	Oct. 14-22	3-Pt. Min. or Antlerless	GMUs 145, 172-181	75
Big Bend B	Oct. 14-22	Antlerless	GMU 248	25
Toutle	Oct. 14-31	Any Deer	GMU 556	100
Wind River	Oct. 14-31	2-Pt. Min. or Antlerless	GMU 574	75
Satsop	Oct. 10-31	Any Deer	GMU 651	10
Skookumchuck D	Oct. 10-31	Any Deer	GMU 667	60

NEW SECTION

WAC 232-28-279 2000-2002 elk general seasons and 2000-2001 special permits. Bag Limit: One (1) elk per hunter during the 2000 hunting season.

Hunting Method: Elk hunters must select only one of the hunting methods (modern firearm, archery, or muzzleloader).

Elk Tag Areas: Elk hunters must choose either Eastern or Western Washington to hunt in and buy the appropriate tag for that area. The Northwest, Blue Mountains, Colockum, and Yakima elk tags are all valid for the Eastern Washington Tag Area.

Any Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Spike Bull Restrictions: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

Spike Only GMUs: 145-154, 162-186, 249-251, 328, 329, and 335-371.

3 Point Restriction: Legal bull elk taken must have at least 3 antler points on one side only. Antler points may include eye guards, but antler points on the lower half of the main beam must be at least four (4) inches long measured from antler tip to nearest edge of beam; all other antler points must be

at least one (1) inch long. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: All of Western Washington except for GMUs 454, 564, 568, 574, 578, and 588 and Muzzleloader Area 941.

GMUs Closed to Elk Hunting: 418 (Nooksack), and 437 (Sauk) except for ML Elk Area 941, 485 (Green River), 490 (Cedar River), 522 (Loo-wit) and 636 (Skokomish).

Special Permits: Only hunters with elk tag prefix identified in the Special Elk Permits tables may apply for special bull or antlerless permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

Harvest Report Card: Successful hunters must fill out and return a Game Harvest Report Card within 10 days after taking an elk.

Elk Tag Areas

Eastern Washington: All 100, 200, and 300 GMUs except permit only in GMUs 127 and 130 for modern firearm hunters and permit only for all hunters in GMU 157. Modern firearm restrictions in GMU 334.

- EA - Eastern Washington Archery Tag
- EF - Eastern Washington Modern Firearm General Elk Tag
- EM - Eastern Washington Muzzleloader Tag

Western Washington: All 400, 500, and 600 GMUs except closed in GMUs 418, 437 (except for Muzzleloader Area 941), 485, 490, 522, 636 and modern firearm restrictions in portions of GMU 660. GMU 554 is open only for early archery and muzzleloader seasons. Elk Area 064 in GMU 638 (Quinalt) is open to AHE hunters only. Elk hunting by permit only in GMUs 524, 556, 621, and PLWMA 600 (Pysht).

WA - Western Washington Archery Tag

WF - Western Washington Modern Firearm General Elk

Tag

WM - Western Washington Muzzleloader Tag

Modern Firearm Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid modern firearm elk tag as listed below on his/her person for the area hunted.

Hunting Method: May use rifle, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Hunt Area	Elk Area	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Eastern Washington	EF	109 through 117, 124 east of Hwy 395	Oct. 28-Nov. 5	Oct. 27-Nov. 4	Oct. 26-Nov. 3	Any bull
		157				Permit only
		145 through 154, 162 through 186, 249, that part of GMU 250 south of Hwy 2, 251, 328, 329, 335 through 368	Oct. 28-Nov. 5	Oct. 27-Nov. 4	Oct. 26-Nov. 3	Spike bull
		372, 382	Sept. 1-Oct. 13	Sept. 1-Oct. 12	Sept. 1-Oct. 11	Antlerless
			Oct. 28-Nov. 5	Oct. 27-Nov. 4	Oct. 26-Nov. 3	Any elk
	Dec. 9-13	Dec. 8-12	Dec. 7-11	Antlerless		
	101, 105, 121, 124 west of Hwy 395, 127-142	Oct. 28-Nov. 5	Oct. 27-Nov. 4	Oct. 26-Nov. 4	Any elk	
Western Washington	WF	407, 448, 460, 466, 504 through 520, 530, 550, 558, 560, 572, 601 through 618, 624 through 633, 638 through 684. Except AHE hunters only in Elk Area 064 in GMU 638.	Nov. 4-12	Nov. 3-11	Nov. 2-10	3 pt. min.
		501	Nov. 4-12	Nov. 3-11	Nov. 2-10	3 pt. min. or antlerless
		564, 568, 574 through 588	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any elk
		454	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any bull
		524, 556, 621, PLWMA 600	Nov. 4-12	Nov. 3-11	Nov. 2-10	Permit only

Archery Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid archery elk tag as listed below on his/her person for the area hunted.

Hunting Method: Bow and arrow only.

Special Notes: Archery tag holders can hunt only during archery seasons. Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Early Archery Elk Seasons						
Eastern Washington	EA	101 through 109, 121 through 142, 243, 247, 249, 250, 334	Sept. 1-14	Sept. 1-14	Sept. 1-14	Any elk
		145 through 154, 162 through 186	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike bull
		328, 329, 335, 336, 340, 352, 356, 364	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike bull or antlerless
		113-117	Sept. 1-14	Sept. 1-14	Sept. 1-14	Any bull

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Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Western Washington	WA	454, 564, 568, 574, 578, 588	Sept. 1-14	Sept. 1-14	Sept. 1-14	Any elk
		407, 448, 501 through 506, 520, 530, 550, 554, 558, 560, 572, 652, 654, 660, 663, 667 through 673, 684 and Long Island	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min. or antlerless
		460, 466, 510, 513, 516, 601, 602, 603, 612 through 618, 624 through 633, 638 through 651, 653, 658, 666, 681. AHE hunters only in Elk Area 064 in GMU 638. Permit only in PLWMA 600 in GMU 603.	Sept. 1-14	Sept. 1-14	Sept. 1-14	3 pt. min.
Late Archery Elk Seasons						
Eastern Washington	EA	101, 105, 121 through 127	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Any elk
		117	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Any bull
		178	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Antlerless only
		328, 335, 336, 346, 352, 368 and that part of GMU 360 north of USFS Roads 324, 325, to the intersection of Carmack Canyon then east down Carmack Canyon bottom to Naches River and north to State Hwy 410	Nov. 22-Dec. 8	Nov. 21-Dec. 8	Nov. 20-Dec. 8	Spike bull or antlerless
Western Washington	WA	407, 505, 652, 672, 681 and Long Island. In GMU 681 closed between US Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallacut River.	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	3 pt. min. or antlerless
		454, 564, 588	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	Any elk
		506, 520, 530, 603, 612, 615, 638, 648 except closed in PLWMA 600 in GMU 603. AHE hunters only in Elk Area 064 in GMU 638.	Nov. 22-Dec. 15	Nov. 21-Dec. 15	Nov. 20-Dec. 15	3 pt. min.

Muzzleloader Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid muzzleloader elk tag as listed below on his/her person for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Early Muzzleloader Elk Seasons						
Eastern Washington	EM	109, 247	Oct. 7-13	Oct. 6-12	Oct. 5-11	Any bull
		127 through 142	Oct. 7-13	Oct. 6-12	Oct. 5-11	Any elk
		172, 245, 250, 251, 342, 356, 368	Oct. 7-13	Oct. 6-12	Oct. 5-11	Spike bull

PERMANENT

Hunt Area	Elk Tag	Game Management Units (GMUs)	2000 Dates	2001 Dates	2002 Dates	Legal Elk
		ML 911	Aug. 19-Sept. 10	Aug. 18-Sept. 9	Aug. 17-Sept. 8	Spike bull or antlerless
		That part of GMU 368 east of the following boundary: Jump Off Road and the power lines to South Fork Cowiche Creek, west along South Fork Cowiche Creek to Road A 5500, east on A 5500 Road and south on A 5000 Road to North Fork Ahtanum Creek Road, south and west on North Fork Ahtanum Creek Road to A 2000, A 2000 to A 2400 Road, A 2400 Road to A 1000 Road and South Fork of Ahtanum Creek.	Oct. 7-13	Oct. 6-12	Oct. 5-11	Antlerless
Western Washington	WM	454, 564, 568, 684	Oct. 7-13	Oct. 6-12	Oct. 5-11	Any elk
		460, 501, 504, 513, 530, 554, 602, 603, 607, 652, 654, 660	Oct. 7-13	Oct. 6-12	Oct. 5-11	3 pt. min.
		501	Oct. 7-13	Oct. 6-12	Oct. 5-11	3 pt. min. or antlerless
Late Muzzleloader Elk Seasons						
Eastern Washington	EM	130 through 142	Nov. 22- Dec. 8	Nov. 21- Dec. 8	Nov. 20- Dec. 8	Any elk
		346	Nov. 11-15	Nov. 10-14	Nov. 9-13	Spike bull or antlerless
		ML Area 944	Nov. 22- Dec. 8	Nov. 21- Dec. 8	Nov. 20- Dec. 8	Spike bull or antlerless
		That part of GMU 368 east of the following boundary: Jump Off Road and the power lines to South Fork Cowiche Creek, west along South Fork Cowiche Creek to Road A 5500, east on A 5500 Road and south on A 5000 Road to North Fork Ahtanum Creek Road, south and west on North Fork Ahtanum Creek Road to A 2000, A 2000 to A 2400 Road, A 2400 Road to A 1000 Road and South Fork of Ahtanum Creek.	Nov. 11-15	Nov. 10-14	Nov. 9-13	Spike bull or antlerless
Western Washington	WM	501, 505	Nov. 22- Dec. 8	Nov. 21- Dec. 8	Nov. 20- Dec. 8	3 pt. min. or antlerless
		454, 564, 568, 684	Nov. 22- Dec. 15	Nov. 21- Dec. 15	Nov. 20- Dec. 15	Any elk
		574, 578	Nov. 22- Dec. 8	Nov. 21- Dec. 8	Nov. 20- Dec. 8	Any elk
		504, 550, 601, 652	Nov. 22- Dec. 15	Nov. 21- Dec. 15	Nov. 20- Dec. 15	3 pt. min.

Special Elk Hunts Open to Specified Tag Holders

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Proper elk tags are listed with each GMU below.

PERMANENT

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below. In firearm restriction areas modern firearm hunters may hunt with a muzzleloader equipped with a scope.

Hunt Area	Elk Tag	Game Management Units	2000 Dates	2001 Dates	2002 Dates	Legal Elk
Eastern Washington	EA, EM, EF	127 through 142, Advanced Hunter Education Graduates only.	Dec. 9-31	Dec. 9-31	Dec. 9-31	Any elk
		Grant, Adams, Douglas, Franklin, Okanogan, and Benton (south of the Yakima River), and Chelan County (north of Hwy 2, except closed within 1/2 mile of the Columbia River in Douglas and Grant counties)	Oct. 28-Nov. 15	Oct. 27 -Nov. 15	Oct. 26 -Nov. 15	Any elk
	EM	ML Area 911, Advanced Hunter Education Graduates only.	Nov. 25 -Dec. 3	Nov. 24 -Dec. 2	Nov. 23 -Dec. 1	Spike bull or antlerless
Western Washington	WF	568, 574, 578, 588	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any elk
	WF, WA, WM	564 (archery and muzzleloader methods only, modern firearm elk tag holders may hunt, but must use archery, muzzleloader or revolver type handgun equipment)	Nov. 4-12	Nov. 3-11	Nov. 2-10	Any elk
	WM	Muzzleloader Area 941 (muzzleloader only)	11/1/2000-1/31/2001	11/1/2001-1/31/2002	11/1/2002-1/31/2003	Any elk
	WA	Muzzleloader Area 941 (archery only)	Oct. 1-31	Oct. 1-31	Oct. 1-31	Any elk

Special Elk Permit Hunting Seasons

(Open to Permit Holders Only)

Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see elk tag prefix required to apply for each hunt).

Hunt Name	2000 Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	2000 Permits
Modern Firearm Bull Permit Hunts					
Blue Creek A	Oct. 23-Nov. 5	Any Bull	EF	GMU 154	4
Watershed*	Oct. 28-Nov. 5	3 Pt. Min. or Antlerless	EA, EF, EM	GMU 157	40
Dayton A	Oct. 23-Nov. 5	Any Bull	EF	GMU 162	9
Tucannon A	Oct. 23-Nov. 5	Any Bull	EF	Part of GMU 166**	2
Wenaha A	Oct. 23-Nov. 5	Any Bull	EF	GMU 169	5
Mountain View A	Oct. 23-Nov. 5	Any Bull	EF	GMU 172	7
Couse A	Oct. 23-Nov. 5	Any Bull	EF	GMU 181	1
Grande Ronde A	Oct. 23-Nov. 5	Any Bull	EF	GMU 186	1
Peaches Ridge A	Oct. 23-Nov. 5	Any Bull	EF	GMUs 336, 346	53
Observatory A	Oct. 23-Nov. 5	Any Bull	EF	GMUs 340, 342	36
Goose Prairie A	Oct. 23-Nov. 5	Any Bull	EF	GMUs 352, 356	118
Bethel A	Oct. 23-Nov. 5	Any Bull	EF	GMU 360	86
Rimrock A	Oct. 23-Nov. 5	Any Bull	EF	GMU 364	88
Cowiche A	Oct. 23-Nov. 5	Any Bull	EF	GMU 368	21
Margaret A	Nov. 4-12	3 Pt. Min.	WF	GMU 524	10
Toutle A	Nov. 4-12	3 Pt. Min.	WF	GMU 556	85
Olympic A	Nov. 4-12	3 Pt. Min.	WF	GMU 621	14

*Permit season is open for archery and muzzleloader, but hunt is the same as modern firearm and all hunters must wear hunter orange.

**The part of GMU 166 west of the Tucannon River.

Modern Firearm Elk Permit Hunts (Only modern firearm and muzzleloader elk tag holders may apply.)

Three Forks	Oct. 23-Nov. 5	Any Elk	EF or EM	GMU 109	20
Mount Spokane	Oct. 23-Nov. 5	Any Elk	EF or EM	124 (E. of SR 395)	50

Shushuskin	Dec. 1-31	Antlerless	EF or EM	Elk Area 031	48
Malaga A**	Sept. 1-Oct. 1	Antlerless	EF or EM	Elk Area 032	63
Malaga B	Nov. 11-Dec. 31	Antlerless	EF or EM	Elk Area 032	37
Taneum	Nov. 1-5	Antlerless	EF or EM	GMU 336	156
Manastash	Nov. 1-5	Antlerless	EF or EM	GMU 340	270
Umtanum A	Nov. 1-5	Antlerless	EF or EM	GMU 342	333
Little Naches A	Nov. 1-5	Antlerless	EF or EM	GMU 346	250
Little Naches B	Oct. 1-10	Any Bull	EF or EM	GMU 346	18
Nile	Nov. 1-5	Antlerless	EF or EM	GMU 352	100
Bumping	Nov. 1-5	Antlerless	EF or EM	GMU 356	330
Bethel B	Nov. 1-5	Antlerless	EF or EM	GMU 360	120
Rimrock B	Nov. 1-5	Antlerless	EF or EM	GMU 364	280
Cowiche B	Nov. 1-5	Antlerless	EF or EM	GMU 368	180
Alkali A	Oct. 28-Nov. 5	Any Elk	EF or EM	GMU 371	100
Willapa Hills	Nov. 8-12	Antlerless	WF or WM	GMU 506	50
Winston	Nov. 8-12	Antlerless	WF or WM	GMU 520	15
Margaret B	Nov. 8-12	Antlerless	WF or WM	GMU 524	10
Ryderwood	Nov. 8-12	Antlerless	WF or WM	GMU 530	40
Coweeman	Nov. 8-12	Antlerless	WF or WM	GMU 550	20
Toutle B	Nov. 8-12	Antlerless	WF or WM	GMU 556	30
Marble	Nov. 8-12	Antlerless	WF or WM	GMU 558	60
Carlton	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 057	5
West Goat Rocks	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 058	5
Mt. Adams	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 059	5
Lewis River	Nov. 8-12	Antlerless	WF or WM	GMU 560	75
Siouxon	Nov. 8-12	Antlerless	WF or WM	GMU 572	50
Dungeness A	Nov. 8-12	Antlerless	WF or WM	Part of GMU 621*	9
Dungeness B	Nov. 8-12	3 Pt. Min	WF or WM	Part of GMU 621*	4
Puyallup A	Jan. 15-23	Antlerless	WF or WM	GMU 652	25
Mashel A	Dec. 16-22	Antlerless	WF or WM	Part of GMU 654***	20
Deschutes A	Jan. 15-23	Antlerless	WF or WM	GMU 666	10
Williams Creek	Nov. 8-12	Antlerless	WF or WM	GMU 673	40

*That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

**Damage hunt.

***That part of GMU 654 south of the Puyallup River.

Muzzleloader Bull Permit Hunts (Only muzzleloader elk tag holders may apply.)

Blue Creek B	Oct. 1-13	Any Bull	EM	GMU 154	1
Dayton B	Oct. 1-10	Any Bull	EM	GMU 162	2
Tucannon B	Oct. 1-10	Any Bull	EM	GMU 166	1
Wenaha C	Oct. 1-10	Any Bull	EM	GMU 169	1
Mountain View B	Oct. 1-10	Any Bull	EM	GMU 172	2
Couse B	Oct. 1-10	Any Bull	EM	GMU 181	1
Grande Ronde B	Oct. 1-10	Any Bull	EM	GMU 186	1
Peaches Ridge B	Oct. 1-10	Any Bull	EM	GMUs 336, 346	9
Observatory B	Oct. 1-10	Any Bull	EM	GMUs 340, 342	9
Goose Prairie B	Oct. 1-10	Any Bull	EM	GMUs 352, 356	18

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Bethel C	Oct. 1-10	Any Bull	EM	GMU 360	11
Rimrock C	Oct. 1-10	Any Bull	EM	GMU 364	12
Cowiche C	Oct. 1-10	Any Bull	EM	GMU 368	4
Margaret C	Oct. 1-10	3 Pt. Min.	WM	GMU 524	2
Toutle C	Oct. 1-10	3 Pt. Min.	WM	GMU 556	17
Olympic B	Oct. 1-10	3 Pt. Min.	WM	GMU 621	2
Dungeness C	Oct. 1-10	3 Pt. Min.	WM	Part of GMU 621*	1

*That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

Muzzleloader Permit Hunts (Only muzzleloader elk tag holders may apply.)

Blue Creek C*	12/1/00-1/31/01	Antlerless	EM	GMU 154	50
Columbia A	Dec. 1-31	Antlerless	EM	Part of GMU 162**, 163	30
Columbia B	Jan. 1-31, 2001	Antlerless	EM	Part of GMU 162**, 163	30
Couse C*	Dec. 1-31	Antlerless	EM	GMU 181	25
Couse D*	Jan. 1-31, 2001	Antlerless	EM	GMU 181	25
Umtanum B	Oct. 7-13	Antlerless	EM	GMU 342	250
Cowiche D	Oct. 7-13	Antlerless	EM	GMU 368	100
Alkali B	Oct. 7-13	Any Elk	EM	GMU 371	100
Stella A*	Nov. 26-Dec. 15	Antlerless	WM	GMU 504	100
Stella B*	Jan. 1-16, 2001	Antlerless	WM	GMU 504	25
Toledo A*	Jan. 1-16, 2001	Antlerless	WM	Elk Area 029	75
Malaga C*	Oct. 7-29	Antlerless	EM	Elk Area 032	75
Mossyrock A*	Jan. 1-16, 2001	Antlerless	WM	Elk Area 052	10
Randle A*	Jan. 1-16, 2001	Antlerless	WM	Elk Area 053	15
Boistfort*	Jan. 1-16, 2001	Antlerless	WM	Elk Area 054	20
Yale*	Nov. 26-Dec. 15	3 Pt. Min. or Antlerless	WM	GMU 554	75
North River*	Nov. 26-Dec. 15	Antlerless	WM	GMU 658	20
Minot Peak	Oct. 7-13	Antlerless	WM	GMU 660***	30

*Damage hunt.

**That part of GMU 162 east of North Touchet Rd, outside National Forest.

***That part of GMU 660 north of the River-Brooklyn Road.

Archery Bull Permit Hunts (Only archery elk tag holders may apply.)

Blue Creek D	Sept. 1-14	Any Bull	EA	GMU 154	2
Dayton C	Sept. 1-14	Any Bull	EA	GMU 162	7
Tucannon C	Sept. 1-14	Any Bull	EA	GMU 166	3
Wenaha D	Sept. 1-14	Any Bull	EA	GMU 169	3
Mountain View C	Sept. 1-14	Any Bull	EA	GMU 172	8
Couse F	Sept. 1-14	Any Bull	EA	GMU 181	1
Grande Ronde C	Sept. 1-14	Any Bull	EA	GMU 186	1
Peaches Ridge C	Sept. 1-14	Any Bull	EA	GMUs 336, 346	54
Observatory C	Sept. 1-14	Any Bull	EA	GMUs 340, 342	34
Goose Prairie C	Sept. 1-14	Any Bull	EA	GMUs 352, 356	170
Bethel D	Sept. 1-14	Any Bull	EA	GMU 360	78
Rimrock D	Sept. 1-14	Any Bull	EA	GMU 364	65
Cowiche D	Sept. 1-14	Any Bull	EA	GMU 368	22
Alkali	Sept. 1-14	Any Elk	EA	GMU 371	50

Margaret D	Sept. 1-14	3 Pt. Min.	WA	GMU 524	6
Toutle D	Sept. 1-14	3 Pt. Min.	WA	GMU 556	64
Olympic C	Sept. 1-14	3 Pt. Min.	WA	GMU 621	4
Mashel B	Jan. 15-23	Antlerless	WA	Part of GMU 654**	25
Raymond A	Dec. 1-31	Antlerless	WA	Part of GMUs 506 and 673***	10
Raymond B	Jan. 1-31, 2001	Antlerless	WA	Part of GMUs 506 and 673***	10
Dungeness D	Sept. 1-14	3 Pt. Min.	WA	Part of GMU 621*	1

*That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

**That part of GMU 654 south of the Puyallup River.

***That part of GMUs 506 and 673 within 1 mile of SR 6 between the east end of Elk Prairie Rd and the Mallis Landing Rd.

Advanced Hunter Education (AHE) Graduate Special Elk Permit Hunts (only AHE graduates may apply).

Toledo B	Jan. 17-31, 2001	Antlerless	Any Elk Tag	Elk Area 029	50
Mossyrock B	Jan. 17-31, 2001	Antlerless	Any Elk Tag	Elk Area 052	10
Randle B	Jan. 17-31, 2001	Antlerless	Any Elk Tag	Elk Area 053	15
Quinault Ridge	Oct. 1-10	3-Pt. Min or Antl- erless	Any Elk Tag	GMU 638	5
South Bank A	Jan. 1-30, 2001	Antlerless	Any Elk Tag	Elk Area 062*	10

*Firearm Restriction Area - Hunters may use only muzzleloader equipment.

Persons of Disability Only - Special Elk Permit Hunts

Observatory D	Oct. 24-Nov. 7	Any Elk	EF or EM	GMUs 340, 342	3
Little Naches C	Oct. 1-10	Any Elk	EF, EM, EA	GMU 346	3
Little Naches D	Oct. 30-Nov. 7	Antlerless	EF, EM, EA	GMU 346	4
Centralia Mine A	Oct. 28-29	Antlerless	Any Elk Tag	Portion of GMU 667*	4
Centralia Mine B	Nov. 4-5	Antlerless Only	Any Elk Tag	Portion of GMU 667*	4
South Bank B	Dec. 10-20	Antlerless	Any Elk Tag	Elk Area 062***	3
North Shore A	Oct. 1-31	Antlerless	Any Elk Tag	Part of GMU 658**	5
North Shore B	Dec. 1-31	Antlerless	Any Elk Tag	Part of GMU 658**	5
North Shore C	Jan. 1-31, 2001	Antlerless	Any Elk Tag	Part of GMU 658**	5

*Portion of GMU 667 within Centralia Mine.

**That part of GMU 658 south and west of SR 105 between Raymond and North River Bridge.

***Firearm Restriction Area - Hunters may use only muzzleloader equipment.

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

WSR 00-11-141
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed May 23, 2000, 4:11 p.m.]

Date of Adoption: May 23, 2000.

Purpose: Corrected a cross-reference in WAC 388-501-0200 Third-party resources to WAC 388-87-020 which has been repealed, and replaced it with the correct cross-reference of WAC 388-501-0100.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-501-0200.

Statutory Authority for Adoption: RCW 74.04.050,
 74.08.090.

Adopted under notice filed as WSR 00-07-044 on March 6, 2000.

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: Thirty-one days after filing.

May 23, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-01-088, filed 12/14/99, effective 1/14/00)

WAC 388-501-0200 Third-party resources. (1) MAA requires a provider to seek timely reimbursement from a third party when a client has available third-party resources, except as described under subsections (2) and (3) of this section.

(2) MAA pays for medical services and seeks reimbursement from the liable third party when the claim is for any of the following:

- (a) Prenatal care;
- (b) Labor, delivery, and postpartum care (except inpatient hospital costs) for a pregnant woman; or
- (c) Preventive pediatric services as covered under the EPSDT program.

(3) MAA pays for medical services and seeks reimbursement from any liable third party when both of the following apply:

(a) The provider submits to MAA documentation of billing the third party and the provider has not received payment after thirty days from the date of services; and

(b) The claim is for a covered service provided to a client on whose behalf the office of support enforcement is enforcing an absent parent to pay support. For the purpose of this section, "is enforcing" means the absent parent either:

- (i) Is not complying with an existing court order; or
- (ii) Received payment directly from the third party and did not pay for the medical services.

(4) The provider may not bill MAA or the client for a covered service when a third party pays a provider the same amount as or more than the MAA rate.

(5) When the provider receives payment from the third party after receiving reimbursement from MAA, the provider must refund to MAA the amount of the:

- (a) Third-party payment when the payment is less than MAA's maximum allowable rate; or

(b) MAA payment when the third-party payment is equal to or greater than MAA's maximum allowable rate.

(6) MAA is not responsible to pay for medical services when the third-party benefits are available to pay for the client's medical services at the time the provider bills MAA, except as described under subsections (2) and (3) of this section.

(7) The client is liable for charges for covered medical services that would be paid by the third party payment when the client either:

(a) Receives direct third-party reimbursement for such services; or

(b) Fails to execute legal signatures on insurance forms, billing documents, or other forms necessary to receive insurance payments for services rendered. See WAC 388-505-0540 for assignment of rights.

(8) MAA considers an adoptive family to be a third-party resource for the medical expenses of the birth mother and child only when there is a written contract between the adopting family and either the birth mother, the attorney, the provider, or the adoption service. The contract must specify that the adopting family will pay for the medical care associated with the pregnancy.

(9) A provider cannot refuse to furnish covered services to a client because of a third party's potential liability for the services.

(10) For third-party liability on personal injury litigation claims, MAA is responsible for providing medical services as described under WAC ((388-87-020)) 388-501-0100.

WSR 00-11-142
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed May 23, 2000, 4:13 p.m.]

Date of Adoption: May 23, 2000.

Purpose: To repeal WAC 388-86-012 Audiometric services. This rule has been incorporated into new WAC 388-545-700 Speech and audiology.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-86-012 Audiometric services.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under preproposal statement of inquiry filed as WSR 00-08-057 on March 31, 2000.

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.

May 23, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-86-012 Audiometric services.

WSR 00-11-147

PERMANENT RULES

BATES TECHNICAL COLLEGE

[Filed May 24, 2000, 9:12 a.m.]

Date of Adoption: April 19, 2000.

Purpose: To delineate the rights and responsibilities of students attending Bates Technical College.

Citation of Existing Rules Affected by this Order: Repealing chapter 495A-120 WAC, Student conduct code, all sections [repealed in WSR 00-11-148].

Statutory Authority for Adoption: RCW 28B.50.140(10).

Adopted under notice filed as WSR 00-05-017 on February 7, 2000.

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 All [36], 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.

May 23, 2000

Jon G. Thorpe
Director of College Operations

Chapter 495A-121 WAC

STUDENT RIGHTS AND RESPONSIBILITIES

NEW SECTION

WAC 495A-121-010 Preamble. Bates Technical College is a two-year public institution of higher education. The college is maintained by the state of Washington for the provision of programs of instruction in higher education and related community services. Broadly stated, the purpose of the college is to provide opportunities for all who desire to pursue educational goals. Like any other institution having its own special purposes, the college must maintain conditions conducive to the effective performance of its functions. To implement this objective, it is necessary to ensure that an environment is created wherein all students may progress in accordance with their capability and intensity of interest. The responsibility to create and maintain such an environment is shared by all members of the college community: Students, faculty, staff, and administration.

NEW SECTION

WAC 495A-121-011 Definitions. The definitions set forth in this section shall apply throughout this chapter. The following words and phrases shall mean:

(1) "Assembly" shall mean any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any persons or group of persons.

(2) "Board of trustees" shall mean the five member board appointed by the governor of the state of Washington, District No. 28.

(3) "College" shall mean Bates Technical College, which includes the main campus, extension centers, and off-campus classes and activities.

(4) "College community" shall mean all college employees designated as members of the administration by the board of trustees and students.

(5) "College facilities" shall mean and include any or all real property controlled or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "College president" shall mean the chief executive officer of the college appointed by the board of trustees.

(7) "Controlled substances" shall mean the definition of controlled substances as defined within RCW 69.50.101 as now law or hereafter amended.

(8) "Disciplinary action" shall mean and include oral warning, reprimand, probation, suspension, dismissal or any lesser sanction of any student by college officials.

(9) "Disciplinary official" shall mean the student/faculty disciplinary committee, the vice-president of student services or designee, and the president.

(10) "Drugs" shall mean a narcotic drug as defined in RCW 69.50.101 or a legend drug as defined in RCW 69.41.010.

(11) "Employee" shall mean any classified, faculty, administrator, exempt, student worker or volunteer person.

(12) "Harassment" shall mean any malicious act, which causes harm to any person's physical or mental well being.

(13) "Hate crimes" shall mean criminal acts in which victims are selected based on characteristics such as race, national origin, ethnicity, sex/gender, religion, sexual orientation or disability. Examples of behaviors that may constitute a hate crime include but are not limited to:

- (a) Threatening phone calls.
- (b) Hate mail.
- (c) Physical assault.
- (d) Threats of harm or violence.
- (e) Arson.
- (f) Vandalism.
- (g) Cross burnings.
- (h) Bombings and bomb threats.

(14) "Hazing" shall mean any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause bodily danger or physical harm, or serious mental or emotional harm to any student or person attending a public or private institution of higher education or other postsecondary educational institution in this state.

(15) "Instructor/faculty" shall mean professional staff members who are employed by the college in a temporary, full-time, tenured or probationary position as instructor, counselor, and/or librarian for the purpose of providing support services for students.

(16) "Liquor" shall mean the definition of liquor as defined in RCW 66.04.010.

(17) "Racial harassment" shall be defined as written, oral, graphic or physical conduct relating to an individual's race, color, or national origin that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of the individual to participate in or benefit from college's programs or activities. Examples of behaviors that constitute harassment based on race or national origin may include but are not limited to:

- (a) Harassment of students because they are immigrants, speak another language, or have a foreign accent.
- (b) Intimidation and implied or overt threats of physical violence motivated by race, color, or national origin.
- (c) Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's race, color, or national origin.
- (d) Depending on the circumstances and context, demeaning racial jokes, taunting, racial slurs, and derogatory racial "nicknames," innuendoes, or other negative or derogatory remarks of a racial nature or relating to national origin.
- (e) Depending on the circumstances and context, graffiti and/or slogans or visual displays such as cartoons or posters depicting racial/ethnic slurs or other racially/ethnically derogatory sentiments.
- (f) Criminal offenses directed at persons because of their race or national origin.

(18) "Sexual harassment" shall mean unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct directed at person because of his/her sex where:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment; or

(b) Submission to or rejection of such conduct by an individual is used as the basis for academic decisions or employment affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment. Examples of behaviors that may constitute harassment include but are not limited to:

- (i) Unwelcome verbal harassment of a sexual nature or abuse;
- (ii) Unwelcome pressure for sexual activity;
- (iii) Unwelcome sexually motivated or inappropriate patting, pinching, or physical contact;
- (iv) Unwelcome sexual behavior or words, including demands for sexual favors accompanied by implied or overt threats concerning an individual's educational status;
- (v) Unwelcome behavior, verbal or written words or symbols, directed at an individual because of gender;
- (vi) The use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of educational benefits, climate or opportunities.

(19) "Student" shall mean and include any person who is enrolled at the college or is in the process of enrolling at the college.

NEW SECTION

WAC 495A-121-012 Jurisdiction. All rules in this chapter concerning student conduct and discipline apply to every student enrolled at the college whenever the student is engaged in or present at a college-related activity whether occurring on or off college facilities.

NEW SECTION

WAC 495A-121-020 Student rights. The college endorses the following rights for each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the educational goals of the college.

NEW SECTION

WAC 495A-121-021 Academic freedom. (1) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public.

(2) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(3) Students have the right to a learning environment, which is free from unlawful discrimination and sexual harassment.

(4) Students are protected from academic evaluation, which is arbitrary, prejudiced or capricious, and are responsi-

ble for meeting the standards of academic performance established by each of their instructors.

NEW SECTION

WAC 495A-121-022 Nondiscrimination. Students have the right not to be discriminated against on the basis of age, color, creed, disability, gender, marital status, national origin or ancestry, race, religion, sexual orientation or veteran status.

NEW SECTION

WAC 495A-121-023 Due process. Students have the right to due process. No disciplinary action may be imposed without notice to the accused of the nature of the charges. A student accused of violating the code of conduct is entitled to procedural due process as set forth in these provisions.

NEW SECTION

WAC 495A-121-024 Campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding and compliance with college procedures.

NEW SECTION

WAC 495A-121-025 Right to assembly. Students shall have the right of assembly upon college facilities that are generally available to the public provided such assemblies:

- (1) Are conducted in an orderly manner;
- (2) Do not unreasonably interfere with vehicular or pedestrian traffic;
- (3) Do not unreasonably interfere with classes, scheduled meetings or ceremonies or regular functions of the college;
- (4) Do not cause destruction or damage to college property.

NEW SECTION

WAC 495A-121-026 Distribution of materials. (1) Handbills, leaflets, newspapers and similar materials may be distributed free of charge by any student(s), or by members of recognized student organizations, or by college employees on or in college facilities at locations specifically designated by the vice-president of student services; provided such distribution does not interfere with the ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

(2) Such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual.

(3) All nonstudents shall register with the vice-president of student services prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution or sale must not interfere with the flow of vehicular or pedestrian traffic.

(4) Any person or persons who violate provisions of subsections (1) and (2) of this section will be subject to disciplinary action.

NEW SECTION

WAC 495A-121-027 Grievances. Students have the right to express and resolve misunderstandings, alleged violation of a college policy, procedure or regulation or alleged inequitable treatment, or retaliation according to the stated grievance procedures set forth in these provisions.

NEW SECTION

WAC 495A-121-028 Commercial activities. College facilities will not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve educational objectives, including, but not limited to, display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities related to educational objectives and are conducted under the sponsorship or at the request of the college, or the office of the associated students of the college; provided that such solicitation does not interfere with or operate to the detriment of conducting college affairs or the free flow of vehicular or pedestrian traffic.

NEW SECTION

WAC 495A-121-029 Student responsibilities. Students who choose to attend Bates Technical College also choose to actively participate in the learning process offered by the college. The college is responsible for providing an educational environment rich in the high quality resources needed by students to attain their educational goals. In return, the college has the expectation that each student will assume responsibility to:

- (1) Become knowledgeable of and adhere to policies, practices, procedures, and rules of the college and its departments;
- (2) Practice personal and academic integrity;
- (3) Respect the dignity, rights and property of all persons;
- (4) Strive to learn from differences in people, ideas and opinions;
- (5) Participate actively in the learning process, both in and out of the classroom;
- (6) Attend all class sessions;
- (7) Participate actively in the advising process;
- (8) Develop skills required for learning (basic skills, time management and study skills);
- (9) Refrain from and discourage behaviors, which undermine the respect all Bates Technical College community members deserve;
- (10) Abide by the standards set forth in the *Code of Rights and Responsibilities*.

NEW SECTION

WAC 495A-121-040 Code of conduct. The college has special regulations regarding the conduct of the various participants in the college. Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community.

NEW SECTION

WAC 495A-121-041 Prohibited conduct. Disciplinary action may be taken for a violation of any provision of this student code or for a violation of other college rules and regulations, which may from time to time be properly enacted or for specific prohibited conduct including, but not limited to, the following:

- (1) Smoking and use of tobacco products is prohibited in all classrooms, shop areas, the library and other areas designated by college officials.
- (2) Using, possessing, consuming, or being under the influence of, or selling any liquor as defined in RCW 66.04.010, in violation of law or in a manner which disrupts a college activity.
- (3) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 in a college facility or while participating in a college-related program or activity.
- (4) Engaging in lewd, indecent, or obscene behavior.
- (5) Where the student presents an imminent danger to college property or to himself/herself or to other students or persons in college facilities on or off campus, or to the educational process of the college.
- (6) Interference by force or violence with, or intimidation by threat of force or violence, of another student, employee or visitor who is in the peaceful discharge or conduct of his/her duties or studies (RCW 28B.10.570 through 28B.10.572).
- (7) Conducting or participating in an assembly, which violates the guidelines of assembly as defined and set forth in these provisions.
- (8) Any forms of academic dishonesty, including cheating, falsification, plagiarism or facilitating, aiding, and abetting academic dishonesty.
- (9) Forgery of or unauthorized alteration of or access to any college document, record, funds, or instrument of identification, including electronic hardware, software and records.
- (10) The intentional making of false statements and/or filing of false charges against the college and/or a member of the college community.
- (11) Theft from college premises and/or property; theft of property of a member of the college community on college premises; or possession of property stolen from college premises and/or a member of the college community while on college premises.
- (12) Causing, or attempting to cause, physical damage to property owned, controlled or operated by the college or to property owned, controlled or operated by another person while said property is located on college facilities.

(13) Failure to comply with the direction of college employees acting in the legitimate performance of their duties.

(14) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of said employee's duties.

(15) Unlawful possession, transportation or storage of any firearm(s), explosives, dangerous chemicals or other weapons, devices or substances which can be used to inflict bodily harm or to damage real or personal property.

(16) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(17) Sexual harassment as defined and set forth in these provisions, of another student or employee.

(18) Racial harassment as defined and set forth in these provisions of another student or employee.

(19) Any repeated intentional conduct directed at another student or employee that has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment.

(20) Hazing in any form as described in RCW 28B.10.900.

(21) Illegal or attempted illegal entry of college owned or college controlled property.

(22) Violation of any computer use policies in effect on campus as well as conduct that violates the college's property rights with respect to computing resources including, but not limited to:

(a) Unauthorized copying, including:

(i) Copying college-owned or licensed software or data for personal or external use without prior approval;

(ii) Copying another computer user's software or data without permission of its owner, even if it is readily accessible by electronic means;

(iii) Knowingly accepting or using software or data which has been obtained by unauthorized means.

(b) Modifying or damaging, attempting to modify or damage computer equipment, software, databases, or communication lines without permission;

(c) Disrupting or attempting to disrupt computer operations;

(d) Invading the privacy of an individual by using electronic means to ascertain confidential information, even if an individual or department inadvertently allows access to such information;

(e) Abusing or harassing another computer user through electronic means;

(f) Using the college's computing facilities in the commission of a crime;

(g) Allowing another individual to use one's computer identity/account or using another individual's computer identity/account. This includes, but is not limited to: Logging on to the account, accessing programs, and reading or altering computer records. Computer time belongs to the college; the college is the only entity, through computing services, authorized to allocate time on the mainframe computers.

(h) Using computer services without authorization.

(23) Disruption. While students have the right to freedom of expression, including the right to dissent or protest,

this expression cannot interfere with the rights of others or disrupt the processes of the college. The following conduct will not be permitted:

- (a) Disruption of classes, laboratories, offices, services, meetings, or ceremonies;
 - (b) Obstruction of free movement of people or vehicles;
 - (c) Conduct which threatens harm, incites violence, or endangers the health and safety of any person;
 - (d) Threats of disruption, including bomb threats;
 - (e) Damaging, defacing or abusing college facilities, equipment, or property;
 - (f) Inciting others to engage in prohibited conduct.
- (24) Violation of parking regulations.
- (25) Other conduct. Any other conduct or action in which the college can demonstrate a clear and distinct interest, and, which substantially threatens the educational process or other legitimate function of the college or the health or safety of any member of the college is prohibited.

NEW SECTION

WAC 495A-121-042 Performance dishonesty. (1) Honest assessment of student performance is of crucial importance to all members of the college community. It is the responsibility of the college administration and teaching faculty to provide reasonable and prudent security measures designed to minimize opportunities for acts of performance dishonesty which occur at the college.

(2) This section shall not be construed as preventing an instructor from taking immediate disciplinary action when the instructor is required to act upon such breach of performance dishonesty in order to preserve order and prevent disruptive conduct in the classroom. This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for performance dishonesty. Acts of performance dishonesty shall be cause for disciplinary action. Acts of dishonesty shall consist of, but not be limited to, the following:

(a) Any student who, for the purpose of fulfilling any assignment or task required by a faculty member as part of the student's program of instruction, shall knowingly tender any work product that the student fraudulently represents to the faculty member as the student's work, shall be deemed to have committed an act of performance dishonesty.

(b) Any student who aids or abets the accomplishment of an act of performance dishonesty as described in (a) of this subsection.

NEW SECTION

WAC 495A-121-043 Classroom conduct. Instructors have the authority to take whatever summary actions may be necessary to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(1) Any student who, by any act of misconduct, substantially disrupts any college class by engaging in conduct that renders it difficult or impossible to maintain the decorum of the faculty member's class shall be subject to disciplinary action.

(2) The instructor of each course offered by the college shall be authorized to take such steps as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course; provided that a student shall have the right to appeal such disciplinary action to the vice-president for student services.

NEW SECTION

WAC 495A-121-044 Disciplinary sanctions. Sanctions for violations of college regulations or conduct may be imposed independent of any action taken by civil authorities. In the case of minors, misconduct may be referred to parents or legal guardians. More than one sanction may be recommended. Sanctions may include, but are not limited to:

(1) "Disciplinary warning" shall mean oral notice of violation of college rules and regulations.

(2) "Reprimand" shall mean formal action after censuring a student for violation of college rules or regulations for failure to satisfy the college's expectations regarding conduct. The disciplinary official makes reprimands in writing to the student. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(3) "Disciplinary probation" shall mean formal action placing conditions upon the student's continued attendance. Notice will be made in writing, specifying the period of probation and the conditions of the probation. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college.

(4) "Restitution" shall mean compensation for loss, damage, or injury to the appropriate party in the form of service, money, or material replacement.

(5) "Discretionary sanctions" may include, but are not limited to, work assignments, service to college or community, class/workshop attendance or other discretionary assignments such as educational interventions intended as learning experiences.

(6) "Loss of privileges" shall mean loss of specific college privileges for a specified period of time. These may include, but are not limited to, student activities or club participation.

(7) "Summary suspension" shall mean temporary dismissal from the college for a period of time during which an investigation and/or formal disciplinary procedures are pending. Summary suspension is predicated upon a reasonable belief that the student presents an imminent danger to college property, to other students, to employees of the college or is of significant disruption to the educational process.

(8) "Suspension" shall mean temporary dismissal from the college and termination of student status.

(9) "Expulsion" shall mean dismissal from the college and termination of student status.

(10) "No contact" shall mean restriction from entering specific college areas and/or all forms of contact with certain individual(s).

NEW SECTION

WAC 495A-121-045 Hazing sanctions. (1) Any student found to have violated RCW 28B.10.900 through 28B.10.902 related to hazing, by virtue of a criminal conviction or by final decision of the college president or designee, shall, in lieu of or in addition to any other disciplinary action which may be imposed under this chapter, forfeit any entitlement to state funded grants, scholarships or awards for a period of at least one full quarter.

(2) Pursuant to RCW 28B.10.902 forfeiture of state-funded grants, scholarships or awards to recipients engaged in hazing activities or impermissible conduct not amounting to hazing may continue for additional quarters, up to and including permanent forfeiture, based upon the seriousness of the violations.

(3) Pursuant to RCW 28B.10.902 any organization or association found to have knowingly permitted hazing to be conducted by its members or, by others subject to its direction or control, may be deprived of any official recognition or approval granted by the college.

NEW SECTION

WAC 495A-121-046 Groups and organizations. (1) Recognized student groups and organizations may be charged with violations of this code. Such a group or organization and its officers may be held collectively or individually responsible when violations of this code by those associated with the group or organization have received the tacit or overt consent or encouragement of the organization, its leaders, officers or spokespersons.

(2) Sanctions for group or organization misconduct may include revocation of the use of college facilities for a specified period of time or denial of recognition or funds as well as other appropriate sanctions permitted under this code. Sanctions of groups or organizations are subject to the appeal process upon request.

NEW SECTION

WAC 495A-121-047 Refunds and access. (1) Refund of fees for the quarter in which disciplinary action is taken shall be in accordance with the college's refund policy.

(2) A student suspended on the basis of conduct which disrupted the orderly operation of the campus or any facility of the college, may be denied access to all or any part of the campus or other facility.

NEW SECTION

WAC 495A-121-048 Readmission after suspension or expulsion. (1) Any student suspended from the college for disciplinary reasons will normally be readmitted upon expiration of the time period for which the suspension was issued.

(2) If the student has been expelled or feels that circumstances warrant reconsideration of a temporary suspension prior to its expiration, or if the student was suspended with conditions imposed for readmission, the student may be readmitted following approval of a written petition submitted to

the vice-president for student services. Such petition must state reasons, which support a reconsideration of the matter. Before readmission may be granted, such petition must be reviewed and approved by the college president or designee.

NEW SECTION

WAC 495A-121-049 Reestablishment of performance standing. Students who have been suspended pursuant to disciplinary procedures set forth in these provisions and whose suspension, upon appeal, is found to have been unwarranted, shall be provided the opportunity to reestablish their performance and student standing to the extent possible within the abilities of the college, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

NEW SECTION

WAC 495A-121-060 Discipline. (1) Any infractions of college rules and regulations may be referred by any student or employee to the vice-president for student services or in his/her absence, the designee. Sexual or racial harassment complaints or concerns may be directed to the vice-president for human resources.

(2) The vice-president for student services, or in his/her absence, the designee, is responsible for initiating the disciplinary proceedings for infractions of rules and regulations as outlined in the procedures. That official shall follow the appropriate procedures for any disciplinary action, which is deemed necessary relative to the alleged misconduct.

NEW SECTION

WAC 495A-121-061 Disciplinary process—Except summary suspension. (1) The vice-president for student services or his/her designated representative will initiate disciplinary proceedings.

(2) Any student accused of violating any provision of the rules of conduct shall be called for an initial meeting and advised as to the seriousness of the matter under consideration. The student will be informed of what provision(s) of the rules of conduct he/she is charged with violating, and what appears to be the range of penalties, if any, which might result from disciplinary proceedings.

(3) After considering the evidence in a case and interviewing the student or students involved, the vice-president for student services, or in his/her absence, the designee, may take any of the following actions:

(a) Terminate the proceeding, exonerating the student or students.

(b) Dismiss the case after providing whatever counseling and advice may be appropriate.

(c) Impose disciplinary sanctions directly, subject to the student's right of appeal as described in this procedure. The student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally.

(d) Refer the matter to the student/faculty disciplinary committee for appropriate action. The student shall be notified in writing that the matter has been referred to the com-

mittee. If a referral or an appeal is made to the student/faculty disciplinary committee, the committee shall hold a hearing, reach conclusions, and may impose sanctions.

NEW SECTION

WAC 495A-121-062 Summary suspension procedures. (1) If the vice-president for student services deems summary suspension appropriate, he/she shall give the student oral or written notice of the reasons for the summary suspension, duration of the summary suspension, and of any possible additional disciplinary or corrective action that may be taken. If oral notice is given, written notice shall follow within two working days. In addition, the vice-president for student services shall set a date for informal hearing of the summary suspension as soon as practicable.

(2) The presiding officer for the informal hearing shall be an administrator designated by the president other than the administrator who initially imposed the summary suspension (normally, the vice-president for student services) and will be accompanied by the president of the associated student government of Bates Technical College or designee. The student shall be given the opportunity to present written and/or oral evidence. The issue before the presiding officer shall be whether reasonable cause exists to support and to continue the summary suspension.

(3) The presiding officer shall issue a written decision within two days of the informal hearing.

(4) The student may request a de novo review of the informal hearing decision before the student/faculty disciplinary committee. Either party may request the review to be consolidated with any other disciplinary proceeding arising from the same matter.

(5) Nothing herein shall prevent faculty members from taking summary action as may be reasonably necessary to maintain order in the classroom and/or prevent substantial disruption to the educational process. Such summary action in the form of removal from the classroom may not exceed three working days per episode. Any such summary action may be appealed to the vice-president for student services for an informal hearing.

NEW SECTION

WAC 495A-121-063 Appeals. Any disciplinary action other than warning or reprimand may be appealed. All appeals must be made in writing and addressed to the vice-president for student services within ten working days of the college's giving notice of the disciplinary action.

(1) Disciplinary action by any college employee may be appealed to, and shall be reviewed by, the vice-president for student services, or in his/her absence, the designee.

(2) Disciplinary action by the appropriate disciplinary official may be appealed to, and shall be reviewed by, the student/faculty disciplinary committee.

(3) Disciplinary action by the student/faculty disciplinary committee may be appealed to, and shall be reviewed by, the college president or his/her designee.

(4) Disciplinary action by the president shall either indicate approval of the conclusions by sustaining the decision or

shall give directions as to what other disciplinary action shall be taken by modifying the decision, or shall nullify previous sanctions imposed by reversing its decision. All appeals to the president shall be final.

NEW SECTION

WAC 495A-121-064 Student/faculty disciplinary committee. The student/faculty disciplinary committee, convened for that purpose, will hear, de novo, and make recommendations on all disciplinary cases referred to it by the appropriate authority or appeal to it by student(s). The committee will be composed of the following persons:

(1) A member appointed by the president of the college or his/her designee who shall serve as chair;

(2) Two members of the faculty, appointed by the president of the faculty association;

(3) Two representatives from the associated student government appointed by the student body president.

None of the above-named persons shall sit on any case in which he/she has been a complainant or witness, in which he/she has a direct or personal interest, or in which he/she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the disciplinary committee as a whole.

NEW SECTION

WAC 495A-121-065 Procedural guidelines of the student/faculty disciplinary committee. The student has a right to a fair and impartial hearing before the committee on any charge of misconduct resulting in disciplinary action other than warning or reprimand.

(1) The committee chair shall establish general rules of procedures for conducting hearings. A majority of the committee shall set the time, place and available seating capacity for a hearing. All proceedings of the committee will be conducted with reasonable dispatch and terminated as soon as possible in fairness to all parties involved.

(2) The committee shall issue written notice to the student of the date, time, and place of the hearing, and the charges against the student consistent with RCW 34.05.434. This notice of hearing shall be provided no later than seven days prior to the date of the hearing. The notice may be amended at any time prior to the hearing, but if such amendment is prejudicial to the student's case, the hearing shall be rescheduled to a later date if so requested in writing by the student.

(3) The student may be represented by counsel and/or accompanied by an advisor of his/her choice. If the student elects to choose a duly licensed attorney admitted to practice in the state of Washington as counsel, notice thereof must be tendered by the student to the vice-president for student services at least five working days prior to the hearing.

(4) The student or his/her representative shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its sources; the student shall be entitled to present evidence in his/her own behalf and to question witnesses testifying against him/her as to factual matters. The committee shall request the administration to provide the

student with a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. The student shall have all authority which is possessed by the college to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

(5) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged but the student's past record of conduct may be taken into account in formulating the committee's recommendation for disciplinary action.

(6) Hearings conducted by the committee may be held in closed session at the discretion of the committee, the only exception being when the student involved invites particular persons or requests an open hearing. If at any time during the conduct of the hearing, invited guests are disruptive of the proceedings, the chair of the committee may exclude such persons from the hearing room.

(7) Failure on the part of the student(s) to appear or cooperate in the proceedings may result in default in accordance with RCW 34.05.440. However, it may not preclude the committee from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the committee in recommending penalties. The committee may decide: To uphold or modify sanctions in accordance with the process set forth in these provisions.

An adequate summary of the proceedings will be kept. At a minimum, such summary would include a tape recording of testimony. Such record will be available for inspection and copying in the office of student services during regular business hours. The student will be provided with a copy of the findings of fact and conclusions of the committee.

NEW SECTION

WAC 495A-121-066 Appeal of the student/faculty disciplinary committee's decision. (1) The student will be advised of his/her right to present within seven working days, a written statement of appeal to the president of the college before action is taken on the decision of the committee. In the case of a student under eighteen years of age, written notice of any action involving dismissal or disciplinary probation may be sent to the parents or guardian of the student.

(2) If the student concludes that the action of the disciplinary committee is inappropriate, the student may appeal the matter to the president of the college. The president or his/her designated representative, after reviewing the case, including the report of the committee and any statements filed by the student, shall either indicate his/her approval of the conclusions of the committee by sustaining its decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision or shall nullify previous sanctions imposed by reversing its decision. The president shall then notify the official who initiated the proceedings, the student and the committee chair. The decision of the president is final.

NEW SECTION

WAC 495A-121-070 Reporting, recording and maintaining records. The office of the vice-president for student services shall keep records of all disciplinary cases. Except in proceedings where the student is exonerated, all documentary or other physical evidence produced or considered in disciplinary proceedings, and all recorded testimony shall be preserved, insofar as possible, for not more than six years. No other records of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained in the student's file or other college repository after the date of the student's graduation or not more than six years.

NEW SECTION

WAC 495A-121-090 Student grievance procedure. The purpose of the grievance procedure is to provide a student with the opportunity to express and resolve any misunderstanding, alleged violation of a college policy, procedure or regulation, retaliation and or inequitable treatment in a fair and equitable manner. Students have the right to receive clear information and fair application of college policies, standards, rules and requirements, and are responsible for complying with them in their relationships with college personnel. The grievance procedure emphasizes an information resolution which promotes constructive dialogue and understanding.

NEW SECTION

WAC 495A-121-091 Student complaints. (1) Step one. The student shall first determine if a formal written process is required by securing the student petition form. If not, an information meeting with the instructor/staff member should be scheduled by the student to resolve the concern(s).

If an informal meeting does not resolve the concern(s), within ten working days from the time the event occurred or that the student knew, or reasonably should have known of the grievance, the student may present the grievance in writing to the instructor involved with a copy sent to the vice-president for student services. Within ten working days after receiving the grievance, the instructor shall respond to the grievance in writing.

(2) Step two. If the grievance is not resolved at step one, the student may within ten working days of the receipt of the written response, appeal to the area director/associate director by submitting the appropriate copy of the grievance form and all documents from step one to the area director/associate director.

(a) The director/associate director shall hear the grievance within ten working days after receipt of the grievance form and shall render a decision in writing within ten working days after such hearing.

(b) The student shall be afforded an adequate and fair opportunity to fully present his/her position and the relevant facts as they relate to the issues raised by the grievance.

(3) Step three. If the grievance is not resolved at step two, the student may within ten working days of receipt of the written response, provide the appropriate copy of the student

grievance form and a written appeal, accompanied by documents and correspondence, to the vice-president for student services.

(a) The vice-president for student services shall hear the grievance within ten working days after receipt of the written appeal and shall render a decision in writing within ten working days after such hearing concludes.

(b) The student shall be afforded an adequate and fair opportunity to fully present his/her position and the relevant facts and issues to be addressed in the grievance.

(c) The decision of the vice-president for student services shall be final and binding on all parties involved in the grievance.

(d) Any settlement of the grievance shall be applicable to that grievance only and shall not be a precedent or have binding effect or disposition on any other grievances of similar nature.

NEW SECTION

WAC 495A-121-092 Records. The vice-president for student services shall keep all written statements or transcripts associated with the complaint as part of the files. The files will be destroyed after six years from the initiation of the complaint.

NEW SECTION

WAC 495A-121-093 Time limits on filing a complaint. The student must file a complaint within one quarter of the event, which caused the grievance to be filed. The vice-president for student services may suspend this rule under exceptional circumstances such as extended illness, or a leave of absence. No complaints will be considered after two quarters of the occurrence of the source of the grievance. When either party to the complaint is no longer present at the college and does not expect to return, the vice-president will give the absent party reasonable opportunity to reply to the complaint before making a decision.

NEW SECTION

WAC 495A-121-094 Grievances excluded. (1) The student grievance procedure described in this section is not intended to cover complaints of discrimination or sexual harassment. The college has separate, specific procedures for such complaints. See the vice-president for human resources for information on those specific procedures.

(2) A student may not use the provisions of these sections as the basis for filing a grievance based on the outcome of summary or other disciplinary proceedings described in earlier sections of this student rights and responsibilities code or for resolution of specific categories of student complaints where other procedures are required.

(3) Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community and technical colleges or the board of trustees of Bates Technical College District No. 28 shall not be grievable matters.

WSR 00-11-148
PERMANENT RULES
BATES TECHNICAL COLLEGE

[Filed May 24, 2000, 9:13 a.m.]

Date of Adoption: April 19, 2000.

Purpose: Chapter 495A-120 WAC was [the] student code, is being replaced by chapter 495A-121 WAC, Student rights and responsibilities.

Citation of Existing Rules Affected by this Order: Repealing chapter 495A-120 WAC.

Statutory Authority for Adoption: RCW 28B.50.140(10).

Adopted under preproposal statement of inquiry filed as WSR 00-01-130 [00-01-130] on December 20, 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed All [25].

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.

May 23, 2000

Jon G. Thorpe

Director of College Operations

WSR 00-11-149

PERMANENT RULES
SOUTHWEST AIR

POLLUTION CONTROL AUTHORITY

[Filed May 24, 2000, 9:14 a.m.]

Date of Adoption: May 4, 2000.

Purpose: To update SWAPCA 491 to be consistent with chapter 173-491 WAC and to incorporate language similar to that adopted by Oregon DEQ for gasoline marine vessel loading and unloading vapor control requirements and to incorporate annual air-to-liquid testing on all vacuum assisted Stage II systems.

Citation of Existing Rules Affected by this Order: Amending SWAPCA 491-015, 491-020, 491-030, 491-040, and 491-050.

Statutory Authority for Adoption: RCW 70.94.141.

Other Authority: RCW 70.94.165.

Adopted under notice filed as WSR 00-06-005 on February 18, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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.

May 22, 2000

Robert D. Elliott
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 00-12 issue of the Register.

WSR 00-11-169
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed May 24, 2000, 9:35 a.m.]

Date of Adoption: April 7, 2000.

Purpose: This rule sets requirements for obtaining certified copies of birth certificates. The rule codifies policies for releasing confidential and nonidentified vital record data files. The rule is intended to deter fraudulent acquisition of birth certificates by imposters intent on using this information for criminal purposes.

Statutory Authority for Adoption:

Adopted under notice filed as WSR 00-05-098 on February 16, 2000.

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 6, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, 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 6, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 23, 2000

M. C. Selecky
Secretary

NEW SECTION

WAC 246-490-010 Definitions. (1) "Department" means the department of health.

(2) "Human research review board" is a standing institutional review board operating under state law, chapter 42.48 RCW.

(3) "Confidential portion of the birth and fetal death certificates" means pertinent information relative to the birth and manner of delivery as specified in WAC 246-491-029.

(4) "Local registrar and their deputies" are those local officials operating under the direction and control of the state registrar. The health officer within each local health jurisdiction is the local registrar in and for the primary registration district under his or her supervision. His or her designees are deputy registrars.

(5) "Personal identifiers" are names, addresses, social security numbers and any other information that reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(6) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit, health care delivery or medical or social service programs.

(7) "Scientific merit" describes a research project or statistical study that is based on methods of data collection or analysis that are objective, can be replicated, and are designed to yield reliable and valid results.

(8) "State registrar" is the department of health official charged with the execution of the provisions of chapter 70.58 RCW.

(9) "Statistical study" means any project consisting of or based on assembling, classifying, and/or tabulating numerical data to present significant information about a given subject.

(10) "Vital records" means records of birth, death, fetal death, marriage, dissolution, annulment, and legal separation, maintained under the supervision of the state registrar of vital statistics.

VITAL RECORDS FOR RESEARCH PURPOSES OR STATISTICAL STUDY

NEW SECTION

WAC 246-490-020 Requesting vital records information without personal identifiers. (1) If you request vital records information without personal identifiers for research purposes or statistical study or if the state registrar determines that your research or statistical study does not require the use of personal identifiers, you will receive the vital records information in a format specified by the department.

(2) You may be required to sign an agreement requiring you to:

(a) Not release the vital records data files or listings to any third party without prior written approval of the state registrar; and

(b) Pay for charges based on actual costs associated with the preparation of the data files or analyses required to fulfill your request.

(3) If you are requesting birth or fetal death certificate confidential information without personal identifiers, you will be required to sign a written agreement, which includes:

(a) Conditions for the use of the birth or fetal death certificate data;

(b) Conditions for safeguarding the confidentiality of the records including limits on reporting results that may reveal personal identities;

(c) Appropriate citations for use in research reports or publications of research findings; and

(d) An estimate of the costs for preparing the analyses or copies of data files maintained by the state registrar.

(4) Your request may be denied if:

(a) The department does not have adequate resources with which to fulfill the request; or

(b) You do not agree to pay for charges associated with the preparation of the data or analyses required to fulfill your request.

NEW SECTION

WAC 246-490-030 Requesting a listing or file of vital records with personal identifiers. (1) If you request access to vital records with personal identifiers for research purposes or statistical study, you shall be required to submit a letter of request to the state registrar stating:

(a) The purpose of the research;

(b) Research study design and analysis plan;

(c) The means for ensuring the confidentiality and security of the records;

(d) The time frame and geographic area of interest;

(e) The variable(s) needed; and

(f) The preferred time frame for receiving the information.

(2) You may be required to sign an agreement requiring you to:

(a) Not release the vital records data files or listings to any third party without prior written approval of the state registrar; and

(b) Pay for charges based on actual costs associated with the preparation of the data files or analyses required to fulfill your request.

(3) If you are requesting birth or fetal death certificate confidential information with personal identifiers for research purposes, you must obtain approval from the standing human research review board as specified in chapter 42.48 RCW. Application information is available through the department.

(4) Your request may be denied if:

(a) The information requested will be used for a commercial purpose;

(b) Your research proposal or statistical study is without scientific merit;

(c) The department does not have adequate resources with which to fulfill the request; or

(d) You do not agree to pay for charges associated with the preparation of the data or analyses required to fulfill your request.

INDIVIDUAL BIRTH CERTIFICATES FOR PERSONAL PURPOSES

NEW SECTION

WAC 246-490-055 Obtaining a birth certificate. (1) Certified copies of birth certificates are available through the state registrar or local deputy registrar. You must pay the fee required under RCW 70.58.107 and provide the following information to obtain the birth certificate:

(a) Child's full name;

(b) Child's date of birth;

(c) Child's place of birth (city or county);

(d) Father's full name, if it appears on the record; and

(e) Mother's full maiden name.

(2) If there is not sufficient information to find the record, the department will send you a written request for additional information and the entire fee will be returned to you.

(3) If you cannot provide sufficient information due to special circumstances, you will be given an opportunity to explain the circumstances to the state or local deputy registrar. If in their judgment, these circumstances would have prevented you from knowing one or more of the required items, your request will be honored.

NEW SECTION

WAC 246-490-065 Notification when the record is not found. (1) If the state registrar cannot find the record, you will receive written notice from the state registrar's office including the following information:

A partial refund if you request it in writing within thirteen months of the original request date. In addition:

(a) You may request another search providing different information; or

(b) You may file a delayed birth certificate per RCW 70.58.110 and 70.58.120.

(2) If you request another search using different information, you must pay the full statutory required fee.

NEW SECTION

WAC 246-490-070 Fraudulently registered or changed birth certificates. (1) If the state registrar receives information that a birth certificate may have been registered or amended through fraud or misrepresentation, neither the state registrar nor local deputy registrars will release copies of that certificate until an informal administrative hearing is held.

(2) The department will notify the registrant or authorized representative, and he or she will have the opportunity to be heard at the hearing.

(a) If the state registrar finds that there was no fraud or misrepresentation, the record will be made available for inspection and copying.

(b) If the state registrar finds that the record was used fraudulently or was misrepresented, the registrar will tag the fraudulent birth certificate in the data base. The record and evidence will be retained, but will not be released or subject to inspection unless:

(i) A court of competent jurisdiction orders the release or inspection of the record; or

(ii) The state registrar utilizes the record for purposes of administering the vital statistics program.

WSR 00-11-176
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-81—Filed May 24, 2000, 11:06 a.m.]

Date of Adoption: April 7, 2000.

Purpose: Temporarily reduces the amount charged as a transaction fee from 10% to 9.5% to correspond with the transaction fee costs needed to reimburse the contractor for providing automated license vending services to the Department of Fish and Wildlife.

Citation of Existing Rules Affected by this Order: Amending WAC 220-55-180.

Statutory Authority for Adoption: RCW 77.32.050.

Adopted under notice filed as WSR 00-06-043 on February 28, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 24, 2000

Debbie Nelson

for Kelly White, Chair

Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 99-234, filed 12/30/99, effective 1/30/00)

WAC 220-55-180 Point-of-sale transaction fee. The point-of-sale transaction fee shall be used to operate an automated recreational licensing system. This fee shall be applied

to all automated licensing system purchases of recreational hunting and fishing licenses and if authorized by the commission pursuant to RCW 77.32.450(2), automated license system fees paid for second animals ((if authorized by the commission pursuant to RCW 77.32.450(2))). The transaction fee shall be ten percent of the value of the license transaction, excluding any applicable dealer fees except that for the period July 1, 2000, through June 30, 2006, the transaction fee shall be nine and one-half percent of the value of the license transaction, excluding any applicable dealer fee.

WSR 00-11-177
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-82—Filed May 24, 2000, 11:07 a.m.]

Date of Adoption: April 7, 2000.

Purpose: Amends the fee charged for the two-consecutive-day combination fishing license.

Citation of Existing Rules Affected by this Order: Amending WAC 220-55-170.

Statutory Authority for Adoption: RCW 77.32.470(5).

Adopted under notice filed as WSR 00-06-042 on February 28, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 24, 2000

Debbie Nelson

for Kelly White, Chair

Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 99-233, filed 12/30/99, effective 4/1/00)

WAC 220-55-170 Reduced rate combination temporary fishing and shellfish license. There is hereby created a combination temporary fishing and shellfish license that is valid for two consecutive days and allows the holder to fish for and possess fish and shellfish taken from state and offshore waters. The fee for this license is ~~((nine))~~ six dollars for both residents and nonresidents ~~((until April 1, 2001, when the fee for this license would be nine dollars for residents and~~

twelve dollars for nonresidents)). This license is not valid for game fish species for an eight-consecutive-day period beginning on the opening day of the lowland lake fishing season.

**WSR 00-11-178
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-80—Filed May 24, 2000, 11:09 a.m.]

Date of Adoption: April 7, 2000.

Purpose: The implementation of an automated licensing system.

Citation of Existing Rules Affected by this Order: Amending WAC 220-55-005, 220-55-010, 220-55-015, 220-55-070, 220-55-105, 220-55-110, 220-55-115, 220-56-175, and 220-69-236.

Statutory Authority for Adoption: RCW 77.32.050.

Adopted under notice filed as WSR 00-06-084 on March 1, 2000.

Changes Other than Editing from Proposed to Adopted Version: New section WAC 220-55-130 changed to WAC 220-55-132 due to clerical error.

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 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 24, 2000

Debbie Nelson

for Kelly White, Chair

Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

WAC 220-55-005 Recreational license. A recreational license is a license document or a valid internet or telephone authorization number issued by the department ~~((and in the case of a shellfish seaweed license consists of the license and shellfish validation tag))~~. The license document is invalid unless the personal identification information on the license has been completed and the 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-consecu-

tive days for which it is valid are entered, in permanent ink, on the stamp.

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

WAC 220-55-010 Recreational shellfish and seaweed ~~((validation tag))~~ license. The recreational ~~((personal use shellfish and seaweed validation tag))~~ license shall be provided with an opening for attachment or display on outer clothing. The ~~((validation))~~ license must be displayed on outer clothing while harvesting or transporting shellfish and seaweed in the field.

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

WAC 220-55-015 Valid recreational license required. ~~((+))~~ It is unlawful for any person required to have a recreational license to take or possess fish, shellfish, seaweed, or wildlife for personal use without having in physical possession a valid license or a valid internet or telephone authorization number.

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

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 recreational license for the 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 recreational license, if a license is required, and the personal information has been entered on the catch record card as required under WAC 220-56-175, or, if an automated license is issued, the catch record card has attached to it a validation sticker containing the name and license number.
- (3) The license issuance date is legible and not altered, and the license has not been mutilated.

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

WAC 220-55-105 Requirements of recreational license dealers. (1) The director ~~((or his/her designee))~~ ~~((deputize))~~ contract with persons, firms or corporations as license dealers in such numbers as deemed necessary for the purpose of issuing licenses, permits, tags, stamps and ~~((punchcards))~~ catch record cards.

(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

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this rule may be granted by the director (~~or his/her designee upon written appeal~~).

(3) An Internet or Interactive Voice Response (IVR) telephone firm or corporation may be designated by the director as a license dealer. Internet or IVR dealers are not required to have a type of business that supports hunting and fishing activities.

(4) All moneys collected from the sale of hand processed 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))~~ (5) All moneys collected from the sale of automated licenses, and other automated department property must be deposited into an electronic funds transfer account (EFT) of a type approved by the state treasurer's office where they shall be collected on a weekly basis on a schedule set by the department and the state treasurer's office.

(6) 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))~~ (7) License dealers who remit payments for hand processed licenses and other documents 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.

(8) For licenses sold via an automated system, license dealers must have sufficient funds in their EFT account to cover all licenses and other department property sold during the previous business week (12:01 a.m. Sunday until 11:59 p.m. Saturday) when funds are collected electronically per the announced schedule. If the amount due has not been paid on the date of the next scheduled collection from the account, the automated license terminal will be disabled and authorization to sell licenses will be withheld until all balances due have been paid. If there are insufficient funds in the account on more than three occasions in one license year, the dealer may lose their license dealership. "One license year" is defined as beginning on April 1 and ending on March 31 of the following year.

(9) License dealers using an automated licensing system are required to maintain and deposit license revenue into accounts established in banks designated as public depositories by the Public Deposit Protection Commission.

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

WAC 220-55-110 Temporary ~~((fishing)) fish-shellfish-seaweed license and temporary hunting license ~~((and catch record card))~~~~—License dealer issuance duties.

~~((1))~~ A recreational license dealer must, at the time of sale of a ~~((temporary)) two-consecutive-day combination~~ fishing or three-consecutive-day small game license, write the validation date in ink on the license document, or for automated licenses, attach the validation sticker containing the validation date(s) onto the license document. The validation date is the first day on which a licensee may fish for, harvest or possess fish, shellfish, seaweed, or wildlife.

~~((2)) A 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 Order 99-129, filed 8/17/99, effective 9/17/99)

WAC 220-55-115 Recreational license dealer's fees.

License dealers may charge a license issuance fee as follows:

(1) Two dollars for the issuance of any of the following fishing licenses:

- (a) A combination license.
- (b) A saltwater license.
- (c) A freshwater license.

(d) A temporary fishing license ~~((when issued in the form of a standard recreational fishing license document)).~~

(e) A family fishing weekend license.

~~((f)) A personal use shellfish and seaweed license when issued in the form of a standard recreational fishing license document.~~

~~((g)) Notwithstanding the provisions of this subsection, if any two or more licenses are issued on the same standard recreational fishing license document, the license issuance fee for the document is two dollars.~~)

(2) Two dollars for the issuance of any of the following hunting licenses:

- (a) A big game combination license.
- (b) A small game license.
- (c) A three-consecutive day small game license.

~~((d)) Notwithstanding the provisions of this subsection, if any two or more licenses are issued on the same standard recreational hunting license document, the license issuance fee for the document is two dollars.~~)

(3) Two dollars for the issuance of a fish and wildlife lands vehicle use permit when issued separately from an annual freshwater, saltwater or combination fishing license, or separately from an annual small game hunting license, big game combination license, or trapping license. ~~((Notwithstanding the provisions of this subsection, if the fish and wildlife lands vehicle use permit is issued with any other license issued in the form of a standard recreational hunting or fishing license document, the license issuance fee for the document is two dollars.))~~

(4) One dollar for the issuance of ~~((any of the following shellfish and seaweed licenses or tags:~~

~~((a)) a personal use shellfish and seaweed license ~~((when issued in the form of a wearable license:~~~~

~~((b)) A wearable shellfish tag issued with a combination fishing license.~~

~~(c) A wearable shellfish tag issued with a personal use shellfish and seaweed license when the license is issued in the form of a standard recreational fishing license document.~~

~~(d) A two day personal use shellfish and seaweed license).~~

(5) Notwithstanding the provisions of this section, if any two or more licenses are issued at the same time, or the fish and wildlife lands vehicle use permit is issued with any recreational license, the license issuance fee for the document is two dollars.

(6) Fifty cents for the issuance of any of the following:

(a) A deer, elk, bear, cougar, mountain goat, mountain sheep, moose, or turkey transport tag.

(b) A temporary fishing license when issued as a charter stamp.

(c) A state of Washington migratory bird stamp.

(d) A Western Washington pheasant permit.

(e) An application for a special permit hunt.

NEW SECTION

WAC 220-55-132 Migratory bird validations and stamps. (1) When using an automated licensing system, the migratory bird stamp required by RCW 77.32.350(1) shall be considered as part of the license validation sticker attached to the generic license document. A person who obtains a migratory bird stamp in the form of a validation sticker may obtain a state migratory bird stamp free of charge upon request at the time of purchase.

(2) Collectors and other persons may purchase one or more migratory bird stamps without purchasing a small game hunting license.

(3) When issued a validation sticker, the signature of the hunter on the license document shall validate the license.

AMENDATORY SECTION (Amending Order 00-29, filed 3/29/00, effective 5/1/00)

WAC 220-56-175 Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) In order to fish for or possess for personal use any crab, anadromous salmon, sturgeon, halibut taken from Catch Record Card Areas 5 through 13, or steelhead, an angler must obtain and have in personal possession ~~((the))~~ a valid appropriate catch record card as described in WAC 220-69-236 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, ~~((when))~~ after obtaining a catch record card shall validate the catch record card by completely, accurately, and legibly ~~((complete))~~ completing all personal identification information in ink on the catch record card prior to detaching the catch record card from the underlying copy of the catch record card or, for automated licenses, affixing the appropriate validation sticker to the catch record card.

(3) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, the angler shall enter in ink in

the appropriate space the place, date of catch, species (catch type), for sturgeon, length and, for halibut, vessel type.

(4) Immediately upon retaining a Dungeness crab aboard a vessel or on the shore, the fisher must enter in ink in the appropriate space the place and date of catch, fishery type and enter a tally mark for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher shall enter the total number of crab tally marks for each fishery type.

(5) Every person possessing a catch record card shall by April 30 of the year following the year printed on the card return such card to the department of fish and wildlife.

(6) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized department employee, exhibit said card to such officer or employee for inspection.

(7) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

AMENDATORY SECTION (Amending Order 99-125, filed 8/13/99, effective 4/1/00)

WAC 220-69-236 Description of catch record cards and required information. (1) The department shall prepare and distribute catch record cards for the following:

(a) Anadromous salmon (salmon);

(b) Dungeness crab;

(c) Halibut taken from catch record card areas 5 through 13;

(d) Steelhead;

(e) Sturgeon taken from the Columbia River, Grays Harbor, and Willapa Bay (including sturgeon taken from any tributary).

(2) Each catch record card shall contain space for the following information, which must be recorded prior to the catch record card being separated from the underlying copy of the catch record card:

(a) Name of fisher;

(b) Home address;

(c) City, state, and zip code;

(d) Date of issuance;

(e) Or, for automated licenses, the catch record card shall contain space for the appropriate validation sticker.

(3) Each halibut, salmon, steelhead, and sturgeon catch record card shall contain space for the following information:

(a) Month of catch;

(b) Day of catch;

(c) Catch record card area, river code, or stream: Location of catch.

(4) Each salmon and sturgeon catch record card shall contain space for a species code.

(5) Each halibut catch record card shall contain space for designating the type of vessel from which the halibut was taken, either charter (c) or personal/kicker (k) boat.

(6) Each sturgeon catch record card shall contain space for the length of fish.

(7) Each Dungeness crab catch record card shall contain space for the following information:

(a) Month of catch;

(b) Date of catch;

- (c) Catch record card area;
- (d) Type of crab fishery as described on the Dungeness crab catch record card;
- (e) Total crab retained by fishery type;
- (f) Tally mark for each crab retained.

WSR 00-11-180
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
(Potato Commission)
[Filed May 24, 2000, 11:20 a.m.]

Date of Adoption: May 24, 2000.

Purpose: The amendments will (1) change the twelve-month period for the "marketing year" and "fiscal year," (2) reduce the number of signatures required on an election nomination petition, (3) correct an error in the three-year term rotation for positions 2 and 3; and (4) align the effective dates of office to correspond with the regular meeting dates fixed by resolution of the commission.

Citation of Existing Rules Affected by this Order: Amending WAC 16-516-010(9) and 16-516-020 (5) and (6)(a).

Statutory Authority for Adoption: RCW 15.66.020.

Adopted under notice filed as WSR 00-07-079 on March 15, 2000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 24, 2000

Pat Boss

Executive Director

Washington Potato Commission

AMENDATORY SECTION (Amending Marketing Order, Article I, effective 7/23/56)

WAC 16-516-010 Definitions. As used in this marketing order, the following terms shall have the following meanings:

- (1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative;
- (2) "Act" means the Washington Agricultural Enabling Act, being chapter 15.66 RCW;

(3) "Person" includes any individual, firm, corporation, trust, association, partnership, society or any other organization of individuals;

(4) "Producer" means any person who is engaged in the business of producing or causing to be produced for market in commercial quantities potatoes as herein defined grown in the state of Washington;

(5) "Commercial quantities" shall mean and include five hundredweight or more;

(6) "Hundredweight" or "affected unit" are synonymous and mean and include each one hundred pound unit or any combination of packages making a one hundred pound unit of potatoes;

(7) "Potatoes" means and includes all kinds and varieties of Irish potatoes grown in the state of Washington and marketed, sold or intended for use for human consumption;

(8) "Potato commission" or "commission" are synonymous and mean the commission established pursuant to the provisions of WAC 16-516-020;

(9) "Marketing season" or "fiscal year" are synonymous and mean the twelve month period beginning (~~June~~) July 1 of any year and ending upon the last day of (~~May~~) June, both dates inclusive;

(10) "Handler" means any person engaged in the business of handling, selling, processing, storing, shipping, or distributing potatoes which he has purchased or acquired from a producer, or which he is shipping for or on behalf of a producer, and shall include any lending agencies for commodity credit corporation loan to producers, but shall not include a producer engaged in transporting potatoes produced by him for grading, washing, sorting, sacking, or otherwise preparing for marketing or market;

(11) "Sale" means a transaction wherein the property in or to potatoes is transferred from the producer to a purchaser for consideration. "Sale" shall also include an agreement to acquire such property for a consideration;

(12) "Affected area" or "area of production" are synonymous and mean and include all of the state of Washington.

(13) "District" means the geographical divisions of the area of potato production established pursuant to the provisions of WAC 16-516-020.

AMENDATORY SECTION (Amending Order 1684, filed 4/28/80, effective 6/1/80)

WAC 16-516-020 Potato commission. (1) Establishment and membership. A potato commission is hereby established to administer this marketing order which shall be composed of nine members who shall be producers elected from districts as provided in subsection (2) of this section and four members who shall be appointed by the elected producer members. In addition, the director shall be an ex officio member of the commission.

(2) Representative districts. For the purpose of nomination and selection of producer members of the commission, the affected area of the state of Washington shall be divided into five representative districts as follows:

- (a) "District No. 1" shall be the east irrigation district of the Columbia project, plus the area of Grant County not included in either the Quincy or south irrigation districts and

lies east of R27E, plus the area of Adams County not included in either the south or Quincy irrigation districts, plus the counties of Ferry, Stevens, Pend Oreille, Spokane, Whitman and Lincoln.

(b) "District No. 2" shall be the Quincy irrigation district of the Columbia Basin project, plus the area of Grant County not included in the east or south irrigation districts and lies west of R28E, and the counties of Kittitas, Douglas, Chelan and Okanogan.

(c) "District No. 3" shall be and include the counties of Benton, Yakima and Klickitat.

(d) "District No. 4" shall be the south irrigation district of the Columbia Basin project, plus the areas of Franklin County not included in the south district, plus the counties of Walla Walla, Columbia, Garfield and Asotin.

(e) "District No. 5" shall be and include all other counties in the state of Washington.

(3) Membership. Producer members shall be elected from the districts as follows:

(a) Two of the producer members, being positions 1 and 2 shall be elected from District No. 1.

(b) Two of the producer members, being positions 3 and 4, shall be elected from District No. 2.

(c) Two of the producer members, being positions 5 and 6, shall be elected from District No. 3.

(d) Two of the producer members, being positions 7 and 8, shall be elected from District No. 4.

(e) One of the producer members, being position 9, shall be elected from District No. 5.

Members appointed by the elected producers shall be appointed for positions 10, 11, 12 and 13.

(4) Membership qualifications. Commission members shall be citizens and residents of this state, over the age of twenty-five years. Producer members of the commission shall be producers of potatoes in the district in and for which they are nominated and elected. The qualifications of producer members of the commission as herein set forth must continue during their term of office. Members appointed by the elected producers shall be either potato producers, others active in matters relating to potatoes or persons not so related.

(5) Term of office(~~(; initial commission)~~). The term of office of the commission members shall be three years from the date of their election and until their successors are elected and qualified(~~(; Provided, That the initial)~~). Commencing on July 1, 2000, the term of office for members of the commission shall (~~(serve from the effective date of this marketing order in terms terminating)~~) be as follows: Positions 1, 5 and 7 shall terminate (~~(May 31, 1957)~~) June 30, 2002; positions (~~(2)~~) 3, 4 and 6 shall terminate (~~(May 31, 1958)~~) June 30, 2003; and positions (~~(3)~~) 2, 8 and 9 shall terminate (~~(May 31, 1959)~~) June 30, 2001. Appointed members for positions 10 and 11 shall terminate their terms (~~(May 31, 1957)~~) June 30, 2002; position 12 shall terminate (~~(May 31, 1958)~~) June 30, 2003; and position 13 shall terminate (~~(May 31, 1959)~~) June 30, 2001. The appointed members of the (~~(initial)~~) commission shall be elected by a majority of the elected commissioners (~~(at the first meeting of said commission)~~).

(6) Nomination and election of commission members.

(a) Not earlier than February 16 and not later than March 2 of each year, the director shall give notice by mail to all pro-

ducers, in a district wherein a vacancy will occur in the commission of such vacancy or such vacancies and call for nominations. Nominating petitions shall be signed by (~~(ten)~~) five persons qualified to vote for such candidates. Such notice shall state the final date for filing said petitions which shall be not earlier than March 7 and not later than March 12 of each year.

(b) The director shall submit ballots by mail to all producers in the district wherein the vacancy will occur not earlier than March 17 and not later than April 1 of each year. Ballots shall be returned not later than May 1 of such year. Such mailed ballot shall be conducted in a manner so that it shall be a secret ballot in accordance with rules and regulations to be promulgated by the director.

(c) With respect to the initial potato commission, the director shall call for nominations in the notice of his decision following the hearing designated in the act. The ballot specified herein shall be forwarded to the producer at the time the director's proposed marketing order is mailed to the producers for their referendum assent.

(d) Except with respect to the initial potato commission, the members of the commission not elected by the producers shall be elected by a majority of the commission within ninety days prior to the expiration of the term.

(7) Vacancies.

(a) To fill any vacancy occasioned by the failure to qualify of any person elected by the producers as a member of the commission, or in the event of the death, removal, resignation or disqualification of any member, the director shall call for nominations and conduct such election within the district wherein the vacancy occurred in the manner provided in subsection (6) of this section.

(b) To fill nonelective vacancies caused by other reasons than the expiration of the term, the new members shall be elected by the commission at its first meeting after the occurrence of the vacancy.

(8) Powers and duties of commission. The commission shall have the following powers and duties:

(a) To administer, enforce, direct and control the provisions of this marketing order and of the act relating thereto;

(b) To elect a chairman and such other officers as the commission may deem advisable; and to select subcommittees of commission members;

(c) To adopt, rescind, and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under this marketing order;

(d) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(e) To acquire personal property and lease office space and other necessary real property and transfer and convey the same;

(f) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of the act and of this marketing order;

(g) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the department and other legal agencies of the state and make annual reports therefrom to the state auditor;

(h) To borrow money and incur indebtedness;

(i) To make necessary disbursements for routine operating expenses;

(j) To collect the assessments of producers as provided in this marketing order and to expend the same in accordance with and to effectuate the purposes of the act and this marketing order;

(k) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this marketing order during each fiscal year;

(l) To accept and receive gifts and grants and expend the same to effectuate the purposes of the act and this order;

(m) To exercise such other powers and perform such other duties as are necessary and proper to effectuate the purposes of the act and of this order.

(9) Procedure for commission.

(a) The commission shall by resolution establish a headquarters which shall continue as such unless and until so changed by the commission, at which headquarters shall be kept the books, records and minutes of the commission meetings.

(b) The commission shall hold regular meetings at least quarterly, with the time and date thereof to be fixed by the resolution of the commission.

(c) The commission may hold such special meetings as it may deem advisable and shall establish by resolution the time, place and manner of calling such special meetings with reasonable notice to the members: Provided, That the notice of any special meeting may be waived by a waiver thereof signed by not less than a quorum of the membership.

(d) Any action taken by the commission shall require the majority vote of the members present, provided a quorum is present.

(e) A quorum of the commission shall consist of at least eight members.

(f) No members of the commission shall receive any salary or other compensation from the commission, except that each member shall be paid a specified sum to be determined by resolution of the commission, which rate shall not exceed per day rate set by chapter 15.66 RCW for each day spent in actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together with subsistence and travel expense of the rate allowed by law to state employees.

(10) Limitation of liability of commission members and employees. Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission in the same manner as if it were a corporation and no liability for the debts or actions of the commission shall exist against either the state of Washington or any subdivision or instrumentality thereof or against any other commission established pursuant to the act or the assets thereof or against any member officer, employee or agent of the commission in his individual capacity. The members of the commission, including employees thereof, shall not be held responsible individ-

ually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of the commission. The liability of the members of the commission shall be several and not joint and no member shall be liable for the default of any other member.



WSR 00-11-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-63—Filed May 4, 2000, 8:01 a.m.]

Date of Adoption: May 3, 2000.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-04000R, 220-52-04000S, and 220-52-04600A; and amending WAC 220-52-040 and 220-52-046.

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: Recent state and tribal crab test fishing indicate that the overall crab shell condition in this area meet the criteria to conduct crab harvest by pot gear and there is a harvestable surplus of crab in the area opened by this regulation. A reduced pot limit is necessary to avoid exceeding the allocation. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 3.

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.

May 3, 2000

Evan Jacoby

for Jeff P. Koenings
 Director

NEW SECTION

WAC 220-52-04000S Commercial crab fishery—25 pot per license limit for May 11 opening. Notwithstanding the provisions of WAC 220-52-040, effective 10:00 a.m. May 11, until 10:00 a.m. May 12, 2000, it is unlawful for any person to take or fish for crab for commercial purposes in the Puget Sound licensing district using, operating, or controlling any more than an aggregate total of 25 shellfish pots or ring nets. This limit shall apply to each license. However, this shall not preclude a person holding two Puget Sound crab

licenses from designating and using the licenses from one vessel as authorized by RCW 75.28.048(4).

NEW SECTION

WAC 220-52-04600A Commercial crab fishery—Areas and seasons. Notwithstanding the provisions of WAC 220-52-046, effective 10:00 a.m. May 11, until 10:00 a.m. May 12, 2000, it is lawful to fish for Dungeness crab for commercial purposes from the following Marine Fish/Shellfish Catch Reporting Areas:

(1) Marine Fish/Shellfish Catch Reporting Area 24B, except those waters inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayack Point, thence east to shore remain closed.

(2) That portion of Marine Fish/Shellfish Catch Reporting Area 26A north of a line drawn from Possession Point on the southern tip of Whidbey Island to the shipwreck north of Picnic Point. Those waters south and east of a line projected from the 3A buoy at the Snohomish River mouth to the outermost tip of the ferry dock at Muckilteo remain closed.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04000R	Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. Exceptions to Permanent Rules. (99-14)
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The following sections of the Washington Administrative Code are repealed effective 10:01 a.m. May 12, 2000:

WAC 220-52-04000S	Commercial crab fishery—25 pot per license limit.
WAC 220-52-04600A	Commercial crab fishery—Areas and seasons.

WSR 00-11-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-66—Filed May 4, 2000, 8:04 a.m.]

Date of Adoption: May 3, 2000.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 232-12-61900M; and amending WAC 232-12-619.

Statutory Authority for Adoption: RCW 77.12.040 and 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: This rule implements recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council, and is interim until permanent rules take effect.

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.

May 3, 2000

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 232-12-61900M Exceptions to statewide rules—Wind River. Notwithstanding the provisions of WAC 220-56-205, Chapters 220-57 and 220-57A WAC and WAC 232-28-619 effective immediately through June 30, 2000 nonbuoyant lure restriction and night closure in the Wind River from the Burlington Northern Railroad Bridge to High Bridge.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 30, 2000:

WAC 232-12-61900M Exceptions to statewide rules—Wind River.

WSR 00-11-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-51—Filed May 5, 2000, 8:15 a.m., effective May 15, 2000, 12:01 a.m.]

Date of Adoption: May 4, 2000.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-16000W, 220-57-16000X and 232-28-61900J; and amending WAC 220-57-160.

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: 1999 Brood Wells stock, ESA listed steelhead that we are protecting will not longer be in the area. Hatchery planted spring chinook are returning in excess broodstock requirements. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 15, 2000, 12:01 a.m.

May 4, 2000

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-57-16000X Columbia River—Ringold. Notwithstanding the provisions of WAC 220-57-160, effective 12:01 a.m. May 15, 2000 through July 31, 2000, it is lawful to fish in those waters of the Columbia River adjacent to Ringold Hatchery from WDFW markers 1/4 mile downstream of the Ringold wasteway outlet to WDFW markers 1/2 mile upstream of Spring Creek. Fishing only from the bank on the hatchery side of the river. Daily limit of two salmon, not less than 12 inches in length.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m. May 15, 2000:

- WAC 220-57-16000W Columbia River—Ringold closure. (00-35)
- WAC 232-28-61900J Exceptions to statewide rules—Columbia River. (00-35)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 31, 2000:

- WAC 220-57-16000X Columbia River—Ringold.

WSR 00-11-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-65—Filed May 5, 2000, 3:01 p.m., effective May 7, 2000, 12:01 a.m.]

Date of Adoption: May 5, 2000.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500M; and amending WAC 220-56-255.

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: This regulation is needed to bring state regulations for recreational halibut in conformance to federal regulations. The federal regulations were adopted on March 20, 2000, and modified on May 3, 2000. 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: May 7, 2000, 12:01 a.m.

May 5, 2000

J. P. Koenings

Director

NEW SECTION

WAC 220-56-25500N Halibut—Seasons—Daily limits. Notwithstanding the provisions of WAC 220-56-255, effective 12:01 am on May 7, 2000, until further notice, it is unlawful to fish for or possess halibut taken for personal use except as provided for in this section:

(1) Catch Record Card Area 1: Open immediately until further notice. Minimum size 32 inches in length. The daily limit is the first halibut 32 inches in length or greater brought aboard the vessel.

(2) Catch Record Card Area 2:

(a) Waters south of the Queets River, north of 47°N and east of 124°40'W: Open immediately until further notice.

(b) All other open waters in Area 2: Open immediately until further notice, except closed 12:01 a.m. each Friday through 11:59 p.m. each Saturday.

(c) The daily bag limit is one halibut with no length restrictions

(3) Catch Record Card Areas 3 and 4:

(a) Open immediately until further notice, except closed 12:01 a.m. each Sunday through 11:59 p.m. each Monday and in the closed waters of a rectangle defined by the following four corners: 48°18'N, 125°11'W; 48°18'N, 124°59'W; 48°04'N, 125°11'W; 48°04'N, 124°59'W

(b) The daily bag limit is one halibut with no length restrictions.

(4) Catch Record Cards 5 through 13:

(a) Open May 25 through July 27, 2000, except closed 12:01 a.m. each Tuesday through 11:59 p.m. each Wednesday.

(b) The daily bag limit is one halibut with no length restrictions.

(5) Any halibut landed in a Washington port must meet the regulations in effect for the port of landing, regardless of area of catch. This provision does not apply to halibut lawfully caught in Canadian waters and landed at a port in Washington.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 7, 2000:

- WAC 220-56-25500M Halibut—Seasons—Daily limits. (00-60)

WSR 00-11-024
EMERGENCY RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION

[Filed May 9, 2000, 1:28 p.m.]

Date of Adoption: May 9, 2000.

Purpose: To give designated staff members the authority to assign cases and to take various actions in the processing of unfair labor practice cases, including issuing preliminary rulings, deficiency notices, orders of dismissal, deferral rulings, and orders on motions to amend complaints.

Citation of Existing Rules Affected by this Order: Amending WAC 391-45-070, 391-45-110, and 391-45-130.

Statutory Authority for Adoption: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050.

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: Amendments are necessary to implement a reorganization designed to promote efficiency (RCW 41.58.005) and the general welfare of the public. The amendments allow the executive director to delegate his authority to designated staff members, in order to provide more efficient services to clientele.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 9, 2000

Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending WSR 90-06-074, filed 3/7/90, effective 4/7/90)

WAC 391-45-070 Amendment. ~~((Any))~~ (1) A complaint may be amended upon motion made by the complainant ~~((to the executive director or the examiner prior to the transfer of the case to the commission)), if:~~

(a) The proposed amendment only involves the same parties as the original complaint;

(b) The proposed amendment is timely under any statutory limitation as to new facts;

(c) The subject matter of the proposed amendment is germane to the subject matter of the complaint as originally filed or previously amended; and

(d) Granting the amendment will not cause undue delay of the proceedings.

(2) Motions to amend complaints shall be subject to the following limitations:

(a) Prior to the appointment of an examiner, amendment shall be freely allowed upon motion to the agency official responsible for making preliminary rulings under WAC 391-45-110;

(b) After the appointment of an examiner but prior to the opening of an evidentiary hearing, amendment may be allowed upon motion to the examiner and subject to due process requirements;

(c) After the opening of an evidentiary hearing, amendment may only be allowed to conform the pleadings to evidence received without objection, upon motion made prior to the close of the evidentiary hearing.

(3) Where a motion for amendment is denied, the proposed amendment shall be processed as a separate case.

AMENDATORY SECTION (Amending WSR 98-14-112, filed 7/1/98, effective 8/1/98)

WAC 391-45-110 Deficiency notice—Preliminary ruling ~~((by executive director))—Deferral to arbitration.~~ The executive director or a designated staff member shall determine whether the facts ~~((as))~~ alleged in the complaint may constitute an unfair labor practice within the meaning of the applicable statute.

(1) If ~~((it is determined that))~~ the facts ~~((as))~~ alleged do not, as a matter of law, constitute a violation, ~~((the executive director shall issue and cause to be))~~ a deficiency notice shall be issued and served on all parties, identifying the defects and specifying a due date for the filing and service of an amended complaint. If the defects are not cured in a timely manner, an order ~~((of dismissal containing))~~ shall be issued and served, dismissing the defective allegation(s) and stating the reasons for that action. Unless appealed to the commission under WAC 391-45-350, an order of dismissal issued under this subsection shall be the final order of the agency on the defective allegation(s), with the same force and effect as if issued by the commission.

(2) If ~~((the complaint is found to))~~ one or more allegations state a cause of action for unfair labor practice proceedings before the commission, ~~((the executive director shall set a period))~~ a preliminary ruling summarizing the allegation(s) shall be issued and served on all parties. The preliminary ruling shall establish the due date for the respondent to file its answer ~~((, which shall be ten days or more following the issuance of the preliminary ruling)).~~

(3) The agency may defer the processing of allegations which state a cause of action under subsection (2) of this section, pending the outcome of related contractual dispute resolution procedures, but shall retain jurisdiction over those allegations.

(a) Deferral to arbitration may be ordered where:

(i) Employer conduct alleged to constitute an unlawful unilateral change of employee wages, hours or working con-

ditions is arguably protected or prohibited by a collective bargaining agreement in effect between the parties at the time of the alleged unilateral change;

(ii) The parties' collective bargaining agreement provides for final and binding arbitration of grievances concerning its interpretation or application; and

(iii) There are no procedural impediments to a determination on the merits of the contractual issue through proceedings under the contractual dispute resolution procedure.

(b) Processing of the unfair labor practice allegation under this chapter shall be resumed following issuance of an arbitration award or resolution of the grievance, and the contract interpretation made in the contractual proceedings shall be considered binding, except where:

(i) The contractual procedures were not conducted in a fair and orderly manner; or

(ii) The contractual procedures have reached a result which is repugnant to the purposes and policies of the applicable collective bargaining statute.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-45-130 Examiner—Who may act. The executive director or a designated staff member shall assign an examiner to conduct further proceedings in the matter, and shall notify the parties of that assignment. The examiner may be a member of the agency staff or any other individual designated by the commission or executive director. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

WSR 00-11-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-64—Filed May 9, 2000, 4:13 p.m., effective May 15, 2000]

Date of Adoption: May 8, 2000.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-57-29000X; and amending WAC 220-57-290.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An abundant return of spring chinook salmon is forecast for the Columbia River during the year 2000. This abundance of fish will ensure that brood stock escapement goals are met at the Carson and Little White Salmon hatcheries. In addition and more specifically, approximately 15,000 spring chinook salmon are predicted to return to the Icicle River ensuring that the Leavenworth National Fish Hatchery will be able to collect the 1,000 fish

needed for brood stock. The remaining salmon in the Icicle River will be available for harvest by both the Yakima [Yakama] Indian Nation and nontribal anglers. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 15, 2000.

May 8, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-57-29000X Icicle River. Notwithstanding the provisions of WAC 220-57-290, effective May 15, 2000 through July 22, 2000 it is lawful to fish for salmon in those waters of the Icicle River from 400 feet downstream of the Leavenworth Hatchery to the mouth. Daily limit two salmon greater than 12 inches in length. Night closure and non-buoyant lure restrictions in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 22, 2000:

WAC 220-57-29000X Icicle River.

WSR 00-11-030
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-67—Filed May 9, 2000, 4:16 p.m.]

Date of Adoption: May 9, 2000.

Purpose: Amend subsistence fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-32-05500A and 220-32-05500B; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or

general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable surplus is projected in all hatchery tributaries based on pre-season forecasts and allows subsistence catch from the Columbia, Wind, White Salmon, and Klickitat rivers to be sold. Seasons were discussed with Yakama Indian Nation and Regions 2, 3 and 5 and is consistent with Compact Action of April 28, 2000, and conforms state and tribal 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 9, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-32-05500B Columbia River tributaries—

Subsistence. Notwithstanding the provisions of WAC 220-32-055 effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Wind River, White Salmon River, Klickitat River, Yakima River, Icicle River, Drano Lake and Ringold except under the following provisions:

1) The Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls is open 7 days per week immediately through June 24, 2000. From 200 feet above Shipperd Falls upstream to a marker 30 feet below the mouth of Tye Springs (the outlet stream for Carson National Fish Hatchery) is open 7 days per week from May 29 through June 24, 2000. Legal fishing gear are dipnets, setbag nets, and hook and line.

2) The White Salmon River from the mouth to Condit Dam is open 7 days per week immediately through June 17, 2000. Legal fishing gear are dipnets, setbag nets, and hook and line. Fishing is not allowed from boats or other floating devices. It shall be unlawful to place fishing platforms, or to take, molest, injure, or fish for salmon within 25 feet of any fish ladder, fishway, or fish bypass pipes. It shall be unlawful to leave a net in fishing position unattended.

3) The Klickitat River from the site of the former Swing-ing Bridge (RM 1.5) to Fishway Number 5 (RM 2.2) is open noon Tuesdays to 6:00 p.m. Saturdays of each week immediately to June 3, 2000. Legal fishing gear are dipnets, setbag nets, and hook and line. Fishing is not allowed from boats or other floating devices. It shall be unlawful to place fishing platforms, or to take, molest, injure, or fish for salmon within 25 feet of any fish ladder, fishway, or fish bypass pipes. It shall be unlawful to leave a net in fishing position unattended.

4) The Yakima River from Horn Rapids Dam to Wapato Dam fishing is open from noon Tuesdays to 6:00 p.m. Saturdays of each week immediately to July 29, 2000. Legal fishing gear are dipnets, setbag nets, and hook and line. Fishing is not allowed from boats or other floating devices. It shall be unlawful to place fishing platforms, or to take, molest, injure, or fish for salmon within 30 feet of any fish ladder, fishway, or fish bypass pipes.

5) Ringold. The waters of the Columbia River from a marker approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a marker approximately 1/4 mile downstream of Ringold wasteway outlet are open 7 days per week from May 15 through July 31, 2000 on the hatchery side of the river only. Legal fishing gear are dipnets, setbag nets, and hook and line. Fishing is not allowed from boats or other floating devices.

6) The Icicle River where it borders the property of the U.S. Fish and Wildlife National Fish Hatchery at Leavenworth is open from 9 p.m. Thursdays through 6 p.m. Saturdays, weekly immediately through July 22, 2000. Legal fishing gear are dipnets, and setbag nets. Fishing is not allowed from boats or any other floating devices. It shall be unlawful to place fishing platforms, or to take, molest, injure, or fish for salmon within 30 feet of any fish ladder, fishway, or fish bypass pipes.

7) Effective immediately through 6:00 p.m. Sunday May 28, 2000, fish caught in the Wind, White Salmon and Klickitat River may be sold.

8) Effective immediately through 6:00 p.m. Sunday May 28, 2000, spring chinook, shad and carp taken with dipnets, hoopnets, setbag nets or hook and line from the Columbia River may be sold.

9) All other fishing gear and methods, including snagging are unlawful.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500A Columbia River tributaries—
Subsistence. (00-62)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 1, 2000:

WAC 220-32-05500B Columbia River tributaries—
Subsistence.

WSR 00-11-036
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed May 10, 2000, 11:22 a.m.]

Date of Adoption: May 10, 2000.

Purpose: The department originally intended to move the information contained in WAC 388-86-067 Mental health center services, into another chapter. Due to an oversight, WAC 388-86-067 was repealed and the policy was not written into another WAC. The department is establishing new chapter 388-548 WAC, Mental health for all mental health-related services. The policy contained in WAC 388-86-067 is being renumbered and filed under WAC 388-548-0500 with no change to the wording. The department is filing a preproposal notice of inquiry at the same time as this emergency filing so that the policy may be permanently adopted.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 71.24.035.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: WAC 388-86-067 Mental health center services, was repealed in error. The policies contained in that rule regulate agencies that provide mental health or day health care services to medical assistance clients and are necessary in order for clients to receive appropriate services. The department is adopting the rule, unchanged from WAC 388-86-067, as new WAC 388-548-0500.

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.

Effective Date of Rule: Immediately.

May 10, 2000

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

Chapter 388-548 WAC

MENTAL HEALTH

NEW SECTION

WAC 388-548-0500 Mental health center services.

(1) The department shall provide mental health or day health care services to a cash assistance recipient under SSI, state supplement or AFDC and to an eligible recipient of a state funded continuing general assistance grant. A recipient of the limited casualty program may be provided mental health center services. The services provided through these agencies are not subject to the limitation on the number of visits under the provisions of WAC 388-86-095.

(2) Community mental health services provided shall be as specified in a contract between the department and the participating center.

(3) For the purposes of this section, community mental health center shall mean an agency or program which meets the following criteria:

(a) Is included as a part of the approved county mental health plan, or is approved by the department to hold a sub-contract from the area agency on aging to provide day health care.

(b) Receives state grant-in-aid funds as authorized by the Community Mental Health Services Act, chapter 71.24 RCW, and as described in WAC 388-850-025, or receives money through a contractual agreement with the area agency on aging for the provision of day health care.

(c) Provides treatment by, or under the direction of, a licensed doctor of medicine who has sufficient knowledge of the caseload and clinical program to be assured that the quality of the service is satisfactory.

(4) An agency or program must be either:

(a) An outpatient clinic, with its own governing body, administration and staff; or

(b) A county administered outpatient clinic; or

(c) A separate identifiable outpatient clinic of a general hospital or psychiatric inpatient facility; or

(d) An outpatient clinic with a residential component within its administrative structure; or

(e) A separate identifiable outpatient clinical program of an agency which has other service functions.

(5) Agencies which have functions in addition to outpatient care (see subsection (4)(c), (d), and (e) of this section) shall adhere to the following criteria:

(a) Specific staff are delineated to provide outpatient clinical services exclusively;

(b) Outpatient clinical records are separated from other service records of the agency;

(c) The center's accounting and bookkeeping procedures are such that:

(i) If the center has an existing contract, a review or audit finds that these procedures assure adequate fiscal accountability. Audits will be conducted by either the department or the office of the state auditor.

(ii) If an agency is applying for a contract, the application will be accompanied by a statement from a licensed or certified public accountant reflecting the accountant's

unqualified opinion of the adequacy, accuracy and accountability of the agency's records.

(6) The final decision regarding a mental health center's participation in this program shall be made by the department.

(7) Mental health service records-content:

(a) An adequate clinical record shall be maintained for each eligible client receiving outpatient mental health services in a mental health center. The clinical records at a minimum shall contain the following:

- (a) History,
 - (b) Diagnostic/evaluative statements,
 - (c) Treatment plan,
 - (d) Treatment notes,
 - (e) Periodic treatment review,
 - (f) Documentation of case conferences,
 - (g) Clinical summaries on termination of service.
- (8) Subcontracts:

An agency which has a contract under this section shall not enter into subcontracts for any work agreed upon under the contract without obtaining prior written approval of the department from the office of medical assistance.

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 00-11-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-68—Filed May 11, 2000, 3:46 p.m., effective May 15, 2000, 4:00 a.m.]

Date of Adoption: May 11, 2000.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-03000P; and amending WAC 220-33-030.

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: This regulation sets the standard shad commercial fishery in the lower Columbia River. Harvestable numbers of shad are expected in 2000. This rule is consistent with actions of the Columbia River Compact hearing of January 27, 2000, and is consistent with requirements of the ESA. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 15, 2000, 4:00 a.m.

May 11, 2000

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-33-03000P Commercial shad—Columbia River. Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for or possess shad taken for commercial purposes except as provided for in this section:

FISHING PERIODS

1) Shad Area 2S is open daily, 3:00 p.m. to 10:00 p.m. from:

May 22 - May 26, 2000

May 30 - June 2, 2000

June 5 - June 9, 2000

June 12 - June 16, 2000

June 19 - June 23, 2000

June 26 - June 30, 2000

2) The Camas-Washougal Reef Area is open weekly, 4:00 a.m. Mondays to midnight Fridays from:

May 15 - May 19, 2000

May 22 - May 26, 2000

May 30 - June 2, 2000

June 5 - June 9, 2000

June 12 - June 16, 2000

June 19 - June 23, 2000

June 26 - June 30, 2000

Gear: Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that in Area 2S the net may not exceed 150 fathoms in length nor 40 meshes in depth and that in the Camas-Washougal Reef Area the webbing of the gear must be constructed of mesh having a breaking strength of less than 30 pounds.

Allowable Sale: During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 2000:

WAC 220-33-03000P Commercial shad—Columbia River.

EMERGENCY

WSR 00-11-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-69—Filed May 12, 2000, 4:00 p.m., effective May 13, 2000, 8:00 a.m.]

Date of Adoption: May 12, 2000.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000X and 220-56-33000Z; and amending WAC 220-56-330.

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: Crab hard shell condition meets the criteria needed for harvest in a portion of Marine Area 9, Marine Area 10 and the southern portion of Marine Area 8-2. Allocation issues between treaty and non-Indian fishers have been resolved and allow recreational harvest in areas previously closed for allocation purposes. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 13, 2000, 8:00 a.m.

May 12, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-33000A Personal use crab fishery—Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, effective 8:00 a.m., May 13, 2000 until further notice it is lawful to fish for crab for personal use with crab pot gear in the following areas:

(1) Marine Area 8-2, except contiguous waters northwest of a line from Sandy Point on the east side of Whidbey Island to Camano Head.

(2) Marine Area 9, except contiguous waters south of a line from Foulweather Bluff to Olele Point.

(3) Marine Area 10.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-33000X Personal use crab fishery—Areas and seasons. (00-32)

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. May 13, 2000:

WAC 220-56-33000Z Personal use crab fishery—Areas and seasons (00-46)

WSR 00-11-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-70—Filed May 12, 2000, 4:03 p.m., effective May 15, 2000, 12:01 a.m.]

Date of Adoption: May 12, 2000.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-33-060 and 220-44-020.

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: On May 3, 2000, the Fish and Wildlife Commission approved revised provisions for the emerging commercial [fishery] for sardine. The prohibition of retention of sardine in existing fisheries becomes unnecessary with the establishment of this new fishery. The fishery is scheduled to open on May 15, 2000, and 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 5, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: May 15, 2000, 12:01 a.m.

May 12, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-33-06000A Forage fish other than smelt. Notwithstanding the provisions of WAC 220-33-060:

(1) Effective May 15, 2000, until further notice, it is lawful to retain sardines taken with dip bag net gear in the Columbia River. The smelt dip bag net fishery license is the license required to operate a dip bag net for sardines in the Columbia River.

(2) Effective June 1, 2000, until further notice, it is lawful to retain sardines taken in the anchovy or herring fisheries in the Columbia River, as provided for in WAC 220-33-060.

NEW SECTION

WAC 220-44-02000A Coastal baitfish gear. Notwithstanding the provisions of WAC 220-44-020:

(1) It is lawful to fish for and retain sardines as provided for in Chapter 220-88C WAC.

(2) Sardines may not be retained in the smelt, anchovy and candlefish fisheries provided for in this section.

NEW SECTION

WAC 220-88C-01000A Designation of the coastal sardine fishery as an emerging commercial fishery. (1) The Director designates the coastal sardine fishery as an emerging commercial fishery for which a vessel is required. It is unlawful to fish for, possess or deliver sardines taken for commercial purposes from Washington territorial waters west of the Bonilla-Tatoosh Line, west of Grays Harbor, west of Willapa Bay, west of the Buoy 10 line at the mouth of the Columbia River, or waters of the Exclusive Economic Zone unless the operator of the vessel has an emerging commercial fisheries license and a valid coastal sardine trial fishery permit.

(2) After May 15, 2000, until further notice, sardines may not be taken or delivered from the above waters with any license other than an emerging commercial fishery license.

NEW SECTION

WAC 220-88C-02000A Coastal sardine emerging commercial fishery—Trial fishery catch limits—Species restrictions. (1) The total allowable catch in the coastal sardine emerging commercial fishery is 1,000 metric tons each month, beginning May 15, 2000, through June 14, 2000, and from the 15th of each month through the 14th of the following month thereafter, for the remainder of the fishery. The Director may allow any unharvested amount from a previous month to be taken in the next following monthly period.

(2) It is unlawful to retain any other species of fish or shellfish taken in the coastal sardine emerging commercial fishery except mackerel, anchovy and squid.

(3) It is unlawful for any salmon to be taken aboard a vessel participating in the coastal sardine emerging commercial fishery, and any salmon within the seine must be released or dip netted from the net prior to the completion of each set.

NEW SECTION

WAC 220-88C-03000A Coastal sardine emerging commercial fishery—Observer, notification, sampling and logbook requirements. (1) Each vessel operator participating in the coastal sardine emerging commercial fishery must agree to allow department authorized observers on a minimum of fifty percent of the vessel trips. Vessel operators may hire their own observers, provided the observer meets department criteria, or vessel operators may satisfy the observer requirement by paying to the department the sum of \$100 for each trip from which a landing of any fish or shellfish is made, or a vessel trip during which an observer is aboard. If the vessel operator chooses to make payment to the department to satisfy the observer requirement, the payment is due to the department within ten days of the landing of the vessel.

(2) Each vessel operator participating in the coastal sardine emerging commercial fishery must notify the department during official business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m., daily) at least 24 hours prior to leaving on a vessel trip (notification of a Saturday, Sunday, or Monday trip must be made the previous Friday). On the department's sardine message hotline the vessel operator must provide the license holder's name, the vessel name, telephone contact number for the operator, time and location of departure and estimated time of return.

(2) Department samplers may retain up to 500 sardine from each trip for biological information gathering.

(3) Each vessel operator must maintain a monthly logbook for each calendar month, whether or not fishing activity occurs during that calendar month, and, if fishing occurs, make a complete and accurate record of the location of each set, the approximate poundage of sardines taken in each set, all by-catch encountered, whether landed aboard the vessel or not, and, if the by-catch includes salmon, the number and species of the salmon. The log book must be received by the department by the 15th day of each following month.

(4) Failure to comply with the observer, notification, sampling, and logbook requirements will void the trial fishery permit.

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 00-11-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-71—Filed May 12, 2000, 4:06 p.m., effective May 16, 2000, 12:01 a.m.]

Date of Adoption: May 12, 2000.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-03000L; and amending WAC 220-52-030.

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: The Willapa Spits have readily supported a six-week fishery since 1989. Annual reported harvest has averaged about 30,000 lbs. The fishery provides an important supply of crab bait to the local Dungeness crab industry and depending on the size and condition of clams, a fresh market restaurant trade. Based on historical catches and on-site inspection, there should be adequate clams to support a six-week season. To date, bio-toxin levels are low and forecasted to stay low during the time period proposed. 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: May 16, 2000, 12:01 a.m.

May 12, 2000
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-03000L Razor clams. Notwithstanding the provisions of WAC 220-52-030, effective immediately until further notice, it is unlawful to dig for or possess razor clams taken for commercial purposes from Washington waters except as provided for in this section:

(1) Those waters and beaches of Razor Clam Area 1 lying south of the Willapa Bay Ship channel, west of Ellen

Sands, and north of the tip of Leadbetter Point, are open to the taking and possession of razor clams for commercial purposes from 12:01 a.m. May 16, 2000 through 11:59 p.m. June 30, 2000.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 2000:

WAC 220-52-03000L Razor clams.

**WSR 00-11-058
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-72—Filed May 12, 2000, 4:08 p.m.]

Date of Adoption: May 12, 2000.

Purpose: Amend personal use rules.

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: This regulation sets uniform short-term license fees. The department has filed notice of its intention to adopt the rule as [a] permanent rule (WSR 00-06-042), and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 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.

May 12, 2000
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-55-17000B Reduced rate combination temporary fish-shellfish-seaweed license. Effective imme-

EMERGENCY

diately there is hereby created a combination temporary fish-shellfish-seaweed license that is valid for two consecutive days and allows the holder to take and possess fish, shellfish, and seaweed taken from state and offshore waters. The fee for this license is six dollars for both residents and non-residents.

**WSR 00-11-059
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-73—Filed May 12, 2000, 4:49 p.m.]

Date of Adoption: May 12, 2000.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-240.

Statutory Authority for Adoption: RCW 75.08.070 and 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: This rule is necessary to coordinate fishing rules in the Columbia River, reduce angler confusion and provide additional fishing opportunity. 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.

May 12, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-24000D Sturgeon—Suspension of daily and annual limits. Notwithstanding the provisions of WAC 220-56-175 and WAC 220-56-240, effective immediately until further notice in the contiguous waters of the Columbia

River forming the boundary between the states of Washington and Oregon:

(1) Fishers may continue to fish for sturgeon after retaining the daily limit, provided all subsequent sturgeon are released.

(2) Fishers may continue to fish for sturgeon after retaining the annual possession limit, provided all subsequent sturgeon are released.

(3) A catch record card shall remain valid for sturgeon after the fisher has retained the ten sturgeon allowed during the license year.

**WSR 00-11-116
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-74—Filed May 19, 2000, 4:30 p.m.]

Date of Adoption: May 19, 2000.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-06900A; and amending WAC 220-52-069.

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: This rule is necessary for execution of the Puget Sound scallop trawl fishery. Allows issuance of a Puget Sound trawl license for scallops. This rule is interim until permanent rules take effect.

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.

May 19, 2000

J. P. Koenings

Director

by Larry Peck

EMERGENCY

NEW SECTION

WAC 220-52-06900B Scallop fishery—Puget Sound. Notwithstanding the provisions of WAC 220-52-069, effective immediately until further notice a foodfish trawl Puget Sound License is the license required to operate trawl gear to harvest scallops in Puget Sound.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-06900A Scallop fishery—Puget Sound. (00-11)

WSR 00-11-117**EMERGENCY RULES****DEPARTMENT OF FISH AND WILDLIFE**

[Order 00-75—Filed May 19, 2000, 4:32 p.m.]

Date of Adoption: May 19, 2000.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-51500S; and amending WAC 20-57-515.

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: The Wind River salmon return is a record. The in-season hatchery returns project to be well above the escapement goal. This fishery is intended to harvest surplus hatchery spring chinook. 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.

May 19, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-57-51500T Wind River. Notwithstanding the provisions of WAC 220-57-515 and WAC 232-28-619, it is lawful to fish for salmonids in those waters of the Wind River from boundary line/markers at the mouth upstream to markers 400 feet below Shipperd Falls immediately through June 30, 2000 and from High Bridge upstream to lower boundary marker below Carson National Fish Hatchery from May 22 through June 30, 2000. Special daily limit of two chinook greater than 12 inches or two hatchery steelhead greater than 20 inches or one such salmon and one such steelhead. Night closure and non-buoyant lure restrictions in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-57-51500S Wind River. (00-37)

WSR 00-11-118**EMERGENCY RULES****DEPARTMENT OF FISH AND WILDLIFE**

[Order 00-76—Filed May 19, 2000, 4:34 p.m., effective May 22, 2000, 12:01 a.m.]

Date of Adoption: May 19, 2000.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-17000U and 220-57-17500V; and amending WAC 220-57-175.

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: Based on returns to date, the Cowlitz Salmon Hatchery spring chinook escapement goal is not expected to be met. There is insufficient time to promulgate permanent rules for the spring chinook closure.

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: May 22, 2000, 12:01 a.m.

May 19, 2000
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-57-17500V Cowlitz River. Notwithstanding the provisions of WAC 220-57-175, effective 12:01 a.m. May 22 through July 31, 2000, closed to salmon angling in those waters downstream of fishing boundary markers located approximately 400 feet below barrier dam structures at the Cowlitz Salmon Hatchery to the mouth.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 22, 2000:

WAC 220-57-17000U Cowlitz River. (00-26)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 1, 2000:

WAC 220-57-17500V Cowlitz River.

Areas 8-1, 9 and all waters of Marine Areas 8-2 and 10. 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: May 24, 2000, 8:00 a.m.

May 23, 2000
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-33000B Personal use crab fishery— Areas and seasons. Notwithstanding the provisions of WAC 220-56-330, effective 8:00 a.m., May 24, 2000 until further notice it is lawful to fish for crab for personal use with crab pot gear in the following areas:

- (1) Marine Area 8-1, except contiguous waters south of a line from Rocky Point to Dines Point on Whidbey Island.
- (2) Marine Area 8-2.
- (3) Marine Area 9, except contiguous waters south of a line from Foulweather Bluff to Olele Point.
- (4) Marine Area 10.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. May 24, 2000:

WAC 220-56-33000A Personal use crab fishery— Areas and seasons (00-69)

**WSR 00-11-144
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-78—Filed May 23, 2000, 4:42 p.m., effective May 26, 2000, 6:00 p.m.]

Date of Adoption: May 23, 2000.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

**WSR 00-11-143
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-77—Filed May 23, 2000, 4:40 p.m., effective May 24, 2000, 8:00 a.m.]

Date of Adoption: May 23, 2000.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000A; and amending WAC 220-56-330.

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: Crab hard shell conditions meet the criteria needed for harvest in portions of Marine

EMERGENCY

WSR 00-11-168
EMERGENCY RULES
DEPARTMENT OF HEALTH
 (Board of Pharmacy)
 [Filed May 24, 2000, 9:32 a.m.]

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp has been exceeded in the areas closed under this rule. Depth restrictions will provide opportunity to harvest available nonspot shrimp without impacting the spot shrimp resource. 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: May 26, 2000, 6:00 p.m.

May 23, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-56-32500E Shrimp—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-325 and WAC 220-56-310:

(1) Effective 6:00 p.m. May 26, 2000 until further notice it is unlawful to harvest or possess shrimp taken for personal use in Marine Areas 8-1, 8-2, 9, and 10.

(2) Effective June 2, 2000 until further notice it is lawful to harvest or possess shrimp taken for personal use in Marine Areas 8-1, 8-2, 9, and 10 except that:

(a) It is unlawful to set or pull shrimp gear in waters greater than 150 feet.

(b) Spot shrimp must be returned immediately to the water unharmed.

Date of Adoption: May 17, 2000.

Purpose: To allow animal control agencies and humane societies to purchase, possess and administer a schedule III controlled substance to euthanize injured, sick, homeless or unwanted animals. Animal control agencies may use the schedule III products until the schedule II product is available.

Citation of Existing Rules Affected by this Order: Amending chapter 246-886 WAC.

Statutory Authority for Adoption: RCW 18.64.005(7).

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 United States is experiencing a nation-wide shortage of pentobarbital, the drug used by animal control shelters to euthanize animals. The proposed rule will allow these agencies to use another product.

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 X [1], Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 17, 2000

C. A. Leon Alzola

Board Chair

NEW SECTION

WAC 246-886-025 Emergency use of schedule III controlled substances. Due to the interrupted supply of sodium pentobarbital, humane societies and animal control agencies registered with the board may use the following schedule III controlled substances to euthanize animals:

Euthasol

Beuthanasia-D

When the board determines that the supply of sodium pentobarbital is sufficient, it will notify all of registrants under this chapter. The registrants will then have thirty days from the date of this notification to use or destroy any sched-

ule III drugs that it may have in its possession. The unused drugs may also be transferred to another registrant who is legally authorized to possess the drug(s) (e.g., a licensed veterinarian).

EMERGENCY

WSR 00-11-003
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
 [Memorandum—May 2, 2000]

This is to notify you that the date of the Washington State University board of regents meeting scheduled for June 16 has been changed. The June meeting of the board will be held on June 7 and will take place in Seattle, Washington.

In addition, the regents will hold meetings on July 11 and 12. These will also take place in Seattle, Washington.

Inquiries about the meeting can be directed to the WSU President's Office, (509) 335-6666.

WSR 00-11-004
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY
 [Memorandum—May 2, 2000]

This is to notify you of the dates of the Washington State University board of regents meetings scheduled for the year 2001.

The dates are as follows:

January 12, 2001
 February 16, 2001
 March 30, 2001
 May 11, 2001
 June 29, 2001
 August 24, 2001
 October 5, 2001
 November 16, 2001

Inquiries about the meeting can be directed to the WSU President's Office, (509) 335-6666.

WSR 00-11-006
POLICY STATEMENT
WASHINGTON STATE LOTTERY
 [Filed May 4, 2000, 4:46 p.m.]

The Washington State Lottery (WSL) has recently adopted or revised the following policies:

POL 110.008 - Reporting Quinto, Lotto and Lucky for Life Results (Revision)

Added that the director and the public information officer or designee are notified by the headquarters drawing official (HDO) when there is a Lotto jackpot, Quinto cashpot, or Lucky for Life grand prize winner. When verification of a game is delayed past 11:00 p.m., the HDO notifies the Associated Press and the results will be provided "as soon as possible" (rather than "by 7:00") the following morning.

Signed February 3, 2000.

POL 120.003 - Conditions of Employment for Exempt Employees (Revision)

Salaries for exempt WSL positions are now tied to exempt management bands. Removed the reference to appointments being made upon successful completion of a panel interview.

Added the factors considered when establishing/adjusting exempt salaries:

- Salary alignment with jobs with similar responsibilities within the agency.
- Salary compression (salaries of subordinate employees are approaching the salary of the exempt employee).
- Salary alignment with similar jobs in the state or in other jurisdictions.
- Difficulties in recruiting for or retaining employees in the position.
- Changes to the scope of the job or increases to duties and responsibilities.
- Progression adjustments (recognizing growth, development, training, or additional education obtained by the incumbent).

Added a section and a procedure on evaluating salaries.

Performance evaluations are no longer done on an MDPP form; they are done every June, using key annual objectives identified by the employee and supervisor the previous June.

Clarified that:

- The time off that can be granted by the director is "exchange" time; and
- The WSL "considers" affirmative action candidates (they are not necessarily interviewed for every position).

Signed January 4, 2000.

POL 220.006 - Coffee and/or Light Refreshments at Lottery-Sponsored Events (Revision)

Updated the OFM regulation numbers referenced in the policy.

Signed March 6, 2000.

POL 220.007 - Meal Reimbursement at Meetings and Formal Training Sessions (Revision)

Added a note to clarify that this policy applies to employees only - the lottery does not reimburse vendors for meals at meetings and formal training sessions. Also refers to a new policy being written on the appropriateness of reimbursing lottery retailers for meals.

Signed March 6, 2000.

POL 240.001 - Power Protectors/Dedicated Power for On-Line Terminals (Revision)

The retailer support manager and the assistant director of retailer services no longer have the ability to make exceptions to the requirements in the policy. Clarified that district sales representatives/regional designees maintain copies of contracts in regional files.

Signed February 15, 2000.

POL 240.006 - Check-A-Ticket (CHAT) Placement (Revision)

This new policy establishes guidelines for placing and removing CHATs in retail locations. Priorities are as follows:

1. All corporate and independent supermarket locations.
2. Other trade style locations ranked by the twenty-six week on-line sales average (from highest to lowest).

The location of the CHAT within the retail location is negotiated with the retailer but must: a) Be highly visible; b) be in close proximity to the lottery information center; c) be within thirty feet of the on-line terminal; d) be within nine feet of a standard electrical power outlet; e) meet accessibility requirements of the Americans with Disabilities Act (ADA); and f) not create congestion or a bottleneck effect in high-traffic areas. The retailer must also agree to allow a minimum amount of drilling at the retail location to accommodate installation of the CHAT unit.

The CHAT manager will establish and maintain an inventory management system, conduct analyses to determine if the additional CHAT units will be leased, and ensure acquisition of all units is in compliance with the appropriate contract.

CHAT units are removed when the CHAT manager determines an alternate location will maximize usage by lottery players and benefits to retailers and players. The CHAT manager will also consider impact of the CHAT unit on the retailer's sales and the amount of CHAT usage when determining if a unit should be removed. Units are always removed when: a) The unit is negatively impacting the account and/or lottery relations or sales; b) the retailer's on-line terminal is removed; and/or c) the retailer requests removal.

Signed February 22, 2000.

POL 310.014 - Instant Ticket Vending Machine (ITVM) Placement (Revision)

Clarified that:

- RSMs make placement recommendation on an ITVM action request form, and
- Account cooperation and support is partially based on the willingness to train *at least two* employees.

In reference to a retailer's account sales potential, added that the WSL considers propensity to play and services provided (in addition to foot traffic and store size).

Added information on maintaining or exceeding ITVM sales of \$200 per week per machine (twenty-six week average). The ITVM operating agreement was updated.

Signed January 5, 2000.

POL 320.054 - Quinto/Lucky for Life Third Drawing Promotion (New)

This policy establishes guidelines for conducting a promotion associated with the third weekly drawing for Quinto and Lucky for Life, which begins January 26, 2000. Consumers who purchase a ticket for the Quinto or Lucky for Life Monday drawings from 7:01 p.m. the Saturday before

each drawing, through 6:52 p.m. the day of the drawing will receive one trailing eight-digit bonus ticket. On the Tuesday immediately following the Monday drawing, the lottery will conduct a computerized drawing to select five winning bonus ticket numbers. Each of the winning tickets entitles the consumer to a \$1,000 prize. In addition, each retailer who sells a winning promotional ticket receives \$500.

Signed January 19, 2000.

POL 320.055 - Lottomobile II (New)

From March 26, 2000, through 6:52 p.m. on June 17, 2000, consumers who purchase a single \$5 Lotto ticket have the chance to win a 4-door, 4-wheel drive, 2000 Ford Explorer-Eddie Bauer (tropical green clearcoat metallic with leather interior), including sales tax, a full tank of gas, one year's license and title fees, and the 28% federal withholding tax required by the IRS.

The policy and procedure outline specific information on ensuring qualifying consumers are entered into the weekly drawing, performing the drawing, and claiming/awarding the vehicle.

Signed March 13, 2000.

POL 320.056 - \$1 My Oh My 2000/\$2 Double Header Second Chance Drawing (for Consumers) (New)

Consumers who submit \$6 (and only \$6) worth of valid nonwinning tickets from games 291 and/or 292 by 5:00 April 28, 2000, will be entered into a drawing to receive various prizes, such as tickets to a major league baseball game, official major league baseball merchandise, and a road trip to California to view a major league baseball game. The policy spells out additional rules and outlines the drawing/claiming/awarding processes.

Signed March 14, 2000.

POL 320.057 - \$1 My Oh My 2000/\$2 Double Header Promotion (for Retailers) (New)

Lottery retailers who activate packs of game numbers 291 and 292 from 12:00 a.m., March 27, 2000, through 11:59 p.m. April 28, 2000, will be entered into drawings to receive various prizes, such as cash, major league baseball tickets and merchandise, and a road trip to California to view a major league baseball game. The policy/procedure spells out additional criteria for entry and outlines the drawing/awarding processes.

Signed March 16, 2000.

POL 420.001 - Using Lottery and Motor Pool Vehicles (Revision)

Users of temporarily-assigned vehicles are now required to refuel vehicles when they are 1/2 or less full (used to be 1/4 full). The deputy director, in addition to the director, can now approve: a) Requests to transport other persons in state vehicles; b) all permanently-assigned vehicles; or c) commuting from the employee's official duty station to official residence if it is beneficial to the agency and the state.

Signed March 6, 2000.

POL 440.015 - SCAN Lines, SCAN Plus Cards and Agency-Owned Telephones (Revision)

Removed reference to internal auditor. Now, supervisors will review employees' SCAN bills and investigate potential misuse/correct any problems. If misuse is confirmed, the supervisor notifies the financial services manager, consults with the ethics advisor, and if the supervisor thinks corrective action is necessary, consults with the employee services manager.

Only SCAN bills with a discrepancy are returned to accounts payable (with the discrepancy noted). Supervisors will store the SCAN bills until the information services customer service supervisor notifies them that the records can be destroyed.

Signed February 28, 2000.

To receive a copy of any of these policies, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 664-4816, fax (360) 664-4817.

May 1, 2000
Merritt D. Long
Director

WSR 00-11-009
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—May 3, 2000]

EDMONDS COMMUNITY COLLEGE
BOARD OF TRUSTEES
NOTICE OF SPECIAL MEETINGS
TO MEDIA/OTHER

REVISED

- May 1-3, 2000* Trustees Association of Community & Technical Colleges Spring Conference, Rosario Resort, Orcas Island, Washington, 8:00 a.m.-5:00 p.m.
Purpose: To attend spring trustee conference.
- May 2, 2000* Public Social Security Forum, EdCC, Triton Union Building, 20000 68th Avenue West, Lynnwood, WA, 11 a.m.-12:30 p.m.
Purpose: Discussion of the U.S. Social Security System.
- May 6, 2000* Edmonds Community College Foundation Dinner/Auction, "Opening Doors," Chateau St. Michelle Winery, Woodinville, Washington, 6:00 p.m.
Purpose: EdCC fundraising event.

- May 11, 2000* High School Counselor Appreciation Breakfast, EdCC, Triton Union Building, 20000 68th Avenue West, Lynnwood, WA, 7:30 - 9:00 a.m.
Purpose: Informational breakfast to recognize area high school counselors.
- May 15, 2000* Ribbon Cutting Ceremony for Indoor Athletic Hitting Facility, EdCC, 20000 68th Avenue West, Lynnwood, WA, 4:00 p.m.
Purpose: Celebration of new EdCC athletic facility.
- May 17, 2000 Edmonds Community College Board of Trustees Special Board Meeting, EdCC, Snohomish Hall, Room 304A, 20226 68th Avenue West, Lynnwood, WA, 4:00 p.m.
Purpose: To address routine college business issues.
Note: Change of date from original schedule.
- May 31, 2000* Multicultural Graduation Celebration, EdCC, Triton Union Building, 20000 68th Avenue West, Lynnwood, WA, 6-8 p.m.
Purpose: Celebration to honor multicultural graduates.

*This event is being scheduled as a special meeting, which is a study session where no action will be taken.

WSR 00-11-010
NOTICE OF PUBLIC MEETINGS
TACOMA COMMUNITY COLLEGE
[Memorandum—May 5, 2000]

This is to notify you that the Tacoma Community College board of trustees May 18 meeting will begin at 3:00 p.m. rather than the regularly scheduled 4:00 p.m. time. I will be sending out meeting notices listing this as a special meeting. If you need any other information, you may call (253) 566-5101 or e-mail ebushman@tcc.tacoma.ctc.edu.

MISC.

WSR 00-11-014
OFFICE OF
INSURANCE COMMISSIONER

[Filed May 8, 2000, 12:08 p.m.]

TECHNICAL ASSISTANCE ADVISORY
T 2000 - 03

TO: All Health Carriers.
SUBJECT: New Filing Requirements Resulting from Chapter 79, Laws of 2000 (E2SSB 6067).
DATE: May 8, 2000.

The Office of the Insurance Commissioner is issuing this Technical Assistance Advisory to assist carriers in complying with recent legislative changes that will require prompt action by each health carrier with respect to the filing of specific loss ratio and rate information with this office.

Your attention is directed to section 3(5), section 29(5) and section 32(5) of Chapter 79, Laws of 2000. By no later [than] May 31, 2000, we will require each carrier to file with our office the "supporting documentation of its actual loss ratio for its individual health benefit plans offered in the state in aggregate for the preceding calendar year."

This requirement is applicable not only to health benefit plans that are being actively marketed but also to those closed blocks of business that carriers are administering.

Please note the refund requirements of section 3(6), 29(6) and 32(6). Refunds are required if the actual preceding calendar year loss ratio is less than 72%.

We ask that the supporting documentation be filed with this office separately from any other rate filing submission. Please include the proper filing transmittal form with the submission and clearly identify the filing as "Annual Loss Ratio" on the filing transmittal form.

Note that separate filings for rate changes must be made with the commissioner for informational purposes prior to use. See sections 3 (2) and (3), 29 (2) and (3) and 32 (2) and (3). Such filings should also be submitted to this office with the proper filing transmittal form.

If you have any questions about the filing of supporting loss ratio documentation or rate information directed by this legislation, please contact Lichiou Lee, ASA, MAAA, Associate Actuary, at (360) 586-5313 or LichiouL@OIC.WA.GOV.

Copies of the law are available at the commissioner's website. The link is <http://www.insurance.wa.gov/tableof-contents/newlaws/6067.htm>.

WSR 00-11-015
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
 (Board of Registration for Architects)
 [Memorandum—May 8, 2000]

DATE: May 19, 2000
TIME: 9:30 a.m. - until business is completed

PLACE: Best Western Heritage Inn
 151 East McLeod Road
 Bellingham, WA 98226

WSR 00-11-022
PROCLAMATION
OFFICE OF THE GOVERNOR

[May 9, 2000]

WHEREAS, there is an imminent danger of an infestation of the plant pest Asian gypsy moth (Lymantria dispar L.) which seriously endangers the agricultural and horticultural industries of the state of Washington, and seriously threatens the economic well-being and quality of life of state residents, and;

WHEREAS, the use of pesticide Bacillus thuringiensis var. kurstaki (B.t.k.), a naturally occurring bacterium, by aerial application is the most effective and preferred treatment alternative for eradicating this pest, and;

WHEREAS, portions of the Ballard and Magnolia areas of Seattle, Washington (as identified in the 2000 Environmental Assessment of the Cooperative Gypsy Moth Eradication Project) is in imminent danger of infestation, and emergency measures are necessary to prevent establishment of the pest,

NOW, THEREFORE, I, Gary Locke, Governor of the state of Washington, by virtue of the authority vested in me under RCW 43.06.010(13) as a result of the imminent danger of infestation noted herein, after evaluation of all other alternatives and in accordance with RCW 17.24.171, do hereby declare a State of Emergency and authorize the Director of the Department of Agriculture to use emergency measures including aerial application of B.t.k. to the aforementioned areas.

IN WITNESS THEREOF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed at Olympia on this 9th day of May, A.D., Two-Thousand.

Gary Locke

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 00-11-027
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE

(Interagency Committee for Outdoor Recreation)
 [Memorandum—May 9, 2000]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, July 13, and Friday, July 14, 2000, beginning with a tour on Thursday the 13th. The tour will be in conjunction with the Salmon Recovery Funding Board, and will highlight both boards' work. The regular IAC business meeting will begin at 8:30 a.m. in the Town of La Conner's Maple Hall meeting room on Friday, July 14.

The draft agenda for this meeting focuses mainly on 2001-03 budget planning and legislative issues.

If you plan to participate or have materials for committee review, please submit information to IAC no later than June 15, 2000. 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 July 1 at (360) 902-2637 or TDD (360) 902-1996.

WSR 00-11-048
NOTICE OF PUBLIC MEETINGS
LAKE WASHINGTON
TECHNICAL COLLEGE

[Memorandum—May 9, 2000]

Pursuant to RCW 42.30.075, we are hereby notifying you of the following REVISED amended date when the Lake Washington Technical College board of trustees is scheduled to hold regular meetings during 2000.

A letter was sent to you on April 27, 2000, advising you of the date change in Item #1. At the board of trustees' regularly scheduled meeting on May 8, 2000, it was agreed to make an additional change to the board meeting in June as reflected in Item #2.

1. Instead of holding a meeting on July 10, 2000, the board of trustees will meet on Monday, June 26, 2000.

2. Instead of holding a meeting on June 5, 2000, the board of trustees will meet on Wednesday, June 14, 2000.

The following is a corrected list of the remaining board of trustees meeting dates through December 2000.

- Wednesday, June 14, 2000
- Monday, June 26, 2000
- Monday, August 7, 2000
- Tuesday, September 5, 2000
- Monday, October 2, 2000
- Monday, November 6, 2000
- Monday, December 4, 2000

Appropriate advertising of this meeting change will take place ten days prior to the meeting. Work sessions begin at 6

p.m. in Room W302E at the college; the regular meeting agenda begins at 7 p.m. in Room W305 at the college.

WSR 00-11-049
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—May 11, 2000]

The Washington State Convention and Trade Center (WSCTC) Design Committee will meet on Wednesday, May 17, 2000, at 11:30 a.m. in Room 309 of the Convention Center, 800 Convention Place, Seattle.

A regular meeting of the WSCTC board of directors will be held on Wednesday, May 17, 2000, at 1:30 p.m. in Room 310 of the Convention Center.

The WSCTC Operating Goals, Measurements and Performance Committee will meet on Thursday, June 1, 2000, at 11:45 a.m. in Room 301 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding these meetings, please call (206) 694-5000.

WSR 00-11-063
NOTICE OF PUBLIC MEETINGS
CASCADIA COMMUNITY COLLEGE

[Memorandum—Filed May 12, 2000,]

REVISED

Following is a revised list of the remaining 2000 board meeting dates and locations for Cascadia Community College.

Cascadia Community College
2000 Board of Trustees - Meeting Dates

- Monday, January 10, 2000
- Monday, February 14, 2000
- Monday, March 13, 2000
- Monday, April 10, 2000
- Monday, May 8, 2000
- Monday, June 12, 2000

Newly revised

Board meetings will, effective July 2000, be held the third Wednesday of each month at 8:00 a.m.

- Wednesday, July 19, 2000**
- Wednesday, August 16, 2000**
- Wednesday, September 20, 2000**
- Wednesday, October 18, 2000**
- Wednesday, November 15, 2000**
- Wednesday, December 20, 2000**

MISC.

Location: January - September, 2000
 The Seattle Times Building
 19200 120th Avenue N.E.
 Bothell, WA 98011

October - December, 2000
 Cascadia Community College
 18345 Campus Way N.E.
 Bothell, WA 98011

00-05-01 Request by: JEREMY RANDOLPH,
LEWIS COUNTY PROSECUTING
ATTORNEY

When a defendant is charged with a sex crime before his/her 18th birthday, and receives an SSOSA sentence after he/she turns 18, which agency bears responsibility to pay for treatment?

WSR 00-11-064
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
 [Memorandum—May 11, 2000]

The WTECB Local Plan Review Subcommittee will meet on June 13, 2000, in the Washington State Investment Board conference room from 8:00 a.m. to noon.

Please call 753-5677 if you have any questions.

WSR 00-11-085
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—May 16, 2000]

EASTERN WASHINGTON UNIVERSITY
BOARD OF TRUSTEES
 May 19, 10:00 a.m.
 Cheney Campus
 PUB 263-5-7

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the president's office, (509) 359-6598.

WSR 00-11-079
ATTORNEY GENERAL'S OFFICE
 [Filed May 15, 2000, 4:16 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by June 14, 2000. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by June 14, 2000, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

WSR 00-11-090
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed May 16, 2000, 3:48 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Canary Notice - 196.
 Subject: Temporary administrative child support orders.
 Effective Date: May 17, 2000.

Document Description: DCS has repealed WAC 388-11-150 and replaced it with WAC 388-14A-3850 through 388-14A-3875. This document explains procedural changes regarding temporary orders.

To receive a copy of the interpretive or policy statement, contact Alyson Reed, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail areed@dshs.wa.gov.

May 15, 2000
 Alyson B. Reed

MISC.

WSR 00-11-094

DEPARTMENT OF ECOLOGY

[Filed May 17, 2000, 8:14 a.m.]

NOTICE OF PUBLIC HEARING

WASHINGTON STATE DEPARTMENT OF ECOLOGY

Designating Ozone Areas in Washington State

The federal Environmental Protection Agency (EPA) develops air pollution standards to protect human health. EPA issued an eight-hour ozone standard in 1997. Under this standard, ozone levels must be no higher than 0.08 parts per million averaged over an eight-hour time period.

Federal law requires EPA to designate areas of states as attainment, nonattainment, or unclassifiable for the eight-hour ozone standard this year. A designation of "attainment" means an area has met the eight-hour ozone standard during the three-year period 1997-1999. "Nonattainment" means an area has violated the standard during that time period, and the state must develop a plan to bring the area into attainment with the standard. "Unclassifiable" means an area cannot be designated as either attainment or nonattainment because no monitoring data is available.

The designation process starts with a recommendation from the state on the appropriate designations. Washington is considering recommending that all areas of the state, except tribal lands, be designated "attainment/unclassifiable." Tribal lands are not affected because tribes have authority over air quality within the boundaries of their reservations. The state is considering this recommendation because all areas of Washington either have not violated the eight-hour standard, or are not monitored. The state would not be required to take any further actions if all areas are designated attainment/unclassifiable.

EPA will evaluate the state recommendation and the monitoring records to determine the appropriate designation. EPA plans to publish the designations in the Federal Register later this year, but to defer the effective date of the designations until sometime in 2001.

The Department of Ecology will hold a public hearing to receive comments on its recommendation to designate all areas of Washington as attainment/unclassifiable for the eight-hour ozone standard. The hearing is scheduled as follows: Department of Ecology, Headquarters Building, Room 1S-17, 300 Desmond Drive, Lacey, WA, on Wednesday, June 14, 2000, at 2:00 p.m.

Written comments must be postmarked no later than June 14, 2000, and should be sent to Doug Schneider, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600. If you have special accommodation needs, please call Tami Dahlgren at (360) 407-6830 (voice) or (360) 407-6006 (TDD only) at least one week prior to the hearing.

For more information about the designation of ozone areas in Washington, please contact Doug Schneider, Department of Ecology, Air Quality Program, (360) 407-6874.

WSR 00-11-095

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING

[Memorandum—May 17, 2000]

Washington State Board of Registration for Architects

MEETING AGENDA (AMENDED)

DATE: May 19, 2000
TIME: 9:30 a.m. - Until business is completed
PLACE: Best Western Heritage Inn
 151 East McLeod Road
 Bellingham, WA 98226

WSR 00-11-100

NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE

[Memorandum—May 16, 2000]

At their May 11, 2000, regular meeting the South Puget Sound Community College board of trustees changed their regular June 8, 2000, meeting to Thursday, June 15, 2000.

If you have any questions, please contact 754-7711 ext. 202.

WSR 00-11-101

INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 18, 2000, 9:42 a.m.]

Policy and Interpretive Statements

In accordance with RCW 34.05.230(12), the following policies and interpretive statements were recently issued by the department:

Insurance Services Division:

Insurance Services Policy #6.70, "Authorizing Job Modifications," is amended to give direction to workers' compensation claims staff for authorizing job modifications, including the limits of job modification benefits. (Issued January 15, 2000)

Insurance Services Policy #6.71, "Authorizing Pre-Job Accommodations," is amended to give direction to workers' compensation claims staff for authorizing pre-job accommodations, including the limits of pre-job accommodation benefits. (Issued January 15, 2000)

Insurance Services Policy #A.02, "Documents Stored in Employer Services Employer File," is a new policy that gives direction to employer services staff on which documents should be stored in employer master files. (Issued February 15, 2000)

Contact: Linda Norris, Mailstop 44310, (360) 902-4999, Douglas Connell, Assistant Director.

WISHA (Washington Industrial Safety and Health Act) Services Division:

WISHA Regional Directive #32.49, "Respiratory Protection in the Fire Service" is repealed. It delayed enforcement of the new provisions of the respiratory protection standard as they apply to the fire service until November 1, 1999. This regional directive was "self-canceling" and was therefore rescinded effective November 1, 1999. (Repealed November 1, 1999)

WISHA Interim Operations Memorandum #99-1-A, "Accompanied Visits in Consultation," is repealed. It provided guidance to WISHA consultation supervisors on the frequency and content of accompanied visits. It was rescinded and replaced with WISHA Regional Directive 3.25, "Accompanied Visits in Consultation" on November 17, 1999. (Repealed November 17, 1999)

WISHA Regional Directive #10.10, "Indoor Air Quality," is a new policy for handling complaints and consultation requests regarding indoor air quality problems and provides guidelines to be used when evaluating indoor air quality concerns. It applies whenever WISHA consultation and enforcement staff evaluate workplace hazards relating to indoor air quality in office buildings. It updates, replaces, and rescinds WISHA Regional Directive 92.2, "Indoor Air Quality," and it will remain in effect indefinitely. (Issued January 21, 2000)

WISHA Regional Directive #10.65, "Physician Guidelines for Evaluation of Respirator Users," is repealed. It provided guidance to WISHA consultation and compliance staff in interpreting what constitutes a "physician guideline" under WAC 296-62-07109(3). This practice is no longer allowable under the revised respiratory protection standard that took effect in September 1999. (Repealed March 1, 2000)

WISHA Regional Directive #12.35, "Emergency Eyewash and Hand-held Drench Hoses," is repealed. It applied whenever WISHA consultation or compliance staff encountered hand-held drench hoses in relation to emergency eyewash facilities. This issue has now been addressed by changes to WAC 296-62-130 on emergency washing that took effect June 17, 1999. (Repealed March 1, 2000)

WISHA Regional Directive #12.45, "Host Employers and Public Rescue Services for Confined Space Incidents," is repealed. It provided guidance to WISHA consultation and compliance staff when they were dealing with an employer who relied upon public rescue services to perform rescue in the event of a confined space incident. This WISHA regional directive is outdated and no longer necessary.

WISHA Regional Directive #77.53, "Protection of Open-sided Floors on Hot Metal Pouring Platforms," is repealed. It provided guidance to WISHA staff for evaluating compliance with WAC 296-24-75007, protection of open-sided floors. The policy is outdated and no longer in effect. (Repealed March 1, 2000)

WISHA Regional Directive #78.25A, "Use of Work Platforms on Forklift-Type Equipment Used by "Order Pickers," is repealed. It provided guidance for WISHA

enforcement and consultation staff on the use of work platforms on forklift-type equipment used by "order pickers." This issue has been addressed by changes to the powered industrial truck (forklift) standard that took effect March 1, 2000. (Repealed March 1, 2000)

WISHA Regional Directive #79.17, "Guards for Couplings," is repealed. It clarified the intent of WAC 296-20519(2) (couplings) and WAC 296-24-20507(2) (shafts). The policy is outdated and no longer in effect. (Repealed March 1, 2000)

WISHA Regional Directive #79.57, "General Requirements for all Machine Guarding as Applied to Power Press Brakes," is repealed. It provided guidance for WISHA enforcement and consultation staff on the appropriate application of standards relating to guarding the "point of operation" of power press brakes. This policy is outdated and no longer necessary. (Repealed March 1, 2000)

WISHA Regional Directive #80.16A, "Respirable Air Supplied by Oil-Lubricated Compressors," is repealed. It clarified WAC 296-62-07111(2) as it pertains to the requirement for a carbon monoxide alarm on oil-lubricated air compressors. It was rescinded and replaced with WISHA Interpretive Memorandum #98-1-N, "Carbon Monoxide and Air Compressors," issued on January 6, 1998. (Repealed March 1, 2000)

WISHA Regional Directive #82.10, "Eye Wash and Body Flushing Facilities Applicable to Electric Storage Battery Charging and Maintenance Areas," is repealed. It provided guidelines for WISHA enforcement and consultation staff regarding eyewash and body flushing facilities required for immediate emergency use in electric storage battery charging and maintenance areas. This issue has now been addressed by changes to WAC 296-62-130 on emergency washing that took effect June 17, 1999. (Repealed March 1, 2000)

WISHA Regional Directive #83.9, "Alternative Abatement Methods WAC as Applied to the Oil and Gas Drilling Industry," is repealed. It provided guidelines to WISHA staff on the use of certain monitoring techniques to comply with the machine guarding standard as applied to the oil and gas drilling industry. This policy is outdated and no longer in effect. (Repealed March 1, 2000)

WISHA Regional Directive #84.4, "Employee Use of Individual Head-Phone Radios," is repealed. It provided guidelines to consultation and compliance staff on the evaluation of hazards associated with the use of "Walk-Man" type head-phone radios. This policy is outdated and no longer in effect. (Repealed March 1, 2000)

WISHA Regional Directive #91.13A, "Emergency Washing Facilities," is repealed. It provided guidelines for WISHA enforcement and consultation staff in determining when an eyewash and/or safety shower is required. This issue has now been addressed by changes to WAC 296-62-130 on Emergency Washing that took effect June 17, 1999. (Repealed March 1, 2000)

WISHA Regional Directive #92.7, "Fatality Investigation Procedures for Non-Work Related Workplace Deaths," is repealed. It provided policy and procedure guid-

ance on workplace fatality investigations that have the potential for not being work related. This WISHA regional directive is no longer necessary since the procedures are described in the WISHA Compliance Manual. (Repealed March 1, 2000)

WISHA Regional Directive #95.4A, "Interpretation and Common Question and Concerns on Rollover Protective Structure Requirements for pre-1976 Agricultural Tractors," is repealed. It provided direction to WISHA enforcement and consultation staff regarding code application interpretations and citation guidelines. This WISHA regional directive is outdated and no longer in effect. (Repealed March 1, 2000)

WISHA Regional Directive #96-11-J, "WISHA Discrimination Policies and Procedures," is repealed. It implemented Investigations Policy 73.01 and WISHA Discrimination Procedure Manual documents until such time as their substance could be incorporated into the WISHA Administrative Manual. With the February 2000 release of the new Administrative Manual which included discrimination investigation policies and procedures, this operations memorandum is outdated and no longer necessary. (Repealed March 1, 2000)

WISHA Regional Directive #96-12-B, "Interim Retention of Selected Pre-1996 WISHA Regional Directives," is repealed. It listed a number of WISHA regional directives remaining in effect after December 30, 1996. It is rescinded because a majority of the WISHA Regional Directives included in that list have been canceled, and the list is now provided in an updated table of contents. (Repealed March 1, 2000)

WISHA Regional Directive #97-7-C, "Processing Requests for Variances," is repealed. It identified basic responsibilities regarding variance requests. This issue is being addressed by variance policy guidelines to be included in the new WISHA Administration Manual. (Repealed March 1, 2000)

WISHA Regional Directive #98-6-C, "Use of State-wide 'WISHA 200' List," is repealed. It provided guidance to WISHA staff regarding "WISHA 200" employers. These lists are no longer in use so this operations memorandum is outdated and no longer in effect. (Repealed March 1, 2000)

WISHA Regional Directive #98-10-B, "Inspections in Ship and Boat Building and Repairing Industries," is repealed. It provided guidance to WISHA staff regarding the implementation of a Memorandum of Understanding with federal OSHA about joint shipyard inspections. Since the Memorandum of Understanding is no longer in effect, this operations memorandum is outdated. (Repealed March 1, 2000)

Contact: Marcia Benn, Mailstop 44648, (360) 902-5503, Dr. Michael Silverstein, Assistant Director.

If you have any questions or need additional information, please call 902-4216.

Doric Olson
Legislative and
Government Affairs Office

WSR 00-11-110**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING .**

(Board of Registration for Landscape Architects)

[Memorandum—May 19, 2000]

CONFERENCE CALL MEETING

DATE: June 9, 2000.
TIME: 10:00 a.m. until business is completed.
PLACE: Board of Registration for Landscape Architects, 405 Black Lake Boulevard, Olympia, WA.

Visitors can also participate in the conference call meeting at the following locations:

Osborn Pacific Conference Room	Adams & Clark, Inc.
1414 Dexter North	1720 West 4th
Seattle, WA	Spokane, WA

The Department of Licensing has a policy of providing equal access to its services. If you need special accommodation, please call (360) 664-1388 or TTY (360) 586-2788.

WSR 00-11-111**NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY**

(Library Council of Washington)

[Memorandum—May 19, 2000]

Please let this notice serve as a correction to the September 7, 1999, submitted memorandum. All dates, times, and locations remain the same except for the November 2000 Library Council of Washington meeting. The correction is as follows:

DATE: **November 6, 2000**
TIME: 9:30 a.m. - 3:30 p.m.
SUBJECT: Library Council of Washington meeting
LOCATION: Port Townsend Public Library
1220 Lawrence Street
Port Townsend, WA 98368-6528

For additional information please contact Rebecca Jensen, (360) 704-5246, rjensen@statelib.wa.gov.

WSR 00-11-124**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

[Filed May 22, 2000, 3:13 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 00-13 MAA Numbered Memorandum.
Subject: New electronic turnaround document (TAD) process.

Effective Date: June 2000.

[Document Description:] **Effective June 2000**, nursing facilities and intermediate mental retardation (IMR) facilities must send and receive their TADs via the Internet. All nursing facilities and IMR facilities must have Internet access to download (receive) and upload (submit) their TADs by the July 2000 deadline. The payment process will not change. Should the June 2000 effective date change, you will be notified in your monthly TAD.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1345, TDD 1-800-848-5429, fax (360) 753-7315, e-mail <mailto:MYERSEA@dshs.wa.gov>.

May 17, 2000
L. Saeger, Manager
Regulatory Improvement Project

WSR 00-11-125
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed May 22, 2000, 3:14 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instruction.

Subject: Direct entry.

Effective Date: May 2000.

Document Description: This manual helps providers who wish to submit their claims to the Medical Assistance Administration using the direct entry process.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1345, TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:MYERSEA@dshs.wa.gov>.

May 17, 2000
L. Saeger, Section Head
Regulatory Improvement Project

WSR 00-11-126
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed May 22, 2000, 3:15 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 00-12 MAA Numbered Memorandum.

Subject: Fraud and abuse detection system.

Effective Date: June 2000.

[Document Description:] In June 2000, the Department of Social and Health Services (DSHS) will initiate implemen-

tation of a new automated fraud and abuse detection (FAD) system. The Medical Assistance Administration (MAA) will play a major support role in implementing the system and is committed to ensuring its providers that medical assistance payments are accurate and that our program integrity is maintained.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Regulatory Improvement Coordinator, DSHS, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 725-1345, TDD 1-800-848-5429, fax (360) 753-7315, e-mail <mailto:MYERSEA@dshs.wa.gov>.

May 17, 2000
L. Saeger, Manager
Regulatory Improvement Project

WSR 00-11-132
NOTICE OF PUBLIC MEETINGS
LOTTERY COMMISSION

[Memorandum—May 22, 2000]

The following amended Year 2000 meeting dates and locations for the Washington State Lottery Commission:

July 14, 2000	Spokane
September 14-15	Everett
November 17, 2000	Vancouver

WSR 00-11-150
NOTICE OF PUBLIC MEETINGS
PENINSULA COLLEGE

[Memorandum—May 22, 2000]

The board of trustees of Peninsula College, District 1, Port Angeles, Washington, submits a change to the June 2000 calendar.

The June 13 meeting at the Port Angeles-Art Feiro Marine Lab on the Port Angeles City Pier has been moved back to the main campus. The meeting will be held in the Cornaby Center, Room A-12, at 2:00 p.m.

WSR 00-11-151
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Commission on Pesticide Registration)

[Memorandum—May 18, 2000]

REGULAR MEETING DATES FOR
WASHINGTON STATE COMMISSION ON PESTICIDE REGIS-
TRATION

The Washington State Commission on Pesticide Registration has determined a schedule for the remainder of 2000. Per RCW 42.30.075, we are making this schedule available

MISC.

to the public through your office. Meetings commence at 10 a.m. and are open to the public.

CHANGE IN SCHEDULE

Wednesday, September 20	Snoqualmie Pass, Summit Inn
SCHEDULE FOR THE REMAINDER OF 2000	
Wednesday, July 12	Prosser, WSU Extension Center
Wednesday, September 20	Snoqualmie Pass, Summit Inn
Wednesday, November 8	Ellensburg, Hal Holmes Center
Wednesday, January 12	To be determined

Meetings commence at 10 a.m. and are open to the public.

Proposals are accepted throughout the year but must be received thirty days prior to the meeting at which they will be presented. November and January meetings have been designated to hear proposals. A mechanism is in place to accept emergency requests at any time.

Examples available: <http://wscpr.org>. For information, call (509) 543-9757.

Should you have any further questions in regard to WSCPR proposals or meeting specifics, please contact Alan Schreiber, 2011 West Pearl Street, Suite B, Pasco, WA 99301, (509) 543-9757, fax 9758, aschreib@cbvcp.com; or Tanya Wojtowych, P.O. Box 145, Genesee, ID 83832, (208) 285-0121, fax 0165, juliana@moscow.com.

**WSR 00-11-152
POLICY STATEMENT
DEPARTMENT OF HEALTH**

[Filed May 24, 2000, 9:21 a.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Legal and Related Forms, D17.02.

Issuing Entity: Health Professions Quality Assurance, Department of Health.

Subject Matter: This revises the current division policy. The policy establishes the legal forms HPQA staff must use when preparing legal documents.

Effective Date: April 13, 2000.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Professions Quality Assurance, Health Policy and Constituent Relations, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

**WSR 00-11-154
POLICY STATEMENT
DEPARTMENT OF HEALTH**

[Filed May 24, 2000, 9:23 a.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Obtaining Investigative Materials, D09.03.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This revises the current division policy. The policy establishes the policy and procedures for department staff to follow in obtaining investigative materials.

Effective Date: April 26, 2000.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Professions Quality Assurance, Health Policy and Constituent Relations, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

**WSR 00-11-155
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH**

[Filed May 24, 2000, 9:24 a.m.]

NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

Title of Policy: Final Orders Related to Marijuana Hearings Concerning the Inclusion of Crohn's Disease and Hepatitis C and Terminal or Debilitating Conditions Under RCW 69.51A [chapter 69.51A RCW].

Issuing Entity: Medical Quality Assurance Commission.

Subject Matter: On September 24, 1999, the medical commission held a hearing to consider a petition to include Crohn's disease as a terminal or debilitating medical condition under RCW 69.51A.010 (4)(d). On November 5, 1999, the commission issued an order that Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications constitutes a "terminal or debilitating medical condition" within the meaning of RCW 69.51A.010(4).

On December 8, 1999, the medical commission held a hearing to consider a petition to include Hepatitis C as a terminal or debilitating medical condition under RCW 69.51A.010 (4)(d). On January 28, 2000, the commission issued an order that Hepatitis C with debilitating nausea and/or intractable pain unrelieved by standard treatments or medications constitutes a "terminal or debilitating medical condition" within the meaning of RCW 69.51A.010(4).

Copies of the transcripts of the proceedings and the orders are available.

Effective Date: May 12, 2000.

Contact Person: Maryella Jansen, Program Manager, Department of Health, Medical Quality Assurance Commission, 1300 S.E. Quince Street, P.O. Box 47866, Olympia, WA 98504-7866, (360) 236-4792.

**WSR 00-11-156
POLICY STATEMENT
DEPARTMENT OF HEALTH**

[Filed May 24, 2000, 9:24 a.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Investigative Mental and Physical Examinations, D06.05.

MISC.

Issuing Entity: Health Professions Quality Assurance,
Department of Health.

Subject Matter: This revises the current division policy. The policy establishes the policy and procedures for department staff to follow in obtaining investigative mental and physical examinations.

Effective Date: April 13, 2000.

Contact Person: Linda McCue, Project Manager,
Department of Health, Health Professions Quality Assurance,
Health Policy and Constituent Relations, P.O. Box 47860,
1300 S.E. Quince Street, Olympia, WA 98504-7860,
(360) 236-4986.

WSR 00-11-183
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed May 24, 2000, 11:52 a.m.]

Before chapter 388-534 WAC, please add a heading entitled "Early and periodic screening, diagnosis and treatment (EPSDT)." In the effort to migrate all of DSHS' rules into one WAC title, I am requesting that you renumber the rules as follows:

Old WAC Number	New WAC Number
388-86-005	388-556-0400
388-86-027	388-534-0100
388-86-018	388-539-0500
388-87-048	388-539-0550

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

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 #
4- 25-400	AMD-P	00-07-004	16- 70-005	AMD	00-06-064	16- 80-035	AMD-P	00-03-068
4- 25-400	AMD	00-11-067	16- 70-010	AMD-P	00-03-070	16- 80-035	AMD	00-06-066
4- 25-510	PREP	00-03-032	16- 70-010	AMD	00-06-064	16- 80-040	AMD-P	00-03-068
4- 25-510	AMD-P	00-07-005	16- 70-030	REP-P	00-03-070	16- 80-040	AMD	00-06-066
4- 25-510	AMD	00-11-068	16- 70-030	REP	00-06-064	16- 80-045	AMD-P	00-03-068
4- 25-522	REP-P	00-07-006	16- 71	PREP	00-08-094	16- 80-045	AMD	00-06-066
4- 25-522	REP	00-11-069	16- 71-001	REP-P	00-11-145	16- 80-047	AMD-P	00-03-068
4- 25-540	AMD-P	00-07-007	16- 71-003	REP-P	00-11-145	16- 80-047	AMD	00-06-066
4- 25-540	AMD	00-11-070	16- 71-010	AMD-P	00-11-145	16- 80-050	REP-P	00-03-068
4- 25-631	AMD-P	00-07-008	16- 71-022	AMD-P	00-11-145	16- 80-050	REP	00-06-066
4- 25-631	AMD	00-11-071	16- 71-030	AMD-P	00-11-145	16-101	PREP	00-02-077
4- 25-660	AMD-P	00-07-009	16- 71-035	NEW-P	00-11-145	16-101X	PREP	00-07-115
4- 25-660	AMD	00-11-072	16- 71-040	REP-P	00-11-145	16-112-001	REP	00-05-024
4- 25-661	AMD-P	00-07-010	16- 71-050	REP-P	00-11-145	16-112-010	REP	00-05-024
4- 25-661	AMD	00-11-073	16- 74-001	REP-P	00-03-069	16-112-020	REP	00-05-024
4- 25-750	AMD-P	00-07-011	16- 74-001	REP	00-06-065	16-112-030	REP	00-05-024
4- 25-750	AMD	00-11-074	16- 74-005	NEW-P	00-03-069	16-143	NEW-C	00-11-112
4- 25-780	REP-P	00-07-012	16- 74-005	NEW	00-06-065	16-143-010	NEW-P	00-08-107
4- 25-780	REP	00-11-075	16- 74-010	AMD-P	00-03-069	16-143-010	NEW	00-11-123
4- 25-781	NEW-P	00-07-013	16- 74-010	AMD	00-06-065	16-143-020	NEW-P	00-08-107
4- 25-781	NEW	00-11-076	16- 74-020	AMD-P	00-03-069	16-143-020	NEW	00-11-123
4- 25-782	NEW-P	00-07-013	16- 74-020	AMD	00-06-065	16-143-030	NEW-P	00-08-107
4- 25-782	NEW	00-11-076	16- 74-030	AMD-P	00-03-069	16-143-030	NEW	00-11-123
4- 25-783	NEW-P	00-07-013	16- 74-030	AMD	00-06-065	16-143-040	NEW-P	00-08-107
4- 25-783	NEW	00-11-076	16- 74-040	REP-P	00-03-069	16-143-040	NEW	00-11-123
4- 25-830	PREP	00-03-033	16- 74-040	REP	00-06-065	16-143-050	NEW-P	00-08-107
4- 25-830	AMD-P	00-07-014	16- 80-005	AMD-P	00-03-068	16-143-050	NEW	00-11-123
4- 25-830	AMD	00-11-077	16- 80-005	AMD	00-06-066	16-143-060	NEW-P	00-08-107
4- 25-910	AMD-P	00-07-015	16- 80-007	AMD-P	00-03-068	16-143-060	NEW	00-11-123
4- 25-910	AMD	00-11-078	16- 80-007	AMD	00-06-066	16-143-070	NEW-P	00-08-107
16- 42	PREP	00-08-095	16- 80-010	AMD-P	00-03-068	16-143-070	NEW	00-11-123
16- 42-005	AMD-P	00-11-146	16- 80-010	AMD	00-06-066	16-143-080	NEW-P	00-08-107
16- 42-017	AMD-P	00-11-146	16- 80-015	AMD-P	00-03-068	16-143-080	NEW	00-11-123
16- 42-022	AMD-P	00-11-146	16- 80-015	AMD	00-06-066	16-143-090	NEW-P	00-08-107
16- 42-025	AMD-P	00-11-146	16- 80-020	AMD-P	00-03-068	16-143-090	NEW	00-11-123
16- 42-035	AMD-P	00-11-146	16- 80-020	AMD	00-06-066	16-143-100	NEW-P	00-08-107
16- 42-060	REP-P	00-11-146	16- 80-025	AMD-P	00-03-068	16-143-100	NEW	00-11-123
16- 70-001	REP-P	00-03-070	16- 80-025	AMD	00-06-066	16-143-110	NEW-P	00-08-107
16- 70-001	REP	00-06-064	16- 80-030	AMD-P	00-03-068	16-143-110	NEW	00-11-123
16- 70-005	AMD-P	00-03-070	16- 80-030	AMD	00-06-066	16-147-010	AMD	00-05-025

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16-147-030	AMD	00-05-025	16-409	PREP	00-03-085	112- 10-060	AMD	00-05-036
16-200-512	REP-XR	00-07-068	16-414	PREP	00-07-132	112- 10-070	NEW	00-05-036
16-200-695	PREP	00-03-076	16-439	PREP	00-07-134	112- 10-080	NEW	00-05-036
16-202-1000	PREP	00-03-076	16-442	PREP	00-07-133	118- 03-330	REP	00-05-012
16-202-2000	PREP	00-03-076	16-445	PREP	00-03-084	118- 06-010	REP	00-05-011
16-212	PREP	00-10-104	16-463	PREP	00-07-135	118- 06-020	REP	00-05-011
16-213-010	REP-P	00-05-048	16-483	AMD-C	00-04-066	118- 06-030	REP	00-05-011
16-213-010	REP	00-08-041	16-483-001	AMD	00-05-105	118- 06-040	REP	00-05-011
16-213-100	REP-P	00-05-048	16-483-005	AMD	00-05-105	118- 06-050	REP	00-05-011
16-213-100	REP	00-08-041	16-483-010	AMD	00-05-105	118- 06-060	REP	00-05-011
16-213-110	REP-P	00-05-048	16-483-020	AMD	00-05-105	118- 06-070	REP	00-05-011
16-213-110	REP	00-08-041	16-483-030	AMD	00-05-105	118- 06-080	REP	00-05-011
16-213-120	REP-P	00-05-048	16-483-040	AMD	00-05-105	118- 07-010	REP	00-05-011
16-213-120	REP	00-08-041	16-483-050	AMD	00-05-105	118- 07-020	REP	00-05-011
16-213-130	REP-P	00-05-048	16-483-060	REP	00-05-105	118- 07-030	REP	00-05-011
16-213-130	REP	00-08-041	16-516-010	AMD-XA	00-07-079	118- 07-040	REP	00-05-011
16-213-200	AMD-P	00-05-048	16-516-010	AMD	00-11-180	118- 07-050	REP	00-05-011
16-213-200	AMD	00-08-041	16-516-020	AMD-XA	00-07-079	118- 07-060	REP	00-05-011
16-213-220	REP-P	00-05-048	16-516-020	AMD	00-11-180	118- 07-060	REP	00-05-011
16-213-220	REP	00-08-041	16-536-040	AMD-P	00-05-089	118- 08-010	REP	00-05-011
16-213-230	REP-P	00-05-048	16-550-020	AMD-XA	00-05-090	118- 08-020	REP	00-05-011
16-213-230	REP	00-08-041	16-550-020	AMD	00-10-022	118- 08-030	REP	00-05-011
16-213-240	REP-P	00-05-048	16-550-020	AMD	00-10-022	118- 08-040	REP	00-05-011
16-213-240	REP	00-08-041	16-555-020	AMD-XA	00-05-091	118- 08-050	REP	00-05-011
16-213-250	REP-P	00-05-048	16-555-020	AMD	00-10-024	118- 08-060	REP	00-05-011
16-213-250	REP	00-08-041	16-557	REP-C	00-08-066	118- 08-070	REP	00-05-011
16-213-260	AMD-P	00-05-048	16-557	REP-C	00-09-026	131- 16	PREP	00-08-029
16-213-260	AMD	00-08-041	16-557-010	REP-C	00-07-136	131- 16-021	AMD-E	00-09-050
16-213-270	AMD-P	00-05-048	16-557-010	REP-W	00-10-066	131- 16-021	AMD-P	00-10-099
16-213-270	AMD	00-08-041	16-557-020	REP-C	00-07-136	131- 16-031	AMD-E	00-09-050
16-228-1010	PREP	00-03-080	16-557-020	REP-W	00-10-066	131- 16-031	AMD-P	00-10-099
16-228-1040	PREP	00-03-080	16-557-025	REP-C	00-07-136	131- 16-450	PREP	00-07-128
16-228-1110	AMD-P	00-10-098	16-557-025	REP-W	00-10-066	132E-120	PREP	00-02-082
16-228-1120	AMD-P	00-10-098	16-557-030	REP-C	00-07-136	132E-120	AMD-P	00-06-063
16-228-1125	NEW-P	00-10-098	16-557-030	REP-W	00-10-066	132E-120-010	DECOD-P	00-06-063
16-228-1130	AMD-P	00-10-098	16-557-040	REP-C	00-07-136	132E-120-020	AMD-P	00-06-063
16-228-1140	REP-P	00-10-098	16-557-040	REP-W	00-10-066	132E-120-020	DECOD-P	00-06-063
16-228-1150	PREP	00-03-080	16-557-041	REP-C	00-07-136	132E-120-030	AMD-P	00-06-063
16-228-1150	AMD-P	00-10-098	16-557-041	REP-W	00-10-066	132E-120-030	DECOD-P	00-06-063
16-228-1155	NEW-P	00-10-098	16-557-050	REP-C	00-07-136	132E-120-040	AMD-P	00-06-063
16-228-1200	PREP	00-03-080	16-557-050	REP-W	00-10-066	132E-120-040	DECOD-P	00-06-063
16-228-1220	PREP	00-03-077	16-557-060	REP-C	00-07-136	132E-120-110	NEW-P	00-06-063
16-228-1230	PREP	00-03-080	16-557-060	REP-W	00-10-066	132E-120-120	NEW-P	00-06-063
16-228-1240	PREP	00-03-077	16-557-070	REP-C	00-07-136	132E-120-130	NEW-P	00-06-063
16-228-1250	PREP	00-03-077	16-557-070	REP-W	00-10-066	132E-120-140	NEW-P	00-06-063
16-228-1270	PREP	00-03-080	16-557-080	REP-C	00-07-136	132E-120-150	NEW-P	00-06-063
16-228-1300	PREP	00-03-077	16-557-080	REP-W	00-10-066	132E-120-160	RECOD-P	00-06-063
16-228-1320	PREP	00-03-077	16-565-020	AMD-XA	00-05-092	132E-120-170	RECOD-P	00-06-063
16-228-1380	PREP	00-03-080	16-565-020	AMD	00-10-023	132E-120-180	RECOD-P	00-06-063
16-228-1385	PREP	00-03-080	16-570	PREP	00-10-109	132E-120-190	RECOD-P	00-06-063
16-228-1400	PREP	00-03-078	16-573	PREP	00-10-108	132E-120-200	NEW-P	00-06-063
16-228-1500	PREP	00-03-079	16-662-105	AMD-P	00-09-090	132E-120-210	NEW-P	00-06-063
16-228-1520	PREP	00-03-079	25- 48	PREP	00-11-170	132E-120-220	RECOD-P	00-06-063
16-228-1540	PREP	00-03-080	44- 10-010	AMD	00-08-068	132E-120-230	RECOD-P	00-06-063
16-228-1545	PREP	00-03-079	44- 10-170	AMD	00-08-068	132E-120-240	NEW-P	00-06-063
16-228-1580	PREP	00-03-080	44- 10-200	AMD	00-08-068	132E-120-250	NEW-P	00-06-063
16-228-2000	PREP	00-03-077	82- 50-021	AMD-XA	00-05-016	132E-120-260	NEW-P	00-06-063
16-230	PREP	00-04-020	82- 50-021	AMD	00-09-088	132E-120-270	NEW-P	00-06-063
16-230	PREP	00-04-021	112- 10-010	AMD	00-05-036	132E-120-280	NEW-P	00-06-063
16-230	PREP	00-04-022	112- 10-020	AMD	00-05-036	132E-120-290	NEW-P	00-06-063
16-233	PREP	00-09-029	112- 10-030	AMD	00-05-036	132E-120-300	NEW-P	00-06-063
			112- 10-040	AMD	00-05-036	132E-120-310	NEW-P	00-06-063

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132E-120-320	NEW-P	00-06-063	132L- 22-020	REP	00-07-113	132Q- 04-200	AMD-P	00-08-075
132E-120-330	NEW-P	00-06-063	132L- 22-060	REP	00-07-113	132Q- 04-210	AMD-P	00-08-075
132E-120-340	NEW-P	00-06-063	132L- 22-070	REP	00-07-113	132Q- 04-240	AMD-P	00-08-075
132E-120-350	NEW-P	00-06-063	132L- 22-080	REP	00-07-113	132Q- 04-250	AMD-P	00-08-075
132E-120-360	NEW-P	00-06-063	132L- 24-010	REP	00-07-113	132Q- 04-260	AMD-P	00-08-075
132E-120-370	NEW-P	00-06-063	132L- 24-020	REP	00-07-113	132Q- 04-280	AMD-P	00-08-075
132E-120-380	NEW-P	00-06-063	132L- 24-030	REP	00-07-113	132Q- 05-010	AMD-P	00-08-075
132E-120-390	NEW-P	00-06-063	132L- 24-090	REP	00-07-113	132Q- 05-020	AMD-P	00-08-075
132E-120-400	NEW-P	00-06-063	132L- 25-010	REP	00-07-113	132Q- 05-033	AMD-P	00-08-075
132E-120-410	NEW-P	00-06-063	132L-120-010	AMD	00-07-113	132Q- 05-036	AMD-P	00-08-075
132E-121-010	AMD-P	00-06-063	132L-120-015	NEW	00-07-113	132Q- 05-040	AMD-P	00-08-075
132E-121-010	DECOD-P	00-06-063	132L-120-020	AMD	00-07-113	132Q- 05-050	AMD-P	00-08-075
132E-124-020	AMD-P	00-06-063	132L-120-030	NEW	00-07-113	132Q- 05-060	AMD-P	00-08-075
132E-124-020	DECOD-P	00-06-063	132L-120-040	NEW	00-07-113	132Q- 05-070	AMD-P	00-08-075
132G-276-010	AMD-P	00-02-074	132L-120-070	NEW	00-07-113	132Q- 05-080	AMD-P	00-08-075
132G-276-010	AMD-S	00-06-074	132L-120-080	NEW	00-07-113	132Q- 05-090	AMD-P	00-08-075
132G-276-010	AMD	00-10-048	132L-120-090	NEW	00-07-113	132Q- 05-100	AMD-P	00-08-075
132G-276-020	AMD-P	00-02-074	132L-120-100	NEW	00-07-113	132Q- 20-010	AMD-P	00-08-075
132G-276-020	AMD-S	00-06-074	132L-120-110	NEW	00-07-113	132Q- 20-020	AMD-P	00-08-075
132G-276-020	AMD	00-10-048	132L-120-120	NEW	00-07-113	132Q- 20-040	AMD-P	00-08-075
132G-276-030	REP-P	00-02-074	132L-120-130	NEW	00-07-113	132Q- 20-060	AMD-P	00-08-075
132G-276-030	REP-S	00-06-074	132L-120-140	NEW	00-07-113	132Q- 20-080	AMD-P	00-08-075
132G-276-030	REP	00-10-048	132L-120-150	NEW	00-07-113	132Q- 20-090	AMD-P	00-08-075
132G-276-040	REP-P	00-02-074	132L-120-160	NEW	00-07-113	132Q- 20-110	AMD-P	00-08-075
132G-276-040	REP-S	00-06-074	132L-120-170	NEW	00-07-113	132Q- 20-130	AMD-P	00-08-075
132G-276-040	REP	00-10-048	132L-120-180	NEW	00-07-113	132Q- 20-150	AMD-P	00-08-075
132G-276-050	AMD-P	00-02-074	132L-120-190	NEW	00-07-113	132Q- 20-160	AMD-P	00-08-075
132G-276-050	AMD-S	00-06-074	132L-120-200	NEW	00-07-113	132Q- 20-170	AMD-P	00-08-075
132G-276-050	AMD	00-10-048	132L-120-210	NEW	00-07-113	132Q- 20-180	AMD-P	00-08-075
132G-276-060	AMD-P	00-02-074	132L-120-220	NEW	00-07-113	132Q- 20-200	AMD-P	00-08-075
132G-276-060	AMD-S	00-06-074	132N-156	PREP	00-10-043	132Q- 20-210	AMD-P	00-08-075
132G-276-060	AMD	00-10-048	132Q- 04-010	AMD-P	00-08-075	132Q- 20-220	AMD-P	00-08-075
132G-276-080	AMD-P	00-02-074	132Q- 04-020	AMD-P	00-08-075	132Q- 20-240	AMD-P	00-08-075
132G-276-080	AMD-S	00-06-074	132Q- 04-031	NEW-P	00-08-075	132Q- 20-250	AMD-P	00-08-075
132G-276-080	AMD	00-10-048	132Q- 04-035	REP-P	00-08-075	132Q- 20-260	AMD-P	00-08-075
132G-276-090	AMD-P	00-02-074	132Q- 04-040	REP-P	00-08-075	132Q- 20-270	AMD-P	00-08-075
132G-276-090	AMD-S	00-06-074	132Q- 04-050	REP-P	00-08-075	132Q- 94-010	AMD-P	00-08-075
132G-276-090	AMD	00-10-048	132Q- 04-060	REP-P	00-08-075	132Q- 94-020	AMD-P	00-08-075
132G-276-100	AMD-P	00-02-074	132Q- 04-061	REP-P	00-08-075	132Q- 94-030	AMD-P	00-08-075
132G-276-100	AMD-S	00-06-074	132Q- 04-067	REP-P	00-08-075	132Q- 94-125	AMD-P	00-08-075
132G-276-100	AMD	00-10-048	132Q- 04-068	REP-P	00-08-075	132Q- 94-150	AMD-P	00-08-075
132G-276-110	AMD-P	00-02-074	132Q- 04-070	REP-P	00-08-075	132X- 10-010	AMD	00-05-023
132G-276-110	AMD-S	00-06-074	132Q- 04-075	REP-P	00-08-075	132X- 10-030	AMD	00-05-023
132G-276-110	AMD	00-10-048	132Q- 04-076	AMD-P	00-08-075	132X- 10-050	AMD	00-05-023
132G-276-120	AMD-P	00-02-074	132Q- 04-080	REP-P	00-08-075	132X- 10-060	AMD	00-05-023
132G-276-120	AMD-S	00-06-074	132Q- 04-081	REP-P	00-08-075	132X- 10-080	AMD	00-05-023
132G-276-120	AMD	00-10-048	132Q- 04-082	REP-P	00-08-075	132X- 10-100	AMD	00-05-023
132G-276-130	AMD-P	00-02-074	132Q- 04-083	REP-P	00-08-075	132X- 10-110	AMD	00-05-023
132G-276-130	AMD-S	00-06-074	132Q- 04-085	REP-P	00-08-075	132X- 20-010	REP	00-05-022
132G-276-130	AMD	00-10-048	132Q- 04-090	REP-P	00-08-075	132X- 20-020	REP	00-05-022
132G-276-900	AMD-P	00-02-074	132Q- 04-094	REP-P	00-08-075	132X- 20-030	REP	00-05-022
132G-276-900	AMD-S	00-06-074	132Q- 04-095	REP-P	00-08-075	132X- 20-040	REP	00-05-022
132G-276-900	AMD	00-10-048	132Q- 04-096	REP-P	00-08-075	132X- 20-050	REP	00-05-022
132H-160-182	AMD	00-11-102	132Q- 04-100	AMD-P	00-08-075	132X- 20-060	REP	00-05-022
132L- 20-010	REP	00-07-113	132Q- 04-110	AMD-P	00-08-075	132X- 20-070	REP	00-05-022
132L- 20-030	REP	00-07-113	132Q- 04-120	AMD-P	00-08-075	132X- 20-080	REP	00-05-022
132L- 20-050	REP	00-07-113	132Q- 04-130	AMD-P	00-08-075	132X- 20-090	REP	00-05-022
132L- 20-070	REP	00-07-113	132Q- 04-140	AMD-P	00-08-075	132X- 20-100	REP	00-05-022
132L- 20-080	REP	00-07-113	132Q- 04-150	AMD-P	00-08-075	132X- 20-110	REP	00-05-022
132L- 20-130	REP	00-07-113	132Q- 04-170	AMD-P	00-08-075	132X- 20-120	REP	00-05-022
132L- 20-135	REP	00-07-113	132Q- 04-180	AMD-P	00-08-075	132X- 20-130	REP	00-05-022
132L- 20-140	REP	00-07-113	132Q- 04-190	AMD-P	00-08-075	132X- 30-040	AMD	00-05-023

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132X- 40-020	AMD	00-05-023	132Z-115-110	NEW-P	00-07-121	137-125-048	NEW-E	00-05-044
132X- 50-020	AMD	00-05-023	132Z-115-120	NEW-P	00-07-121	137-125-052	NEW-E	00-05-044
132X- 50-030	AMD	00-05-023	132Z-115-130	NEW-P	00-07-121	137-125-054	NEW-E	00-05-044
132X- 50-040	AMD	00-05-023	132Z-115-140	NEW-P	00-07-121	137-125-060	NEW-E	00-05-044
132X- 50-050	AMD	00-05-023	132Z-115-150	NEW-P	00-07-121	137-125-070	NEW-E	00-05-044
132X- 50-060	AMD	00-05-023	132Z-115-160	NEW-P	00-07-121	137-125-072	NEW-E	00-05-044
132X- 50-080	AMD	00-05-023	132Z-115-170	NEW-P	00-07-121	137-125-076	NEW-E	00-05-044
132X- 50-110	AMD	00-05-023	132Z-115-180	NEW-P	00-07-121	137-125-078	NEW-E	00-05-044
132X- 50-120	AMD	00-05-023	132Z-115-190	NEW-P	00-07-121	137-125-090	NEW-E	00-05-044
132X- 50-130	AMD	00-05-023	132Z-115-200	NEW-P	00-07-121	137-125-095	NEW-E	00-05-044
132X- 50-140	AMD	00-05-023	132Z-115-210	NEW-P	00-07-121	137-125-100	NEW-E	00-05-044
132X- 50-150	AMD	00-05-023	132Z-115-220	NEW-P	00-07-121	137-125-105	NEW-E	00-05-044
132X- 50-160	AMD	00-05-023	132Z-115-230	NEW-P	00-07-121	137-125-110	NEW-E	00-05-044
132X- 50-170	AMD	00-05-023	136-167-020	AMD	00-05-043	137-125-115	NEW-E	00-05-044
132X- 50-180	AMD	00-05-023	136-167-030	AMD	00-05-043	137-125-120	NEW-E	00-05-044
132X- 50-190	AMD	00-05-023	137- 28	PREP	00-02-070	137-125-125	NEW-E	00-05-044
132X- 50-210	AMD	00-05-023	137- 28-140	AMD-P	00-07-048	137-125-130	NEW-E	00-05-044
132X- 50-230	AMD	00-05-023	137- 28-140	AMD	00-10-079	137-125-135	NEW-E	00-05-044
132X- 50-240	AMD	00-05-023	137- 28-160	AMD-P	00-07-048	137-125-140	NEW-E	00-05-044
132X- 50-260	AMD	00-05-023	137- 28-160	AMD	00-10-079	137-125-195	NEW-E	00-05-044
132X- 50-270	AMD	00-05-023	137- 28-170	AMD-P	00-07-048	137-130-005	NEW-E	00-05-045
132X- 50-280	AMD	00-05-023	137- 28-170	AMD	00-10-079	137-130-010	NEW-E	00-05-045
132X- 60-010	AMD	00-05-023	137- 28-185	NEW-P	00-07-048	137-130-020	NEW-E	00-05-045
132X- 60-015	NEW	00-05-023	137- 28-185	NEW	00-10-079	137-130-030	NEW-E	00-05-045
132X- 60-020	AMD	00-05-023	137- 28-220	AMD-P	00-07-048	137-130-040	NEW-E	00-05-045
132X- 60-035	NEW	00-05-023	137- 28-220	AMD	00-10-079	137-130-050	NEW-E	00-05-045
132X- 60-037	NEW	00-05-023	137- 28-230	AMD-P	00-07-048	137-130-060	NEW-E	00-05-045
132X- 60-040	AMD	00-05-023	137- 28-230	AMD	00-10-079	137-130-070	NEW-E	00-05-045
132X- 60-045	NEW	00-05-023	137- 28-260	AMD-P	00-07-048	137-130-080	NEW-E	00-05-045
132X- 60-046	NEW	00-05-023	137- 28-260	AMD	00-10-079	137-130-090	NEW-E	00-05-045
132X- 60-050	AMD	00-05-023	137- 28-270	AMD-P	00-07-048	137-130-100	NEW-E	00-05-045
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132X- 60-065	NEW	00-05-023	137- 28-290	AMD-P	00-07-048	137-130-120	NEW-E	00-05-045
132X- 60-075	NEW	00-05-023	137- 28-290	AMD	00-10-079	137-130-130	NEW-E	00-05-045
132X- 60-080	AMD	00-05-023	137- 28-300	AMD-P	00-07-048	137-130-140	NEW-E	00-05-045
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132X- 60-110	AMD	00-05-023	137- 28-310	AMD	00-10-079	139- 01-100	AMD-P	00-07-097
132X- 60-120	AMD	00-05-023	137- 28-320	REP-P	00-07-048	139- 01-110	REP-P	00-07-097
132X- 60-130	AMD	00-05-023	137- 28-320	REP	00-10-079	139- 01-320	REP-P	00-07-097
132X- 60-140	AMD	00-05-023	137- 28-350	AMD-P	00-07-048	139- 01-330	REP-P	00-07-097
132X- 60-150	AMD	00-05-023	137- 28-350	AMD	00-10-079	139- 01-410	REP-P	00-07-097
132X- 60-160	AMD	00-05-023	137- 28-380	AMD-P	00-07-048	139- 01-415	REP-P	00-07-097
132X- 60-170	AMD	00-05-023	137- 28-380	AMD	00-10-079	139- 01-420	REP-P	00-07-097
132X- 60-178	NEW	00-05-023	137- 28-420	AMD-P	00-07-048	139- 01-425	REP-P	00-07-097
132X- 60-180	AMD	00-05-023	137- 28-420	AMD	00-10-079	139- 01-430	REP-P	00-07-097
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132Z-112-050	NEW-P	00-07-121	137- 32-025	AMD	00-09-063	139- 01-460	REP-P	00-07-097
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132Z-115-030	NEW-P	00-07-121	137- 32-045	AMD	00-09-063	139- 01-475	REP-P	00-07-097
132Z-115-040	NEW-P	00-07-121	137-125-005	NEW-E	00-05-044	139- 01-510	REP-P	00-07-097
132Z-115-050	NEW-P	00-07-121	137-125-010	NEW-E	00-05-044	139- 01-515	REP-P	00-07-097
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132Z-115-070	NEW-P	00-07-121	137-125-040	NEW-E	00-05-044	139- 01-525	REP-P	00-07-097
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132Z-115-090	NEW-P	00-07-121	137-125-044	NEW-E	00-05-044	139- 01-535	REP-P	00-07-097
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139-01-570	REP-P	00-07-097	139-10-520	AMD-P	00-07-097	173-240-030	AMD-XA	00-10-054
139-01-575	REP-P	00-07-097	139-25	PREP	00-04-048	173-240-035	AMD-XA	00-10-054
139-01-610	REP-P	00-07-097	139-25-110	AMD-P	00-07-097	173-240-040	AMD-XA	00-10-054
139-01-615	REP-P	00-07-097	173-15-010	AMD-XA	00-11-066	173-240-050	AMD-XA	00-10-054
139-01-620	REP-P	00-07-097	173-15-020	AMD-XA	00-11-066	173-240-060	AMD-XA	00-10-054
139-01-625	REP-P	00-07-097	173-15-030	AMD-XA	00-11-066	173-240-070	AMD-XA	00-10-054
139-01-630	REP-P	00-07-097	173-16-010	REP-P	00-11-175	173-240-075	AMD-XA	00-10-054
139-01-710	REP-P	00-07-097	173-16-020	REP-P	00-11-175	173-240-080	AMD-XA	00-10-054
139-01-715	REP-P	00-07-097	173-16-030	REP-P	00-11-175	173-240-080	AMD-XA	00-10-054
139-01-720	REP-P	00-07-097	173-16-040	REP-P	00-11-175	173-240-090	AMD-XA	00-10-054
139-01-725	REP-P	00-07-097	173-16-050	REP-P	00-11-175	173-240-095	AMD-XA	00-10-054
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139-01-735	REP-P	00-07-097	173-16-064	REP-P	00-11-175	173-240-104	AMD-XA	00-10-054
139-01-810	REP-P	00-07-097	173-16-070	REP-P	00-11-175	173-240-110	AMD-XA	00-10-054
139-01-820	REP-P	00-07-097	173-16-200	REP-P	00-11-175	173-240-120	AMD-XA	00-10-054
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139-02-020	NEW-P	00-07-097	173-26-020	AMD-P	00-11-175	173-240-140	AMD-XA	00-10-054
139-02-030	NEW-P	00-07-097	173-26-105	NEW-P	00-11-175	173-240-150	AMD-XA	00-10-054
139-02-040	NEW-P	00-07-097	173-26-170	NEW-P	00-11-175	173-240-160	AMD-XA	00-10-054
139-02-050	NEW-P	00-07-097	173-26-180	NEW-P	00-11-175	173-240-170	AMD-XA	00-10-054
139-02-060	NEW-P	00-07-097	173-26-190	NEW-P	00-11-175	173-240-180	AMD-XA	00-10-054
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139-02-090	NEW-P	00-07-097	173-26-220	NEW-P	00-11-175	173-245-020	AMD-XA	00-09-025
139-02-100	NEW-P	00-07-097	173-26-230	NEW-P	00-11-175	173-245-030	AMD-XA	00-09-025
139-02-110	NEW-P	00-07-097	173-26-240	NEW-P	00-11-175	173-245-040	AMD-XA	00-09-025
139-03-010	NEW-P	00-07-097	173-26-250	NEW-P	00-11-175	173-245-050	AMD-XA	00-09-025
139-03-020	NEW-P	00-07-097	173-26-270	NEW-P	00-11-175	173-245-055	AMD-XA	00-09-025
139-03-030	NEW-P	00-07-097	173-26-280	NEW-P	00-11-175	173-245-060	AMD-XA	00-09-025
139-03-040	NEW-P	00-07-097	173-26-290	NEW-P	00-11-175	173-245-070	AMD-XA	00-09-025
139-03-050	NEW-P	00-07-097	173-26-300	NEW-P	00-11-175	173-245-075	AMD-XA	00-09-025
139-03-060	NEW-P	00-07-097	173-26-310	NEW-P	00-11-175	173-245-080	AMD-XA	00-09-025
139-03-070	NEW-P	00-07-097	173-26-320	NEW-P	00-11-175	173-245-084	AMD-XA	00-09-025
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139-05-240	AMD-P	00-07-097	173-98-030	AMD-XA	00-04-085	173-303-040	AMD-P	00-02-081
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139-10-235	AMD-P	00-07-097	173-145-130	AMD-XA	00-11-065	173-303-100	AMD-P	00-02-081
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139-10-237	AMD-P	00-07-097	173-181	PREP	00-05-096	173-303-110	AMD-P	00-02-081
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173-303-160	AMD	00-11-040	173-303-680	AMD	00-11-040	173-322	AMD-W	00-09-083
173-303-170	AMD-P	00-02-081	173-303-690	AMD-P	00-02-081	173-322-020	AMD-W	00-09-083
173-303-170	AMD	00-11-040	173-303-690	AMD	00-11-040	173-322-030	AMD-W	00-09-083
173-303-180	AMD-P	00-02-081	173-303-691	AMD-P	00-02-081	173-322-040	AMD-W	00-09-083
173-303-180	AMD	00-11-040	173-303-691	AMD	00-11-040	173-322-050	AMD-W	00-09-083
173-303-190	AMD-P	00-02-081	173-303-692	NEW-P	00-02-081	173-322-060	AMD-W	00-09-083
173-303-190	AMD	00-11-040	173-303-692	NEW	00-11-040	173-322-070	AMD-W	00-09-083
173-303-200	AMD-P	00-02-081	173-303-693	NEW-P	00-02-081	173-322-090	AMD-W	00-09-083
173-303-200	AMD	00-11-040	173-303-693	NEW	00-11-040	173-322-100	AMD-W	00-09-083
173-303-201	AMD-P	00-02-081	173-303-800	AMD-P	00-02-081	173-322-110	AMD-W	00-09-083
173-303-201	AMD	00-11-040	173-303-800	AMD	00-11-040	173-322-120	AMD-W	00-09-083
173-303-240	AMD-P	00-02-081	173-303-803	NEW-P	00-02-081	173-340-100	AMD-W	00-09-083
173-303-240	AMD	00-11-040	173-303-803	NEW	00-11-040	173-340-120	AMD-W	00-09-083
173-303-280	AMD-P	00-02-081	173-303-804	AMD-P	00-02-081	173-340-130	AMD-W	00-09-083
173-303-280	AMD	00-11-040	173-303-804	AMD	00-11-040	173-340-140	AMD-W	00-09-083
173-303-281	AMD-P	00-02-081	173-303-805	AMD-P	00-02-081	173-340-200	AMD-W	00-09-083
173-303-281	AMD	00-11-040	173-303-805	AMD	00-11-040	173-340-210	AMD-W	00-09-083
173-303-300	AMD-P	00-02-081	173-303-806	AMD-P	00-02-081	173-340-300	AMD-W	00-09-083
173-303-300	AMD	00-11-040	173-303-806	AMD	00-11-040	173-340-310	AMD-W	00-09-083
173-303-320	AMD-P	00-02-081	173-303-807	AMD-P	00-02-081	173-340-320	AMD-W	00-09-083
173-303-320	AMD	00-11-040	173-303-807	AMD	00-11-040	173-340-330	AMD-W	00-09-083
173-303-360	AMD-P	00-02-081	173-303-810	AMD-P	00-02-081	173-340-340	AMD-W	00-09-083
173-303-360	AMD	00-11-040	173-303-810	AMD	00-11-040	173-340-350	AMD-W	00-09-083
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173-303-380	AMD-P	00-02-081	173-303-840	AMD-P	00-02-081	173-340-380	NEW-W	00-09-083
173-303-380	AMD	00-11-040	173-303-840	AMD	00-11-040	173-340-390	NEW-W	00-09-083
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173-303-390	AMD	00-11-040	173-303-9904	AMD	00-11-040	173-340-410	AMD-W	00-09-083
173-303-400	AMD-P	00-02-081	173-303-9907	AMD-P	00-02-081	173-340-420	AMD-W	00-09-083
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173-303-505	AMD-P	00-02-081	173-305-010	AMD-XA	00-10-053	173-340-440	AMD-W	00-09-083
173-303-505	AMD	00-11-040	173-305-015	AMD-XA	00-10-053	173-340-450	AMD-W	00-09-083
173-303-510	AMD-P	00-02-081	173-305-020	AMD-XA	00-10-053	173-340-510	AMD-W	00-09-083
173-303-510	AMD	00-11-040	173-305-040	AMD-XA	00-10-053	173-340-515	NEW-W	00-09-083
173-303-515	AMD-P	00-02-081	173-305-050	AMD-XA	00-10-053	173-340-520	AMD-W	00-09-083
173-303-515	AMD	00-11-040	173-305-110	AMD-XA	00-10-053	173-340-530	AMD-W	00-09-083
173-303-520	AMD-P	00-02-081	173-305-120	AMD-XA	00-10-053	173-340-545	NEW-W	00-09-083
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173-303-573	AMD-P	00-02-081	173-305-240	AMD-XA	00-10-053	173-340-700	AMD-W	00-09-083
173-303-573	AMD	00-11-040	173-307-010	AMD-XA	00-10-052	173-340-702	AMD-W	00-09-083
173-303-578	NEW-P	00-02-081	173-307-015	AMD-XA	00-10-052	173-340-704	AMD-W	00-09-083
173-303-578	NEW	00-11-040	173-307-020	AMD-XA	00-10-052	173-340-705	AMD-W	00-09-083
173-303-600	AMD-P	00-02-081	173-307-030	AMD-XA	00-10-052	173-340-706	AMD-W	00-09-083
173-303-600	AMD	00-11-040	173-307-040	AMD-XA	00-10-052	173-340-708	AMD-W	00-09-083
173-303-610	AMD-P	00-02-081	173-307-050	AMD-XA	00-10-052	173-340-709	NEW-W	00-09-083
173-303-610	AMD	00-11-040	173-307-060	AMD-XA	00-10-052	173-340-710	AMD-W	00-09-083
173-303-620	AMD-P	00-02-081	173-307-070	AMD-XA	00-10-052	173-340-720	AMD-W	00-09-083
173-303-620	AMD	00-11-040	173-307-080	AMD-XA	00-10-052	173-340-730	AMD-W	00-09-083
173-303-630	AMD-P	00-02-081	173-307-090	AMD-XA	00-10-052	173-340-740	AMD-W	00-09-083
173-303-630	AMD	00-11-040	173-307-100	AMD-XA	00-10-052	173-340-745	AMD-W	00-09-083
173-303-640	AMD-P	00-02-081	173-307-110	AMD-XA	00-10-052	173-340-747	NEW-W	00-09-083
173-303-640	AMD	00-11-040	173-307-130	AMD-XA	00-10-052	173-340-7490	NEW-W	00-09-083
173-303-645	AMD-P	00-02-081	173-307-140	AMD-XA	00-10-052	173-340-7491	NEW-W	00-09-083
173-303-645	AMD	00-11-040	173-321-010	AMD-W	00-09-083	173-340-7492	NEW-W	00-09-083
173-303-646	AMD-P	00-02-081	173-321-020	AMD-W	00-09-083	173-340-7493	NEW-W	00-09-083
173-303-646	AMD	00-11-040	173-321-040	AMD-W	00-09-083	173-340-7494	NEW-W	00-09-083
173-303-650	AMD-P	00-02-081	173-321-050	AMD-W	00-09-083	173-340-750	AMD-W	00-09-083

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-340-760	AMD-W	00-09-083	180- 79A-007	AMD	00-03-048	192-300-170	NEW	00-05-064
173-340-800	AMD-W	00-09-083	180- 79A-123	AMD-P	00-05-080	192-300-190	NEW	00-05-067
173-340-810	AMD-W	00-09-083	180- 79A-123	AMD	00-09-048	192-320-050	NEW	00-05-068
173-340-820	AMD-W	00-09-083	180- 79A-130	AMD	00-03-048	192-320-070	NEW	00-05-069
173-340-830	AMD-W	00-09-083	180- 79A-140	PREP	00-05-076	192-330-100	NEW	00-05-066
173-340-840	AMD-W	00-09-083	180- 79A-140	AMD-P	00-10-084	192-340-010	NEW	00-05-065
173-340-850	AMD-W	00-09-083	180- 79A-145	AMD	00-03-048	194- 20-010	AMD	00-08-039
173-340-990	NEW-W	00-09-083	180- 79A-206	AMD	00-03-048	194- 20-010	DECOD	00-08-039
173-425	AMD	00-07-066	180- 79A-231	PREP	00-05-076	194- 20-020	AMD	00-08-039
173-425-010	AMD	00-07-066	180- 79A-231	AMD-P	00-10-084	194- 20-020	DECOD	00-08-039
173-425-020	AMD	00-07-066	180- 79A-250	AMD	00-03-048	194- 20-030	AMD	00-08-039
173-425-030	AMD	00-07-066	180- 79A-257	AMD	00-03-048	194- 20-030	DECOD	00-08-039
173-425-040	AMD	00-07-066	180- 79A-260	AMD	00-03-050	194- 20-040	AMD	00-08-039
173-425-050	AMD	00-07-066	180- 82	PREP	00-11-081	194- 20-040	DECOD	00-08-039
173-425-060	AMD	00-07-066	180- 82	PREP	00-11-082	194- 20-050	AMD	00-08-039
173-425-070	AMD	00-07-066	180- 82-110	PREP	00-11-083	194- 20-050	DECOD	00-08-039
173-425-080	AMD	00-07-066	180- 82-204	AMD-P	00-05-083	194- 20-060	REP	00-08-039
173-425-090	REP	00-07-066	180- 82-204	AMD	00-09-047	194- 20-070	REP	00-08-039
173-425-100	REP	00-07-066	180- 82-311	NEW-P	00-05-083	194- 20-080	AMD	00-08-039
173-425-110	REP	00-07-066	180- 82-311	NEW	00-09-047	194- 20-080	DECOD	00-08-039
180- 27-032	AMD	00-04-007	180- 82-313	NEW-P	00-05-083	196- 31-010	NEW-P	00-04-059
180- 27-102	AMD-P	00-05-104	180- 82-313	NEW	00-09-047	196- 31-010	NEW	00-08-042
180- 27-102	AMD	00-09-045	180- 82-335	NEW-P	00-05-083	196- 31-020	NEW-P	00-04-059
180- 29-068	NEW	00-04-008	180- 82-335	NEW	00-09-047	196- 31-020	NEW	00-08-042
180- 29-085	AMD-P	00-10-060	180- 82-340	NEW-P	00-05-083	196- 31-030	NEW-P	00-04-059
180- 40-270	AMD	00-07-018	180- 82-340	NEW	00-09-047	196- 31-030	NEW	00-08-042
180- 40-285	AMD	00-07-018	180- 82-341	NEW-P	00-05-083	196- 31-040	NEW-P	00-04-059
180- 40-305	AMD	00-07-018	180- 82-341	NEW	00-09-047	196- 31-040	NEW	00-08-042
180- 40-315	AMD	00-07-018	180- 82-342	AMD-P	00-05-083	196- 31-050	NEW-P	00-04-059
180- 51	PREP	00-11-171	180- 82-342	AMD	00-09-047	196- 31-050	NEW	00-08-042
180- 51-063	NEW	00-04-047	180- 82-343	AMD-P	00-05-083	196- 31-060	NEW-P	00-04-059
180- 51-063	PREP	00-07-017	180- 82-343	AMD	00-09-047	196- 31-060	NEW	00-08-042
180- 51-063	AMD-P	00-10-018	180- 85-030	PREP	00-05-077	196- 31-070	NEW-P	00-04-059
180- 51-064	NEW	00-04-047	180- 85-030	AMD-P	00-10-082	196- 31-070	NEW	00-08-042
180- 51-075	AMD	00-05-010	182- 16	PREP	00-10-101	197- 11	PREP	00-07-051
180- 51-075	PREP	00-06-054	182- 25-100	PREP	00-10-101	204- 24-030	PREP	00-08-111
180- 51-075	AMD-P	00-10-081	182- 25-105	PREP	00-10-101	204- 24-030	AMD-P	00-11-173
180- 52-041	NEW	00-03-046	182- 25-110	PREP	00-10-101	204- 24-050	AMD	00-03-081
180- 56-230	PREP	00-07-046	192- 12-025	REP	00-05-064	204- 38-030	AMD	00-03-023
180- 56-230	AMD-P	00-10-020	192- 12-072	REP	00-05-068	204- 38-040	AMD	00-03-023
180- 57-070	PREP	00-07-016	192- 12-405	REP	00-05-069	204- 38-050	AMD	00-03-023
180- 57-070	AMD-P	00-10-019	192- 16-017	REP-E	00-05-063	204- 96-010	AMD-E	00-10-059
180- 77	PREP	00-11-082	192- 16-021	REP-W	00-08-076	204- 96-010	PREP	00-11-174
180- 77A	PREP	00-11-082	192-150-005	NEW-E	00-05-063	208-440	PREP	00-04-074
180- 78A-010	AMD	00-03-049	192-150-085	NEW-E	00-05-063	208-440-010	PREP	00-04-074
180- 78A-100	AMD-P	00-05-082	192-170-050	NEW-W	00-08-076	208-440-020	PREP	00-04-074
180- 78A-100	AMD	00-09-049	192-170-060	NEW-W	00-08-076	208-440-040	PREP	00-04-074
180- 78A-209	AMD-P	00-05-079	192-270-005	NEW-E	00-05-063	208-440-050	PREP	00-04-074
180- 78A-209	AMD	00-09-046	192-270-010	NEW-E	00-05-063	208-680	PREP	00-10-102
180- 78A-500	PREP	00-05-078	192-270-015	NEW-E	00-05-063	210- 01-120	AMD-P	00-03-040
180- 78A-500	AMD-P	00-10-083	192-270-020	NEW-E	00-05-063	210- 01-120	AMD	00-07-003
180- 78A-505	AMD	00-03-049	192-270-025	NEW-E	00-05-063	210- 02-010	NEW-P	00-08-069
180- 78A-510	AMD	00-03-049	192-270-030	NEW-E	00-05-063	210- 02-010	NEW	00-11-023
180- 78A-515	AMD	00-03-049	192-270-035	NEW-E	00-05-063	210- 02-020	NEW-P	00-08-069
180- 78A-520	AMD	00-03-049	192-270-040	NEW-E	00-05-063	210- 02-020	NEW	00-11-023
180- 78A-525	AMD	00-03-049	192-270-045	NEW-E	00-05-063	210- 02-030	NEW-P	00-08-069
180- 78A-530	AMD	00-03-049	192-270-050	NEW-E	00-05-063	210- 02-030	NEW	00-11-023
180- 78A-535	AMD	00-03-049	192-270-055	NEW-E	00-05-063	210- 02-040	NEW-P	00-08-069
180- 78A-535	PREP	00-11-080	192-270-060	NEW-E	00-05-063	210- 02-040	NEW	00-11-023
180- 78A-540	AMD	00-03-049	192-270-065	NEW-E	00-05-063	210- 02-050	NEW-P	00-08-069
180- 79A	PREP	00-11-082	192-270-070	NEW-E	00-05-063	210- 02-050	NEW	00-11-023
180- 79A-006	AMD	00-03-048	192-300-050	NEW	00-05-068	210- 02-060	NEW-P	00-08-069

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210-02-060	NEW	00-11-023	220-32-05500B	NEW-E	00-11-030	220-52-06900B	NEW-E	00-11-116
210-02-070	NEW-P	00-08-069	220-32-05500B	REP-E	00-11-030	220-52-071	AMD	00-03-042
210-02-070	NEW	00-11-023	220-32-05500Z	NEW-E	00-09-024	220-52-073	AMD	00-03-042
210-02-080	NEW-P	00-08-069	220-32-05500Z	REP-E	00-09-024	220-52-07300Q	REP-E	00-03-006
210-02-080	NEW	00-11-023	220-32-05500Z	REP-E	00-10-097	220-52-07300R	NEW-E	00-03-006
210-02-090	NEW-P	00-08-069	220-32-05700E	NEW-E	00-07-109	220-52-07300R	REP-E	00-03-006
210-02-090	NEW	00-11-023	220-33-01000B	NEW-E	00-05-047	220-52-07300R	REP-E	00-03-044
210-02-100	NEW-P	00-08-069	220-33-01000B	REP-E	00-05-047	220-52-07300S	NEW-E	00-03-044
210-02-100	NEW	00-11-023	220-33-01000B	REP-E	00-06-011	220-52-07300S	REP-E	00-03-044
210-02-110	NEW-P	00-08-069	220-33-01000C	NEW-E	00-06-011	220-52-07300S	REP-E	00-04-013
210-02-110	NEW	00-11-023	220-33-01000C	REP-E	00-06-036	220-52-07300T	NEW-E	00-04-013
210-02-120	NEW-P	00-08-069	220-33-01000D	NEW-E	00-06-036	220-52-07300T	REP-E	00-05-041
210-02-120	NEW	00-11-023	220-33-03000P	NEW-E	00-11-046	220-52-07300U	NEW-E	00-05-041
210-02-130	NEW-P	00-08-069	220-33-03000P	REP-E	00-11-046	220-52-07300U	REP-E	00-06-044
210-02-130	NEW	00-11-023	220-33-04000I	REP-E	00-06-017	220-52-07300V	NEW-E	00-06-044
210-02-140	NEW-P	00-08-069	220-33-04000J	NEW-E	00-06-017	220-52-07300V	REP-E	00-06-044
210-02-140	NEW	00-11-023	220-33-04000J	REP-E	00-06-017	220-52-07300V	REP-E	00-06-044
210-02-150	NEW-P	00-08-069	220-33-06000A	NEW-E	00-11-056	220-52-07300	NEW-E	00-07-064
210-02-150	NEW	00-11-023	220-44-02000A	NEW-E	00-11-056	220-52-07300	REP-E	00-07-114
210-02-160	NEW-P	00-08-069	220-44-050	AMD-XA	00-10-038	220-52-075	AMD	00-05-054
210-02-160	NEW	00-11-023	220-44-05000A	NEW-E	00-04-041	220-52-07500A	NEW-E	00-10-051
210-02-170	NEW-P	00-08-069	220-44-05000Z	REP-E	00-04-041	220-55-005	AMD-P	00-06-084
210-02-170	NEW	00-11-023	220-44-080	AMD-XA	00-10-038	220-55-005	AMD	00-11-178
210-02-180	NEW-P	00-08-069	220-48-005	AMD-W	00-11-086	220-55-010	AMD-P	00-06-084
210-02-180	NEW	00-11-023	220-48-015	AMD-W	00-11-086	220-55-010	AMD	00-11-178
210-02-190	NEW-P	00-08-069	220-48-01500K	NEW-E	00-08-037	220-55-015	AMD-P	00-06-084
210-02-190	NEW	00-11-023	220-48-016	AMD-W	00-11-086	220-55-015	AMD	00-11-178
210-02-200	NEW-P	00-08-069	220-48-017	AMD-W	00-11-086	220-55-070	AMD-P	00-06-084
210-02-200	NEW	00-11-023	220-48-019	AMD-W	00-11-086	220-55-070	AMD	00-11-178
220-16-257	AMD	00-08-038	220-48-028	AMD-W	00-11-086	220-55-105	AMD-P	00-06-084
220-16-345	AMD	00-08-038	220-48-029	AMD-W	00-11-086	220-55-105	AMD	00-11-178
220-16-480	AMD-W	00-11-087	220-48-031	AMD-W	00-11-086	220-55-110	AMD-P	00-06-084
220-16-590	AMD-P	00-06-083	220-48-032	AMD-W	00-11-086	220-55-110	AMD	00-11-178
220-16-590	AMD-W	00-07-019	220-48-061	AMD-W	00-11-086	220-55-115	AMD-P	00-06-084
220-16-590	AMD	00-08-038	220-48-071	AMD-W	00-11-086	220-55-115	AMD	00-11-178
220-16-730	NEW	00-08-038	220-52-03000L	NEW-E	00-11-057	220-55-132	NEW-P	00-06-084
220-16-740	NEW-P	00-06-083	220-52-03000L	REP-E	00-11-057	220-55-132	NEW	00-11-178
220-16-740	NEW-W	00-07-019	220-52-040	AMD-W	00-08-077	220-55-170	AMD-P	00-06-042
220-16-740	NEW	00-08-038	220-52-04000Q	REP-E	00-04-084	220-55-170	AMD	00-11-177
220-16-74000A	NEW-E	00-10-069	220-52-04000R	NEW-E	00-04-084	220-55-17000B	NEW-E	00-11-058
220-16-750	NEW-P	00-06-083	220-52-04000R	REP-E	00-11-001	220-55-180	AMD-P	00-06-043
220-16-750	NEW-W	00-07-019	220-52-04000S	NEW-E	00-11-001	220-55-180	AMD	00-11-176
220-16-750	NEW	00-08-038	220-52-04000S	REP-E	00-11-001	220-56-08500U	REP-E	00-08-046
220-16-75000A	NEW-E	00-10-069	220-52-043	AMD-W	00-08-077	220-56-100	AMD-XA	00-11-179
220-20-010	AMD	00-08-038	220-52-04600A	NEW-E	00-11-001	220-56-103	AMD	00-08-038
220-20-015	AMD-P	00-06-083	220-52-04600A	REP-E	00-11-001	220-56-103	REP-XA	00-11-179
220-20-015	AMD-W	00-07-019	220-52-04600U	NEW-E	00-04-084	220-56-105	AMD	00-08-038
220-20-01500A	NEW-E	00-10-069	220-52-04600U	REP-E	00-06-009	220-56-115	AMD-XA	00-11-179
220-20-020	AMD-P	00-06-083	220-52-04600V	REP-E	00-04-084	220-56-11500D	NEW-E	00-10-068
220-20-020	AMD-W	00-07-019	220-52-04600X	NEW-E	00-06-009	220-56-116	AMD-XA	00-11-179
220-20-02000A	NEW-E	00-10-069	220-52-04600X	REP-E	00-08-037	220-56-123	AMD-XA	00-11-179
220-20-025	AMD-P	00-06-083	220-52-04600Y	NEW-E	00-08-037	220-56-12300A	NEW-E	00-10-068
220-20-025	AMD-W	00-07-019	220-52-04600Y	REP-E	00-08-037	220-56-128	AMD-XA	00-11-179
220-20-02500A	NEW-E	00-10-069	220-52-04600Y	REP-E	00-08-044	220-56-12800D	NEW-E	00-08-001
220-24-02000L	NEW-E	00-10-067	220-52-04600Z	NEW-E	00-08-044	220-56-12800D	REP-E	00-08-001
220-24-02000L	REP-E	00-10-067	220-52-04600Z	REP-E	00-08-044	220-56-12800E	NEW-E	00-10-068
220-32-05100R	NEW-E	00-04-071	220-52-05100A	NEW-E	00-09-055	220-56-130	AMD	00-08-038
220-32-05100R	REP-E	00-04-071	220-52-05100A	REP-E	00-10-051	220-56-145	AMD	00-08-038
220-32-05100R	REP-E	00-07-099	220-52-05100A	NEW-E	00-10-051	220-56-175	AMD-P	00-06-084
220-32-05500A	NEW-E	00-10-097	220-52-069	AMD-P	00-11-045	220-56-175	AMD	00-08-038
220-32-05500A	REP-E	00-10-097	220-52-06900A	NEW-E	00-04-015	220-56-175	AMD	00-11-178
220-32-05500A	REP-E	00-11-030	220-52-06900A	REP-E	00-11-116	220-56-180	AMD-XA	00-11-179
						220-56-185	AMD	00-08-038

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220-56-190	AMD-XA	00-11-179	220-56-36000C	REP-E	00-09-001	220-57-29000X	NEW-E	00-11-029
220-56-190	DECOD-X	00-11-179	220-56-36000D	NEW-E	00-09-054	220-57-29000X	REP-E	00-11-029
220-56-19000C	NEW-E	00-10-068	220-56-36000D	REP-E	00-09-054	220-57-295	REP-XA	00-11-179
220-56-191	AMD-XA	00-11-179	220-56-36000E	NEW-E	00-10-049	220-57-300	REP-XA	00-11-179
220-56-191	DECOD-P	00-11-179	220-56-36000E	REP-E	00-10-049	220-57-305	REP-XA	00-11-179
220-56-19100L	NEW-E	00-10-068	220-56-372	AMD	00-08-038	220-57-310	REP-XA	00-11-179
220-56-195	AMD-XA	00-11-179	220-56-380	AMD	00-08-038	220-57-313	REP-XA	00-11-179
220-56-19500F	NEW-E	00-10-068	220-56-380	AMD-XA	00-11-179	220-57-315	REP-XA	00-11-179
220-56-199	AMD-XA	00-11-179	220-56-38000X	NEW-E	00-08-045	220-57-31500J	NEW-E	00-08-022
220-56-19900A	NEW-E	00-10-068	220-56-38000Y	NEW-E	00-10-068	220-57-31500J	REP-E	00-08-022
220-56-205	AMD	00-08-038	220-57-001	REP-XA	00-11-179	220-57-319	REP-XA	00-11-179
220-56-205	REP-XA	00-11-179	220-57-120	REP-XA	00-11-179	220-57-31900Z	NEW-E	00-07-002
220-56-235	AMD	00-08-038	220-57-125	REP-XA	00-11-179	220-57-321	REP-XA	00-11-179
220-56-235	AMD-XA	00-10-038	220-57-130	REP-XA	00-11-179	220-57-32100D	NEW-E	00-08-022
220-56-23500E	NEW-E	00-08-084	220-57-135	REP-XA	00-11-179	220-57-32100D	REP-E	00-08-022
220-56-23500E	REP-E	00-10-012	220-57-137	REP-XA	00-11-179	220-57-325	REP-XA	00-11-179
220-56-23500F	NEW-E	00-10-012	220-57-13701	REP-XA	00-11-179	220-57-326	REP-XA	00-11-179
220-56-240	AMD	00-08-038	220-57-138	REP-XA	00-11-179	220-57-327	REP-XA	00-11-179
220-56-24000C	NEW-E	00-10-050	220-57-140	REP-XA	00-11-179	220-57-330	REP-XA	00-11-179
220-56-24000C	REP-E	00-10-050	220-57-145	REP-XA	00-11-179	220-57-335	REP-XA	00-11-179
220-56-24000D	NEW-E	00-11-059	220-57-150	REP-XA	00-11-179	220-57-340	REP-XA	00-11-179
220-56-250	AMD	00-08-038	220-57-155	REP-XA	00-11-179	220-57-341	REP-XA	00-11-179
220-56-250	AMD-XA	00-10-038	220-57-160	AMD	00-08-038	220-57-342	REP-XA	00-11-179
220-56-25000A	REP-E	00-08-084	220-57-160	REP-XA	00-11-179	220-57-345	REP-XA	00-11-179
220-56-25000B	NEW-E	00-08-084	220-57-16000V	NEW-E	00-07-073	220-57-34500A	NEW-E	00-03-007
220-56-25500	NEW-E	00-10-070	220-57-16000	NEW-E	00-08-006	220-57-34500A	REP-E	00-03-007
220-56-25500	REP-E	00-11-008	220-57-16000	REP-E	00-11-007	220-57-350	REP-XA	00-11-179
220-56-25500N	NEW-E	00-11-008	220-57-16000X	NEW-E	00-11-007	220-57-355	REP-XA	00-11-179
220-56-27000G	NEW-E	00-06-017	220-57-16000X	REP-E	00-11-007	220-57-365	REP-XA	00-11-179
220-56-27000G	REP-E	00-06-017	220-57-165	REP-XA	00-11-179	220-57-370	REP-XA	00-11-179
220-56-280	AMD	00-08-038	220-57-170	REP-XA	00-11-179	220-57-375	REP-XA	00-11-179
220-56-28500U	NEW-E	00-08-031	220-57-17000U	NEW-E	00-07-002	220-57-380	REP-XA	00-11-179
220-56-28500U	REP-E	00-08-031	220-57-17000U	REP-E	00-11-118	220-57-385	REP-XA	00-11-179
220-56-28500V	NEW-E	00-08-046	220-57-175	REP-XA	00-11-179	220-57-390	REP-XA	00-11-179
220-56-295	AMD	00-08-038	220-57-17500V	NEW-E	00-11-118	220-57-395	REP-XA	00-11-179
220-56-310	AMD	00-08-038	220-57-17500V	REP-E	00-11-118	220-57-400	REP-XA	00-11-179
220-56-315	AMD	00-08-038	220-57-180	REP-XA	00-11-179	220-57-405	REP-XA	00-11-179
220-56-32500D	NEW-E	00-10-011	220-57-181	REP-XA	00-11-179	220-57-410	REP-XA	00-11-179
220-56-32500D	REP-E	00-10-011	220-57-185	REP-XA	00-11-179	220-57-415	REP-XA	00-11-179
220-56-32500E	NEW-E	00-11-144	220-57-187	REP-XA	00-11-179	220-57-420	REP-XA	00-11-179
220-56-330	AMD	00-08-038	220-57-18700D	NEW-E	00-07-002	220-57-425	REP-XA	00-11-179
220-56-33000A	NEW-E	00-11-055	220-57-190	REP-XA	00-11-179	220-57-427	REP-XA	00-11-179
220-56-33000A	REP-E	00-11-143	220-57-195	REP-XA	00-11-179	220-57-430	REP-XA	00-11-179
220-56-33000B	NEW-E	00-11-143	220-57-200	REP-XA	00-11-179	220-57-432	REP-XA	00-11-179
220-56-33000V	REP-E	00-08-037	220-57-205	REP-XA	00-11-179	220-57-435	REP-XA	00-11-179
220-56-33000	NEW-E	00-06-009	220-57-210	REP-XA	00-11-179	220-57-440	REP-XA	00-11-179
220-56-33000	REP-E	00-08-037	220-57-215	REP-XA	00-11-179	220-57-445	REP-XA	00-11-179
220-56-33000X	NEW-E	00-07-098	220-57-225	REP-XA	00-11-179	220-57-450	REP-XA	00-11-179
220-56-33000X	REP-E	00-11-055	220-57-230	REP-XA	00-11-179	220-57-455	REP-XA	00-11-179
220-56-33000Y	NEW-E	00-08-037	220-57-235	REP-XA	00-11-179	220-57-460	REP-XA	00-11-179
220-56-33000Y	REP-E	00-09-053	220-57-240	REP-XA	00-11-179	220-57-462	REP-XA	00-11-179
220-56-33000Z	NEW-E	00-09-053	220-57-245	REP-XA	00-11-179	220-57-465	REP-XA	00-11-179
220-56-33000Z	REP-E	00-11-055	220-57-250	REP-XA	00-11-179	220-57-470	REP-XA	00-11-179
220-56-335	AMD-W	00-11-087	220-57-255	REP-XA	00-11-179	220-57-473	REP-XA	00-11-179
220-56-350	AMD	00-08-038	220-57-25500G	NEW-E	00-07-002	220-57-475	REP-XA	00-11-179
220-56-350	AMD-XA	00-11-179	220-57-260	REP-XA	00-11-179	220-57-480	REP-XA	00-11-179
220-56-35000F	NEW-E	00-08-045	220-57-265	REP-XA	00-11-179	220-57-485	REP-XA	00-11-179
220-56-35000G	NEW-E	00-10-068	220-57-270	REP-XA	00-11-179	220-57-490	REP-XA	00-11-179
220-56-36000A	REP-E	00-06-010	220-57-275	REP-XA	00-11-179	220-57-493	REP-XA	00-11-179
220-56-36000B	NEW-E	00-06-010	220-57-280	REP-XA	00-11-179	220-57-495	REP-XA	00-11-179
220-56-36000B	REP-E	00-06-010	220-57-285	REP-XA	00-11-179	220-57-497	REP-XA	00-11-179
220-56-36000C	NEW-E	00-09-001	220-57-290	REP-XA	00-11-179	220-57-500	REP-XA	00-11-179

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220- 57-502	REP-XA	00-11-179	220- 88C-01000	NEW-E	00-11-056	222- 22-076	NEW-E	00-06-026
220- 57-505	REP-XA	00-11-179	220- 88C-02000	NEW-E	00-11-056	222- 22-076	NEW-C	00-08-103
220- 57-50500G	NEW-E	00-08-022	220- 88C-03000	NEW-E	00-11-056	222- 22-080	AMD-E	00-06-026
220- 57-510	REP-XA	00-11-179	222- 08-035	AMD-E	00-06-026	222- 22-090	AMD-E	00-06-026
220- 57-515	REP-XA	00-11-179	222- 08-035	AMD-C	00-08-103	222- 22-090	AMD-C	00-08-103
220- 57-51500S	NEW-E	00-08-022	222- 10-010	AMD-E	00-06-026	222- 24-010	AMD-E	00-06-026
220- 57-51500S	REP-E	00-08-022	222- 10-020	NEW-C	00-08-103	222- 24-010	AMD-C	00-08-103
220- 57-51500S	REP-E	00-11-117	222- 10-030	NEW-E	00-06-026	222- 24-015	NEW-E	00-06-026
220- 57-51500T	NEW-E	00-11-117	222- 10-030	NEW-C	00-08-103	222- 24-020	AMD-E	00-06-026
220- 57-520	REP-XA	00-11-179	222- 10-035	NEW-E	00-06-026	222- 24-020	AMD-C	00-08-103
220- 57-525	REP-XA	00-11-179	222- 12-010	AMD-E	00-06-026	222- 24-025	REP-E	00-06-026
220- 57A-001	REP-XA	00-11-179	222- 12-020	AMD-P	00-08-104	222- 24-026	NEW-E	00-06-026
220- 57A-005	REP-XA	00-11-179	222- 12-041	NEW-E	00-06-026	222- 24-030	AMD-E	00-06-026
220- 57A-010	REP-XA	00-11-179	222- 12-044	NEW-E	00-06-026	222- 24-030	AMD-C	00-08-103
220- 57A-012	REP-XA	00-11-179	222- 12-044	NEW-C	00-08-103	222- 24-035	AMD-E	00-06-026
220- 57A-015	REP-XA	00-11-179	222- 12-045	AMD-E	00-06-026	222- 24-035	AMD-C	00-08-103
220- 57A-017	REP-XA	00-11-179	222- 12-045	AMD-C	00-08-103	222- 24-040	AMD-E	00-06-026
220- 57A-020	REP-XA	00-11-179	222- 12-090	AMD-E	00-06-026	222- 24-040	AMD-C	00-08-103
220- 57A-025	REP-XA	00-11-179	222- 12-090	AMD-C	00-08-103	222- 24-050	AMD-E	00-06-026
220- 57A-030	REP-XA	00-11-179	222- 12-090	AMD-P	00-08-104	222- 24-050	AMD-C	00-08-103
220- 57A-035	REP-XA	00-11-179	222- 16-010	AMD-E	00-06-026	222- 24-051	NEW-E	00-06-026
220- 57A-037	REP-XA	00-11-179	222- 16-010	AMD-C	00-08-103	222- 24-052	NEW-E	00-06-026
220- 57A-040	REP-XA	00-11-179	222- 16-030	AMD-E	00-06-026	222- 24-060	AMD-E	00-06-026
220- 57A-045	REP-XA	00-11-179	222- 16-030	AMD-C	00-08-103	222- 24-060	AMD-C	00-08-103
220- 57A-050	REP-XA	00-11-179	222- 16-035	AMD-E	00-06-026	222- 30-010	AMD-E	00-06-026
220- 57A-055	REP-XA	00-11-179	222- 16-036	NEW-E	00-06-026	222- 30-010	AMD-C	00-08-103
220- 57A-065	REP-XA	00-11-179	222- 16-050	AMD-E	00-06-026	222- 30-020	AMD-E	00-06-026
220- 57A-070	REP-XA	00-11-179	222- 16-050	AMD-C	00-08-103	222- 30-020	AMD-C	00-08-103
220- 57A-075	REP-XA	00-11-179	222- 16-080	AMD-E	00-06-026	222- 30-021	NEW-E	00-06-026
220- 57A-080	REP-XA	00-11-179	222- 20-010	AMD-E	00-06-026	222- 30-022	NEW-E	00-06-026
220- 57A-082	REP-XA	00-11-179	222- 20-010	AMD-C	00-08-103	222- 30-023	NEW-E	00-06-026
220- 57A-085	REP-XA	00-11-179	222- 20-015	NEW-E	00-06-026	222- 30-040	AMD-E	00-06-026
220- 57A-090	REP-XA	00-11-179	222- 20-015	NEW-C	00-08-103	222- 30-045	NEW-E	00-06-026
220- 57A-095	REP-XA	00-11-179	222- 20-020	AMD-E	00-06-026	222- 30-060	AMD-E	00-06-026
220- 57A-100	REP-XA	00-11-179	222- 20-020	AMD-C	00-08-103	222- 30-070	AMD-E	00-06-026
220- 57A-105	REP-XA	00-11-179	222- 20-055	NEW-E	00-06-026	222- 30-070	AMD-C	00-08-103
220- 57A-110	REP-XA	00-11-179	222- 20-070	AMD-C	00-08-103	222- 38-010	AMD-E	00-06-026
220- 57A-112	REP-XA	00-11-179	222- 20-080	AMD-E	00-06-026	222- 38-020	AMD-E	00-06-026
220- 57A-115	REP-XA	00-11-179	222- 21-005	NEW-P	00-08-104	222- 38-020	AMD-C	00-08-103
220- 57A-120	REP-XA	00-11-179	222- 21-010	NEW-P	00-08-104	222- 38-030	AMD-E	00-06-026
220- 57A-125	REP-XA	00-11-179	222- 21-020	NEW-P	00-08-104	222- 38-030	AMD-C	00-08-103
220- 57A-130	REP-XA	00-11-179	222- 21-030	NEW-P	00-08-104	222- 38-040	AMD-E	00-06-026
220- 57A-135	REP-XA	00-11-179	222- 21-035	NEW-P	00-08-104	222- 46-012	NEW-E	00-06-026
220- 57A-140	REP-XA	00-11-179	222- 21-040	NEW-P	00-08-104	222- 46-055	NEW-C	00-08-103
220- 57A-145	REP-XA	00-11-179	222- 21-045	NEW-P	00-08-104	222- 46-060	AMD-E	00-06-026
220- 57A-150	REP-XA	00-11-179	222- 21-050	NEW-P	00-08-104	222- 46-060	AMD-C	00-08-103
220- 57A-152	REP-XA	00-11-179	222- 21-060	NEW-P	00-08-104	222- 46-065	AMD-C	00-08-103
220- 57A-155	REP-XA	00-11-179	222- 21-065	NEW-P	00-08-104	222- 46-070	AMD-E	00-06-026
220- 57A-160	REP-XA	00-11-179	222- 21-070	NEW-P	00-08-104	224- 12	PREP	00-11-181
220- 57A-165	REP-XA	00-11-179	222- 21-080	NEW-P	00-08-104	230- 02-108	AMD-P	00-04-099
220- 57A-170	REP-XA	00-11-179	222- 21-090	NEW-P	00-08-104	230- 02-108	AMD	00-07-140
220- 57A-175	REP-XA	00-11-179	222- 22-010	AMD-C	00-08-103	230- 02-109	NEW-P	00-05-101
220- 57A-180	REP-XA	00-11-179	222- 22-030	AMD-C	00-08-103	230- 02-109	NEW	00-09-052
220- 57A-183	REP-XA	00-11-179	222- 22-035	NEW-C	00-08-103	230- 02-110	AMD-P	00-05-101
220- 57A-185	REP-XA	00-11-179	222- 22-040	AMD-C	00-08-103	230- 02-110	AMD	00-09-052
220- 57A-190	REP-XA	00-11-179	222- 22-050	AMD-C	00-08-103	230- 02-123	AMD-P	00-04-099
220- 69-236	AMD-P	00-06-084	222- 22-060	AMD-C	00-08-103	230- 02-123	AMD	00-07-140
220- 69-236	AMD	00-11-178	222- 22-065	NEW-C	00-08-103	230- 02-183	AMD-P	00-04-099
220- 69-24000P	NEW-E	00-10-051	222- 22-070	AMD-E	00-06-026	230- 02-183	AMD	00-07-140
220- 88B-04000	NEW-E	00-10-071	222- 22-070	AMD-C	00-08-103	230- 02-205	AMD	00-05-102
220- 88B-05000	NEW-E	00-10-071	222- 22-075	NEW-E	00-06-026	230- 02-206	AMD	00-05-102
220- 88B-05000	REP-E	00-10-071	222- 22-075	NEW-C	00-08-103	230- 02-380	AMD-W	00-02-067

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230- 02-400	REP-P	00-05-101	230- 20-244	AMD-P	00-04-099	230- 40-805	NEW	00-09-052
230- 02-400	REP	00-09-052	230- 20-244	AMD	00-07-140	230- 40-810	NEW-P	00-05-101
230- 02-412	NEW-P	00-11-114	230- 30-212	REP-P	00-11-114	230- 40-810	NEW	00-09-052
230- 02-415	AMD-P	00-05-101	230- 30-213	REP-P	00-11-114	230- 40-815	NEW-P	00-05-101
230- 02-415	AMD	00-09-052	230- 40-010	AMD-P	00-05-101	230- 40-815	NEW	00-09-052
230- 02-425	REP-P	00-05-101	230- 40-010	AMD	00-09-052	230- 40-820	NEW-P	00-05-101
230- 02-425	REP	00-09-052	230- 40-015	REP-P	00-05-101	230- 40-820	NEW	00-09-052
230- 04-022	AMD-P	00-05-101	230- 40-015	REP	00-09-052	230- 40-823	NEW-P	00-05-101
230- 04-022	AMD	00-09-052	230- 40-030	AMD-P	00-05-101	230- 40-823	NEW	00-09-052
230- 04-110	AMD-P	00-11-114	230- 40-030	AMD	00-09-052	230- 40-825	NEW-P	00-05-101
230- 04-115	AMD-P	00-11-114	230- 40-040	NEW-P	00-05-101	230- 40-825	NEW	00-09-052
230- 04-119	AMD	00-05-102	230- 40-040	NEW	00-09-052	230- 40-830	NEW-P	00-05-101
230- 04-120	AMD-P	00-11-114	230- 40-050	AMD-P	00-05-101	230- 40-830	NEW	00-09-052
230- 04-124	AMD-P	00-11-114	230- 40-050	AMD	00-09-052	230- 40-833	NEW-P	00-05-101
230- 04-140	AMD-P	00-05-101	230- 40-055	AMD-P	00-07-139	230- 40-833	NEW	00-09-052
230- 04-140	AMD	00-09-052	230- 40-055	AMD	00-11-054	230- 40-835	NEW-P	00-05-101
230- 04-142	REP-P	00-05-101	230- 40-060	REP-P	00-05-101	230- 40-835	NEW	00-09-052
230- 04-203	AMD-P	00-05-101	230- 40-060	REP	00-09-052	230- 40-840	NEW-P	00-05-101
230- 04-203	AMD-P	00-11-114	230- 40-070	AMD-P	00-05-101	230- 40-840	NEW	00-09-052
230- 04-204	AMD-P	00-05-101	230- 40-070	AMD	00-09-052	230- 40-845	NEW-P	00-05-101
230- 04-207	NEW-P	00-05-101	230- 40-120	AMD-P	00-05-101	230- 40-845	NEW	00-09-052
230- 04-207	NEW	00-09-052	230- 40-120	AMD	00-09-052	230- 40-850	NEW-P	00-05-101
230- 04-255	AMD-P	00-05-101	230- 40-125	REP-P	00-05-101	230- 40-850	NEW	00-09-052
230- 04-255	AMD	00-09-052	230- 40-125	AMD	00-09-052	230- 40-855	NEW-P	00-05-101
230- 04-450	AMD-P	00-05-101	230- 40-125	AMD	00-09-087	230- 40-855	NEW	00-09-052
230- 04-450	AMD	00-09-052	230- 40-130	AMD-P	00-05-101	230- 40-860	NEW-P	00-05-101
230- 08-027	NEW-P	00-05-101	230- 40-130	AMD	00-09-052	230- 40-860	NEW	00-09-052
230- 08-027	NEW	00-09-052	230- 40-150	REP-P	00-05-101	230- 40-865	NEW-P	00-05-101
230- 08-040	AMD-P	00-05-101	230- 40-150	REP	00-09-052	230- 40-865	NEW	00-09-052
230- 08-040	AMD	00-09-052	230- 40-160	REP-P	00-05-101	230- 40-870	NEW-P	00-05-101
230- 08-080	AMD-P	00-04-099	230- 40-160	REP	00-09-052	230- 40-870	NEW	00-09-052
230- 08-080	AMD	00-07-140	230- 40-200	AMD-P	00-05-101	230- 40-875	NEW-P	00-05-101
230- 08-090	AMD-P	00-05-101	230- 40-200	AMD	00-09-052	230- 40-875	NEW	00-09-052
230- 08-090	AMD	00-09-052	230- 40-225	AMD-P	00-05-101	230- 40-880	NEW-P	00-05-101
230- 08-100	REP-P	00-04-099	230- 40-225	AMD	00-09-052	230- 40-880	NEW	00-09-052
230- 08-100	REP	00-07-140	230- 40-400	AMD-P	00-05-101	230- 40-885	NEW-P	00-05-101
230- 08-105	AMD-P	00-04-099	230- 40-400	AMD	00-09-052	230- 40-885	NEW	00-09-052
230- 08-105	AMD	00-07-140	230- 40-550	NEW-P	00-05-101	230- 40-890	NEW-P	00-05-101
230- 08-160	AMD-P	00-05-101	230- 40-550	NEW	00-09-052	230- 40-890	NEW	00-09-052
230- 08-160	AMD	00-09-052	230- 40-552	NEW-P	00-05-101	230- 40-895	NEW-P	00-05-101
230- 12-050	AMD-P	00-04-099	230- 40-552	NEW	00-09-052	230- 40-895	NEW	00-09-052
230- 12-050	AMD-P	00-05-101	230- 40-554	NEW-P	00-05-101	230- 40-897	NEW-P	00-05-101
230- 12-050	AMD	00-07-140	230- 40-554	NEW	00-09-052	230- 40-897	NEW	00-09-052
230- 12-050	AMD	00-09-052	230- 40-556	NEW-P	00-05-101	230- 40-900	REP-P	00-05-101
230- 12-072	NEW-P	00-05-101	230- 40-556	NEW	00-09-052	230- 40-900	REP	00-09-052
230- 12-072	NEW	00-09-052	230- 40-558	NEW-P	00-05-101	230- 46-020	AMD-W	00-07-070
230- 12-073	NEW-P	00-05-101	230- 40-558	NEW	00-09-052	230- 46-035	NEW-W	00-07-070
230- 12-073	NEW	00-09-052	230- 40-560	NEW-P	00-05-101	230- 50-010	AMD-P	00-05-101
230- 12-074	NEW-P	00-11-113	230- 40-560	NEW	00-09-052	230- 50-010	AMD	00-09-052
230- 12-078	AMD-P	00-04-099	230- 40-562	NEW-P	00-05-101	232- 12-001	AMD-XA	00-11-179
230- 12-078	AMD	00-07-140	230- 40-562	NEW	00-09-052	232- 12-011	AMD	00-04-017
230- 12-310	AMD-P	00-05-103	230- 40-600	NEW-P	00-05-101	232- 12-011	AMD-P	00-06-083
230- 12-310	AMD	00-09-051	230- 40-600	NEW	00-09-052	232- 12-011	AMD-P	00-06-100
230- 12-335	NEW-P	00-11-114	230- 40-610	NEW-P	00-05-101	232- 12-011	AMD-W	00-07-019
230- 20-110	REP-P	00-04-099	230- 40-610	NEW	00-09-052	232- 12-011	AMD	00-10-001
230- 20-110	REP	00-07-140	230- 40-615	NEW-P	00-05-101	232- 12-01100A	NEW-E	00-10-069
230- 20-120	REP-P	00-04-099	230- 40-615	NEW	00-09-052	232- 12-014	AMD	00-04-017
230- 20-120	REP	00-07-140	230- 40-800	NEW-P	00-05-101	232- 12-018	REP	00-08-038
230- 20-220	AMD-P	00-04-099	230- 40-800	NEW	00-09-052	232- 12-047	AMD-P	00-06-088
230- 20-220	AMD	00-07-140	230- 40-803	NEW-P	00-05-101	232- 12-047	AMD	00-11-137
230- 20-243	AMD-P	00-04-099	230- 40-803	NEW	00-09-052	232- 12-051	AMD-P	00-06-089
230- 20-243	AMD	00-07-140	230- 40-805	NEW-P	00-05-101	232- 12-051	AMD	00-11-137

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
232- 12-054	AMD-P	00-06-090	232- 28-61900G	NEW-E	00-06-008	246-235-086	NEW-P	00-04-088
232- 12-054	AMD	00-11-137	232- 28-61900H	NEW-E	00-07-001	246-235-086	NEW	00-08-013
232- 12-068	AMD-P	00-06-091	232- 28-61900I	NEW-E	00-07-073	246-235-090	AMD-P	00-04-088
232- 12-068	AMD	00-11-137	232- 28-61900I	REP-E	00-07-073	246-235-090	AMD	00-08-013
232- 12-161	REP-XR	00-08-027	232- 28-61900J	NEW-E	00-08-006	246-243-020	AMD-P	00-04-088
232- 12-168	AMD	00-08-038	232- 28-61900J	REP-E	00-11-007	246-243-020	AMD	00-08-013
232- 12-257	AMD-W	00-02-066	232- 28-61900K	NEW-E	00-08-001	246-243-030	AMD-P	00-04-088
232- 12-257	AMD-P	00-06-094	232- 28-61900K	REP-E	00-08-001	246-243-030	AMD	00-08-013
232- 12-257	AMD	00-11-137	232- 28-620	RECOD-X	00-11-179	246-243-042	NEW-P	00-04-088
232- 12-31500G	NEW-E	00-04-014	232- 28-621	RECOD-X	00-11-179	246-243-042	NEW	00-08-013
232- 12-619	AMD	00-08-038	236- 18-040	AMD	00-06-052	246-243-044	NEW-P	00-04-088
232- 12-619	AMD-XA	00-11-179	236- 18-070	AMD	00-06-052	246-243-044	NEW	00-08-013
232- 12-61900L	NEW-E	00-10-068	236- 18-080	AMD	00-06-052	246-243-047	NEW-P	00-04-088
232- 12-61900	NEW-E	00-11-002	236- 70-040	AMD	00-08-040	246-243-047	NEW	00-08-013
232- 12-61900	REP-E	00-11-002	236- 70-050	AMD	00-08-040	246-243-050	AMD-P	00-04-088
232- 16-700	AMD-P	00-06-093	236- 70-060	AMD	00-08-040	246-243-050	AMD	00-08-013
232- 16-700	AMD	00-11-137	236- 70-080	AMD	00-08-040	246-243-060	AMD-P	00-04-088
232- 28-02201	AMD	00-04-017	236-200-010	RECOD	00-08-039	246-243-060	AMD	00-08-013
232- 28-02202	AMD	00-04-017	236-200-020	RECOD	00-08-039	246-243-080	AMD-P	00-04-088
232- 28-02202	AMD-P	00-06-097	236-200-030	RECOD	00-08-039	246-243-080	AMD	00-08-013
232- 28-02202	AMD	00-11-137	236-200-040	RECOD	00-08-039	246-243-090	AMD-P	00-04-088
232- 28-02203	AMD	00-04-017	236-200-050	RECOD	00-08-039	246-243-090	AMD	00-08-013
232- 28-02204	AMD	00-04-017	236-200-060	RECOD	00-08-039	246-243-100	AMD-P	00-04-088
232- 28-02205	AMD	00-04-017	242- 02-052	AMD-P	00-05-021	246-243-100	AMD	00-08-013
232- 28-02206	AMD	00-04-017	242- 02-052	AMD	00-09-094	246-243-110	AMD-P	00-04-088
232- 28-02220	AMD	00-04-017	242- 02-255	NEW-P	00-05-021	246-243-110	AMD	00-08-013
232- 28-02240	AMD	00-04-017	242- 02-255	NEW	00-09-094	246-243-120	AMD-P	00-04-088
232- 28-24102	REP	00-04-017	242- 02-522	AMD-P	00-05-021	246-243-120	AMD	00-08-013
232- 28-248	AMD-P	00-06-095	242- 02-522	AMD	00-09-094	246-243-130	AMD-P	00-04-088
232- 28-248	AMD	00-11-137	242- 02-832	AMD-P	00-05-021	246-243-130	AMD	00-08-013
232- 28-255	REP	00-04-017	242- 02-832	AMD	00-09-094	246-243-140	AMD-P	00-04-088
232- 28-26000A	NEW-E	00-03-025	242- 02-834	AMD-P	00-05-021	246-243-140	AMD	00-08-013
232- 28-261	REP	00-04-017	242- 02-834	AMD	00-09-094	246-243-141	NEW-P	00-04-088
232- 28-262	REP	00-04-017	242- 04-030	AMD-P	00-05-021	246-243-141	NEW	00-08-013
232- 28-263	REP	00-04-017	242- 04-030	AMD	00-09-094	246-243-150	AMD-P	00-04-088
232- 28-266	AMD-P	00-06-096	242- 04-050	AMD-P	00-05-021	246-243-150	AMD	00-08-013
232- 28-266	AMD	00-11-137	242- 04-050	AMD	00-09-094	246-243-160	AMD-P	00-04-088
232- 28-269	REP	00-04-017	246- 14-010	NEW	00-10-114	246-243-160	AMD	00-08-013
232- 28-270	REP	00-04-017	246- 14-020	NEW	00-10-114	246-243-170	AMD-P	00-04-088
232- 28-271	AMD	00-04-017	246- 14-030	NEW	00-10-114	246-243-170	AMD	00-08-013
232- 28-272	AMD-P	00-06-099	246- 14-040	NEW	00-10-114	246-243-180	AMD-P	00-04-088
232- 28-272	AMD	00-11-137	246- 14-050	NEW	00-10-114	246-243-180	AMD	00-08-013
232- 28-273	AMD-P	00-06-092	246- 14-060	NEW	00-10-114	246-243-190	AMD-P	00-04-088
232- 28-273	AMD	00-11-137	246- 14-070	NEW	00-10-114	246-243-190	AMD	00-08-013
232- 28-275	AMD	00-04-017	246- 14-080	NEW	00-10-114	246-243-195	AMD-P	00-04-088
232- 28-276	NEW-P	00-06-086	246- 14-090	NEW	00-10-114	246-243-195	AMD	00-08-013
232- 28-276	NEW	00-11-137	246- 14-100	NEW	00-10-114	246-243-200	AMD-P	00-04-088
232- 28-277	NEW	00-04-017	246- 14-110	NEW	00-10-114	246-243-200	AMD	00-08-013
232- 28-278	NEW-P	00-06-087	246- 14-120	NEW	00-10-114	246-243-203	NEW-P	00-04-088
232- 28-278	NEW	00-11-137	246-220-007	AMD-P	00-04-088	246-243-203	NEW	00-08-013
232- 28-279	NEW-P	00-06-085	246-220-007	AMD	00-08-013	246-243-210	REP-P	00-04-088
232- 28-279	NEW	00-11-137	246-220-010	AMD-P	00-04-088	246-243-210	REP	00-08-013
232- 28-619	AMD	00-08-038	246-220-010	AMD	00-08-013	246-243-220	AMD-P	00-04-088
232- 28-619	AMD-XA	00-11-179	246-221-020	AMD-P	00-04-088	246-243-220	AMD	00-08-013
232- 28-61900D	NEW-E	00-03-041	246-221-020	AMD	00-08-013	246-243-230	AMD-P	00-04-088
232- 28-61900D	REP-E	00-03-041	246-221-270	AMD	00-07-085	246-243-230	AMD	00-08-013
232- 28-61900D	REP-E	00-03-055	246-232-060	AMD	00-07-085	246-243-250	NEW-P	00-04-088
232- 28-61900E	NEW-E	00-03-055	246-235-075	AMD	00-07-085	246-243-250	NEW	00-08-013
232- 28-61900E	REP-E	00-03-055	246-235-080	AMD-P	00-04-088	246-246-001	NEW	00-07-085
232- 28-61900E	REP-E	00-05-085	246-235-080	AMD	00-08-013	246-246-010	NEW	00-07-085
232- 28-61900F	NEW-E	00-05-085	246-235-084	NEW-P	00-04-088	246-246-020	NEW	00-07-085
232- 28-61900F	REP-E	00-05-085	246-235-084	NEW	00-08-013	246-246-030	NEW	00-07-085

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-246-040	NEW	00-07-085	246-358-029	NEW	00-06-082	246-562-020	AMD-P	00-11-165
246-246-050	NEW	00-07-085	246-358-030	REP	00-06-082	246-562-060	AMD-P	00-11-165
246-246-060	NEW	00-07-085	246-358-040	NEW	00-06-082	246-562-080	AMD-P	00-11-165
246-252-001	AMD-P	00-04-088	246-358-045	AMD	00-06-082	246-562-110	AMD-P	00-11-165
246-252-001	AMD	00-08-013	246-358-055	AMD	00-06-082	246-562-120	AMD-P	00-11-165
246-252-030	AMD-P	00-04-088	246-358-065	AMD	00-06-082	246-562-140	AMD-P	00-11-165
246-252-030	AMD	00-08-013	246-358-070	NEW	00-06-082	246-562-150	AMD-P	00-11-165
246-254-150	AMD-P	00-04-088	246-358-075	AMD	00-06-082	246-562-160	NEW-P	00-11-165
246-254-150	AMD	00-08-013	246-358-090	AMD	00-06-082	246-780-001	AMD-P	00-03-074
246-290-72001	NEW-P	00-11-164	246-358-095	AMD	00-06-082	246-780-001	AMD	00-07-129
246-290-72002	NEW-P	00-11-164	246-358-100	AMD	00-06-082	246-780-010	AMD-P	00-03-074
246-290-72003	NEW-P	00-11-164	246-358-125	AMD	00-06-082	246-780-010	AMD	00-07-129
246-290-72004	NEW-P	00-11-164	246-358-135	AMD	00-06-082	246-780-020	AMD-P	00-03-074
246-290-72005	NEW-P	00-11-164	246-358-140	REP	00-06-082	246-780-020	AMD	00-07-129
246-290-72006	NEW-P	00-11-164	246-358-145	AMD	00-06-082	246-780-022	NEW-P	00-03-074
246-290-72007	NEW-P	00-11-164	246-358-155	AMD	00-06-082	246-780-022	NEW	00-07-129
246-290-72008	NEW-P	00-11-164	246-358-165	AMD	00-06-082	246-780-025	NEW-P	00-03-074
246-290-72009	NEW-P	00-11-164	246-358-175	AMD	00-06-082	246-780-025	NEW	00-07-129
246-290-72010	NEW-P	00-11-164	246-358-600	REP	00-06-082	246-780-028	NEW-P	00-03-074
246-290-72011	NEW-P	00-11-164	246-358-610	REP	00-06-082	246-780-028	NEW	00-07-129
246-290-72012	NEW-P	00-11-164	246-358-620	REP	00-06-082	246-780-030	AMD-P	00-03-074
246-292	PREP	00-10-112	246-358-630	REP	00-06-082	246-780-030	AMD	00-07-129
246-323	PREP	00-05-097	246-358-640	REP	00-06-082	246-780-040	AMD-P	00-03-074
246-325	PREP	00-05-097	246-358-650	REP	00-06-082	246-780-040	AMD	00-07-129
246-326	PREP	00-05-097	246-358-660	REP	00-06-082	246-780-050	REP-P	00-03-074
246-338-001	AMD-P	00-03-073	246-358-670	REP	00-06-082	246-780-050	REP	00-07-129
246-338-001	AMD	00-06-079	246-358-680	REP	00-06-082	246-780-060	AMD-P	00-03-074
246-338-010	AMD-P	00-03-073	246-361-001	NEW	00-06-082	246-780-060	AMD	00-07-129
246-338-010	AMD	00-06-079	246-361-010	NEW	00-06-082	246-780-070	REP-P	00-03-074
246-338-020	AMD-P	00-03-073	246-361-020	NEW	00-06-082	246-780-070	REP	00-07-129
246-338-020	AMD	00-06-079	246-361-025	NEW	00-06-082	246-790	AMD-P	00-07-084
246-338-022	NEW-P	00-03-073	246-361-030	NEW	00-06-082	246-790-010	AMD-P	00-07-084
246-338-022	NEW	00-06-079	246-361-035	NEW	00-06-082	246-790-050	AMD-P	00-07-084
246-338-024	NEW-P	00-03-073	246-361-045	NEW	00-06-082	246-790-060	AMD-P	00-07-084
246-338-024	NEW	00-06-079	246-361-055	NEW	00-06-082	246-790-065	NEW-P	00-07-084
246-338-024	NEW	00-06-079	246-361-065	NEW	00-06-082	246-790-070	AMD-P	00-07-084
246-338-026	NEW-P	00-03-073	246-361-070	NEW	00-06-082	246-790-080	AMD-P	00-07-084
246-338-026	NEW	00-06-079	246-361-075	NEW	00-06-082	246-790-085	AMD-P	00-07-084
246-338-028	NEW-P	00-03-073	246-361-080	NEW	00-06-082	246-790-090	AMD-P	00-07-084
246-338-028	NEW	00-06-079	246-361-080	NEW	00-06-082	246-790-090	AMD-P	00-07-084
246-338-028	NEW	00-06-079	246-361-090	NEW	00-06-082	246-790-100	AMD-P	00-07-084
246-338-030	REP-P	00-03-073	246-361-095	NEW	00-06-082	246-790-120	AMD-P	00-07-084
246-338-030	REP	00-06-079	246-361-100	NEW	00-06-082	246-790-130	AMD-P	00-07-084
246-338-040	AMD-P	00-03-073	246-361-125	NEW	00-06-082	246-808-105	PREP	00-10-110
246-338-040	AMD	00-06-079	246-361-135	NEW	00-06-082	246-808-115	PREP	00-10-110
246-338-050	AMD-P	00-03-073	246-361-145	NEW	00-06-082	246-808-120	PREP	00-10-110
246-338-050	AMD	00-06-079	246-361-155	NEW	00-06-082	246-808-135	PREP	00-10-110
246-338-060	AMD-P	00-03-073	246-361-165	NEW	00-06-082	246-808-700	REP-XR	00-04-087
246-338-060	AMD	00-06-079	246-361-175	NEW	00-06-082	246-810-600	NEW	00-03-075A
246-338-070	AMD-P	00-03-073	246-361-190	NEW	00-06-082	246-810-610	NEW	00-03-075A
246-338-070	AMD	00-06-079	246-490-010	NEW-P	00-05-098	246-810-620	NEW	00-03-075A
246-338-080	AMD-P	00-03-073	246-490-010	NEW	00-11-169	246-810-630	NEW	00-03-075A
246-338-080	AMD	00-06-079	246-490-020	NEW-P	00-05-098	246-810-640	NEW	00-03-075A
246-338-090	AMD-P	00-03-073	246-490-020	NEW	00-11-169	246-810-650	NEW	00-03-075A
246-338-090	AMD	00-06-079	246-490-030	NEW-P	00-05-098	246-810-660	NEW	00-03-075A
246-338-100	AMD-P	00-03-073	246-490-030	NEW	00-11-169	246-811-090	NEW-P	00-08-100
246-338-100	AMD	00-06-079	246-490-030	NEW	00-11-169	246-811-100	NEW-P	00-08-100
246-338-110	AMD-P	00-03-073	246-490-055	NEW-P	00-05-098	246-811-110	NEW-P	00-08-100
246-338-110	AMD	00-06-079	246-490-055	NEW	00-11-169	246-812-990	AMD	00-07-050
246-338-110	AMD	00-06-079	246-490-065	NEW-P	00-05-098	246-830-485	NEW	00-07-086
246-358-001	AMD	00-06-082	246-490-065	NEW	00-11-169	246-840-500	PREP	00-11-163
246-358-010	AMD	00-06-082	246-490-070	NEW-P	00-05-098	246-840-505	PREP	00-11-163
246-358-020	REP	00-06-082	246-490-070	NEW	00-11-169	246-840-510	PREP	00-11-163
246-358-025	AMD	00-06-082	246-562-010	AMD-P	00-11-165			
246-358-027	NEW	00-06-082						

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-840-520	PREP	00-11-163	246-939-010	NEW-P	00-11-167	246-976-165	REP	00-08-102
246-840-525	PREP	00-11-163	246-939-030	NEW-P	00-11-167	246-976-170	REP-P	00-03-075
246-840-530	PREP	00-11-163	246-939-050	NEW-P	00-11-167	246-976-170	REP	00-08-102
246-840-535	PREP	00-11-163	246-976-001	AMD-P	00-03-075	246-976-171	NEW-P	00-03-075
246-840-540	PREP	00-11-163	246-976-001	AMD	00-08-102	246-976-171	NEW	00-08-102
246-840-545	PREP	00-11-163	246-976-010	AMD-P	00-03-075	246-976-180	REP-P	00-03-075
246-840-550	PREP	00-11-163	246-976-010	AMD	00-08-102	246-976-180	REP	00-08-102
246-840-555	PREP	00-11-163	246-976-020	REP-P	00-03-075	246-976-181	REP-P	00-03-075
246-840-560	PREP	00-11-163	246-976-020	REP	00-08-102	246-976-181	REP	00-08-102
246-840-565	PREP	00-11-163	246-976-021	NEW-P	00-03-075	246-976-182	NEW-P	00-03-075
246-840-570	PREP	00-11-163	246-976-021	NEW	00-08-102	246-976-182	NEW	00-08-102
246-840-575	PREP	00-11-163	246-976-025	REP-P	00-03-075	246-976-190	REP-P	00-03-075
246-840-830	AMD-P	00-11-166	246-976-025	REP	00-08-102	246-976-190	REP	00-08-102
246-840-910	PREP	00-11-158	246-976-030	REP-P	00-03-075	246-976-191	NEW-P	00-03-075
246-840-920	PREP	00-11-158	246-976-030	REP	00-08-102	246-976-191	NEW	00-08-102
246-840-930	PREP	00-11-158	246-976-031	NEW-P	00-03-075	246-976-200	REP-P	00-03-075
246-840-940	PREP	00-11-158	246-976-031	NEW	00-08-102	246-976-200	REP	00-08-102
246-840-950	PREP	00-11-158	246-976-035	REP-P	00-03-075	246-976-210	REP-P	00-03-075
246-840-960	PREP	00-11-158	246-976-035	REP	00-08-102	246-976-210	REP	00-08-102
246-840-970	PREP	00-11-158	246-976-040	REP-P	00-03-075	246-976-220	REP-P	00-03-075
246-840-980	PREP	00-11-158	246-976-040	REP	00-08-102	246-976-220	REP	00-08-102
246-840-990	PREP-W	00-11-153	246-976-041	NEW-P	00-03-075	246-976-230	REP-P	00-03-075
246-841-400	PREP	00-03-072	246-976-041	NEW	00-08-102	246-976-230	REP	00-08-102
246-841-405	PREP	00-11-158	246-976-045	REP-P	00-03-075	246-976-240	REP-P	00-03-075
246-841-410	PREP	00-03-072	246-976-045	REP	00-08-102	246-976-240	REP	00-08-102
246-841-420	PREP	00-03-072	246-976-050	REP-P	00-03-075	246-976-260	AMD-P	00-03-075
246-841-430	PREP	00-03-072	246-976-050	REP	00-08-102	246-976-260	AMD	00-08-102
246-841-440	PREP	00-03-072	246-976-055	REP-P	00-03-075	246-976-270	AMD-P	00-03-075
246-841-450	PREP	00-03-072	246-976-055	REP	00-08-102	246-976-270	AMD	00-08-102
246-841-460	PREP	00-03-072	246-976-060	REP-P	00-03-075	246-976-280	REP-P	00-03-075
246-841-470	PREP	00-03-072	246-976-060	REP	00-08-102	246-976-280	REP	00-08-102
246-841-480	PREP	00-03-072	246-976-065	REP-P	00-03-075	246-976-290	AMD-P	00-03-075
246-841-490	PREP	00-03-072	246-976-065	REP	00-08-102	246-976-290	AMD	00-08-102
246-841-500	PREP	00-03-072	246-976-070	REP-P	00-03-075	246-976-300	AMD-P	00-03-075
246-841-510	PREP	00-03-072	246-976-070	REP	00-08-102	246-976-300	AMD	00-08-102
246-883-020	AMD	00-06-078	246-976-075	REP-P	00-03-075	246-976-310	AMD-P	00-03-075
246-886-025	NEW-E	00-11-168	246-976-075	REP	00-08-102	246-976-310	AMD	00-08-102
246-887-160	AMD-P	00-06-080	246-976-076	REP-P	00-03-075	246-976-320	AMD-P	00-03-075
246-887-160	AMD	00-10-113	246-976-076	REP	00-08-102	246-976-320	AMD	00-08-102
246-901	AMD-P	00-08-101	246-976-077	REP-P	00-03-075	246-976-320	PREP	00-10-111
246-901-010	AMD-P	00-08-101	246-976-077	REP	00-08-102	246-976-330	AMD-P	00-03-075
246-901-020	AMD-P	00-08-101	246-976-080	REP-P	00-03-075	246-976-330	AMD	00-08-102
246-901-030	AMD-P	00-08-101	246-976-080	REP	00-08-102	246-976-340	AMD-P	00-03-075
246-901-035	AMD-P	00-08-101	246-976-085	REP-P	00-03-075	246-976-340	AMD	00-08-102
246-901-040	AMD-P	00-08-101	246-976-085	REP	00-08-102	246-976-350	REP-P	00-03-075
246-901-050	AMD-P	00-08-101	246-976-110	REP-P	00-03-075	246-976-350	REP	00-08-102
246-901-060	AMD-P	00-08-101	246-976-110	REP	00-08-102	246-976-370	REP-P	00-03-075
246-901-065	AMD-P	00-08-101	246-976-120	REP-P	00-03-075	246-976-370	REP	00-08-102
246-901-070	AMD-P	00-08-101	246-976-120	REP	00-08-102	246-976-390	AMD-P	00-03-075
246-901-080	AMD-P	00-08-101	246-976-140	REP-P	00-03-075	246-976-390	AMD	00-08-102
246-901-090	AMD-P	00-08-101	246-976-140	REP	00-08-102	246-976-390	PREP	00-10-111
246-901-100	AMD-P	00-08-101	246-976-141	NEW-P	00-03-075	246-976-400	AMD-P	00-03-075
246-901-110	REP-P	00-08-101	246-976-141	NEW	00-08-102	246-976-400	AMD	00-08-102
246-901-120	AMD-P	00-08-101	246-976-150	REP-P	00-03-075	246-976-420	AMD-P	00-03-075
246-901-130	AMD-P	00-08-101	246-976-150	REP	00-08-102	246-976-420	AMD	00-08-102
246-901-140	NEW-P	00-08-101	246-976-151	NEW-P	00-03-075	246-976-430	AMD-P	00-03-075
246-930-010	PREP	00-08-099	246-976-151	NEW	00-08-102	246-976-430	AMD	00-08-102
246-930-030	PREP	00-08-099	246-976-160	REP-P	00-03-075	246-976-440	REP-P	00-03-075
246-930-040	PREP	00-08-099	246-976-160	REP	00-08-102	246-976-440	REP	00-08-102
246-930-200	PREP	00-08-099	246-976-161	NEW-P	00-03-075	246-976-450	REP-P	00-03-075
246-930-410	PREP	00-08-099	246-976-161	NEW	00-08-102	246-976-450	REP	00-08-102
246-939	PREP	00-11-159	246-976-165	REP-P	00-03-075	246-976-890	AMD-P	00-03-075

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-976-890	AMD	00-08-102	251-09-080	AMD-C	00-06-050	284-43-710	AMD	00-04-034
246-976-910	AMD-P	00-03-075	251-09-080	AMD	00-10-026	284-43-710	AMD-E	00-08-011
246-976-910	AMD	00-08-102	251-19-085	NEW-P	00-06-048	284-43-720	AMD	00-04-034
246-976-920	AMD-P	00-03-075	251-19-085	NEW	00-11-121	284-43-720	AMD-E	00-08-011
246-976-920	AMD	00-08-102	251-20-020	AMD-P	00-04-053	284-43-730	AMD-E	00-08-011
246-976-930	AMD-P	00-03-075	251-20-020	AMD-W	00-05-060	284-43-915	AMD-E	00-08-011
246-976-930	AMD	00-08-102	251-20-020	AMD-C	00-06-051	284-43-930	AMD-E	00-08-011
246-976-940	AMD-P	00-03-075	251-20-020	AMD	00-10-027	284-43-945	AMD-E	00-08-011
246-976-940	AMD	00-08-102	251-20-030	AMD-P	00-04-053	284-74-300	NEW-P	00-04-090
246-976-950	AMD-P	00-03-075	251-20-030	AMD-W	00-05-060	284-74-300	NEW	00-07-069
246-976-950	AMD	00-08-102	251-20-030	AMD-C	00-06-051	284-74-310	NEW-P	00-04-090
246-976-960	AMD-P	00-03-075	251-20-030	AMD	00-10-027	284-74-310	NEW	00-07-069
246-976-960	AMD	00-08-102	251-23-040	AMD-P	00-04-052	284-74-320	NEW-P	00-04-090
246-976-970	AMD-P	00-03-075	251-23-040	AMD-C	00-06-050	284-74-320	NEW	00-07-069
246-976-970	AMD	00-08-102	251-23-040	AMD	00-10-026	284-74-330	NEW-P	00-04-090
246-976-990	AMD-P	00-03-075	260-28-230	AMD	00-06-072	284-74-330	NEW	00-07-069
246-976-990	AMD	00-08-102	260-34-030	AMD-P	00-03-088	284-74-340	NEW-P	00-04-090
250-66-020	AMD	00-08-081	260-34-030	AMD	00-07-038	284-74-340	NEW	00-07-069
250-66-030	AMD	00-08-081	260-34-080	AMD-P	00-03-088	284-74-350	NEW-P	00-04-090
250-66-040	AMD	00-08-081	260-34-080	AMD	00-07-038	284-74-350	NEW	00-07-069
250-66-045	NEW	00-08-081	260-34-090	AMD-P	00-03-088	284-74-360	NEW-P	00-04-090
250-66-050	AMD	00-08-081	260-34-090	AMD	00-07-038	284-74-360	NEW	00-07-069
250-80-010	NEW	00-08-082	260-34-100	AMD-P	00-03-088	284-74-370	NEW-P	00-04-090
250-80-010	NEW-E	00-08-083	260-34-100	AMD	00-07-038	284-74-370	NEW	00-07-069
250-80-020	NEW	00-08-082	260-34-140	AMD-P	00-03-088	284-74-380	NEW-P	00-04-090
250-80-020	NEW-E	00-08-083	260-34-140	AMD-W	00-07-037	284-74-380	NEW	00-07-069
250-80-030	NEW	00-08-082	260-34-150	AMD-P	00-03-088	286-40-020	AMD	00-05-008
250-80-030	NEW-E	00-08-083	260-34-150	AMD-W	00-07-037	296-15-500	NEW-P	00-10-106
250-80-040	NEW	00-08-082	260-40-100	AMD-P	00-03-089	296-15-510	NEW-P	00-10-106
250-80-040	NEW-E	00-08-083	260-40-100	AMD	00-07-039	296-17	PREP	00-02-090
250-80-050	NEW	00-08-082	260-44-070	AMD	00-06-071	296-17	PREP	00-11-135
250-80-050	NEW-E	00-08-083	260-48-600	AMD	00-06-070	296-17-31011	AMD-P	00-07-138
250-80-060	NEW	00-08-082	260-48-620	AMD	00-06-070	296-17-31012	AMD-P	00-07-138
250-80-060	NEW-E	00-08-083	260-52-010	AMD	00-06-069	296-17-31021	AMD-P	00-07-138
250-80-070	NEW	00-08-082	260-52-030	AMD	00-06-069	296-17-501	AMD-P	00-07-138
250-80-070	NEW-E	00-08-083	260-52-040	AMD	00-06-069	296-17-50601	AMD-P	00-07-138
250-80-080	NEW	00-08-082	260-52-060	AMD-P	00-03-091	296-17-510	AMD-P	00-07-138
250-80-080	NEW-E	00-08-083	260-52-060	AMD	00-07-041	296-17-521	AMD-P	00-07-138
250-80-090	NEW	00-08-082	260-70-700	AMD-P	00-03-092	296-17-52102	AMD-P	00-07-138
250-80-090	NEW-E	00-08-083	260-70-700	AMD	00-07-042	296-17-52106	AMD-P	00-07-138
250-80-100	NEW	00-08-082	260-75-020	NEW-P	00-03-090	296-17-527	AMD-P	00-07-138
250-80-100	NEW-E	00-08-083	260-75-020	NEW	00-07-040	296-17-529	AMD-P	00-07-138
250-81-010	NEW-P	00-05-084	260-75-030	NEW-P	00-03-090	296-17-537	AMD-P	00-07-138
250-81-010	NEW	00-08-080	260-75-030	NEW	00-07-040	296-17-53803	AMD-P	00-07-138
250-81-020	NEW-P	00-05-084	260-88-010	AMD-P	00-03-093	296-17-542	AMD-P	00-07-138
250-81-020	NEW	00-08-080	260-88-010	AMD	00-07-043	296-17-544	AMD-P	00-07-138
250-81-030	NEW-P	00-05-084	262-01-140	NEW	00-06-030	296-17-54401	AMD-P	00-07-138
250-81-030	NEW	00-08-080	275-30-010	AMD-E	00-10-065	296-17-54403	NEW-P	00-07-138
250-81-040	NEW-P	00-05-084	275-35	PREP	00-03-028	296-17-545	AMD-P	00-07-138
250-81-040	NEW	00-08-080	275-37-010	REP-P	00-11-139	296-17-546	AMD-P	00-07-138
250-81-050	NEW-P	00-05-084	275-37-020	REP-P	00-11-139	296-17-562	AMD-P	00-07-138
250-81-050	NEW	00-08-080	275-37-030	REP-P	00-11-139	296-17-57001	AMD-P	00-07-138
250-81-060	NEW-P	00-05-084	275-54	PREP	00-08-048	296-17-583	AMD-P	00-07-138
250-81-060	NEW	00-08-080	275-55	PREP	00-08-048	296-17-58503	AMD-P	00-07-138
251-01-345	AMD-P	00-04-053	275-57	PREP	00-08-048	296-17-597	AMD-P	00-07-138
251-01-345	AMD-W	00-05-060	284-02-070	AMD-E	00-08-011	296-17-615	AMD-P	00-07-138
251-01-345	AMD-C	00-06-051	284-43-120	AMD	00-04-034	296-17-618	AMD-P	00-07-138
251-01-345	AMD	00-10-027	284-43-125	NEW	00-04-034	296-17-643	AMD-P	00-07-138
251-08-115	AMD-P	00-04-052	284-43-200	AMD	00-04-034	296-17-649	AMD-P	00-07-138
251-08-115	AMD-C	00-06-050	284-43-210	AMD	00-04-034	296-17-66003	AMD-P	00-07-138
251-08-115	AMD	00-10-026	284-43-220	AMD	00-04-034	296-17-675	AMD-P	00-07-138
251-09-080	AMD-P	00-04-052	284-43-250	AMD	00-04-034	296-17-678	AMD-P	00-07-138

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-17-679	AMD-P	00-07-138	296-17-91209	REP	00-11-060	296-19A-290	NEW-P	00-10-106
296-17-686	AMD-P	00-07-138	296-17-91210	REP	00-11-060	296-19A-300	NEW-P	00-10-106
296-17-689	AMD-P	00-07-138	296-17-91211	REP	00-11-060	296-19A-310	NEW-P	00-10-106
296-17-690	AMD-P	00-07-138	296-17-91212	REP	00-11-060	296-19A-320	NEW-P	00-10-106
296-17-694	AMD-P	00-07-138	296-17-91213	REP	00-11-060	296-19A-330	NEW-P	00-10-106
296-17-695	AMD-P	00-07-138	296-17-91214	REP	00-11-060	296-19A-340	NEW-P	00-10-106
296-17-712	AMD-P	00-07-138	296-17-91215	REP	00-11-060	296-19A-350	NEW-P	00-10-106
296-17-713	AMD-P	00-07-138	296-17-91216	REP	00-11-060	296-19A-360	NEW-P	00-10-106
296-17-729	AMD-P	00-07-138	296-17-91219	REP	00-11-060	296-19A-370	NEW-P	00-10-106
296-17-740	AMD-P	00-07-138	296-17-91220	REP	00-11-060	296-19A-380	NEW-P	00-10-106
296-17-748	AMD-P	00-07-138	296-17-91221	REP	00-11-060	296-19A-390	NEW-P	00-10-106
296-17-749	AMD-P	00-07-138	296-17-91222	REP	00-11-060	296-19A-400	NEW-P	00-10-106
296-17-751	AMD-P	00-07-138	296-17-91223	REP	00-11-060	296-19A-410	NEW-P	00-10-106
296-17-779	AMD-P	00-07-138	296-17-91224	REP	00-11-060	296-19A-420	NEW-P	00-10-106
296-17-855	AMD-P	00-07-138	296-17-91225	REP	00-11-060	296-19A-430	NEW-P	00-10-106
296-17-885	AMD-P	00-07-138	296-17-91250	REP	00-11-060	296-19A-440	NEW-P	00-10-106
296-17-895	AMD-P	00-07-138	296-17-914	REP	00-11-060	296-19A-450	NEW-P	00-10-106
296-17-90401	NEW	00-11-060	296-17-91402	REP	00-11-060	296-19A-460	NEW-P	00-10-106
296-17-90402	NEW	00-11-060	296-17-91403	REP	00-11-060	296-19A-470	NEW-P	00-10-106
296-17-90403	NEW	00-11-060	296-17-91404	REP	00-11-060	296-19A-480	NEW-P	00-10-106
296-17-90406	NEW	00-11-060	296-17-91405	REP	00-11-060	296-20-022	AMD-P	00-05-111
296-17-90408	NEW	00-11-060	296-17-91406	REP	00-11-060	296-20-022	AMD	00-09-078
296-17-90409	NEW	00-11-060	296-17-91919	REP	00-11-060	296-20-12401	NEW-P	00-05-111
296-17-90412	NEW	00-11-060	296-18A	PREP	00-05-002	296-20-12401	NEW	00-09-078
296-17-90415	NEW	00-11-060	296-18A-420	REP-P	00-10-106	296-20-135	AMD-P	00-05-112
296-17-90418	NEW	00-11-060	296-18A-440	REP-P	00-10-106	296-20-135	AMD	00-09-077
296-17-90421	NEW	00-11-060	296-18A-445	REP-P	00-10-106	296-21-290	AMD-P	00-05-111
296-17-90424	NEW	00-11-060	296-18A-450	REP-P	00-10-106	296-21-290	AMD	00-09-078
296-17-90427	NEW	00-11-060	296-18A-460	REP-P	00-10-106	296-23-220	AMD-P	00-05-112
296-17-90430	NEW	00-11-060	296-18A-470	REP-P	00-10-106	296-23-220	AMD	00-09-077
296-17-90433	NEW	00-11-060	296-18A-480	REP-P	00-10-106	296-23-230	AMD-P	00-05-112
296-17-90434	NEW	00-11-060	296-18A-490	REP-P	00-10-106	296-23-230	AMD	00-09-077
296-17-90436	NEW	00-11-060	296-18A-500	REP-P	00-10-106	296-23A-0200	AMD	00-06-027
296-17-90439	NEW	00-11-060	296-18A-510	REP-P	00-10-106	296-23A-0210	AMD	00-06-027
296-17-90442	NEW	00-11-060	296-18A-515	REP-P	00-10-106	296-23A-0220	AMD	00-06-027
296-17-90445	NEW	00-11-060	296-18A-520	REP-P	00-10-106	296-23A-0230	AMD-P	00-05-111
296-17-90448	NEW	00-11-060	296-19A-010	NEW-P	00-10-106	296-23A-0230	AMD	00-09-078
296-17-90451	NEW	00-11-060	296-19A-020	NEW-P	00-10-106	296-23A-0240	AMD	00-06-027
296-17-90463	NEW	00-11-060	296-19A-030	NEW-P	00-10-106	296-24	PREP	00-05-057
296-17-90466	NEW	00-11-060	296-19A-040	NEW-P	00-10-106	296-24	PREP	00-10-046
296-17-90469	NEW	00-11-060	296-19A-050	NEW-P	00-10-106	296-24-14519	AMD	00-08-078
296-17-90472	NEW	00-11-060	296-19A-060	NEW-P	00-10-106	296-24-23027	AMD	00-08-078
296-17-90475	NEW	00-11-060	296-19A-070	NEW-P	00-10-106	296-24-23533	AMD	00-08-078
296-17-90478	NEW	00-11-060	296-19A-080	NEW-P	00-10-106	296-24-825	REP	00-08-078
296-17-90481	NEW	00-11-060	296-19A-090	NEW-P	00-10-106	296-24-82501	REP	00-08-078
296-17-90484	NEW	00-11-060	296-19A-100	NEW-P	00-10-106	296-24-82503	REP	00-08-078
296-17-90490	NEW	00-11-060	296-19A-110	NEW-P	00-10-106	296-24-82505	REP	00-08-078
296-17-90491	NEW	00-11-060	296-19A-120	NEW-P	00-10-106	296-24-82507	REP	00-08-078
296-17-90492	NEW	00-11-060	296-19A-130	NEW-P	00-10-106	296-24-82509	REP	00-08-078
296-17-90493	NEW	00-11-060	296-19A-140	NEW-P	00-10-106	296-24-82511	REP	00-08-078
296-17-90494	NEW	00-11-060	296-19A-170	NEW-P	00-10-106	296-24-82513	REP	00-08-078
296-17-90495	NEW	00-11-060	296-19A-180	NEW-P	00-10-106	296-24-82515	REP	00-08-078
296-17-90496	NEW	00-11-060	296-19A-190	NEW-P	00-10-106	296-24-82517	REP	00-08-078
296-17-90497	NEW	00-11-060	296-19A-200	NEW-P	00-10-106	296-24-82519	REP	00-08-078
296-17-91201	REP	00-11-060	296-19A-210	NEW-P	00-10-106	296-24-82521	REP	00-08-078
296-17-91202	REP	00-11-060	296-19A-220	NEW-P	00-10-106	296-24-82523	REP	00-08-078
296-17-91203	REP	00-11-060	296-19A-230	NEW-P	00-10-106	296-24-82525	REP	00-08-078
296-17-91204	REP	00-11-060	296-19A-240	NEW-P	00-10-106	296-24-82527	REP	00-08-078
296-17-91205	REP	00-11-060	296-19A-250	NEW-P	00-10-106	296-24-82529	REP	00-08-078
296-17-91206	REP	00-11-060	296-19A-260	NEW-P	00-10-106	296-24-82531	REP	00-08-078
296-17-91207	REP	00-11-060	296-19A-270	NEW-P	00-10-106	296-24-82533	REP	00-08-078
296-17-91208	REP	00-11-060	296-19A-280	NEW-P	00-10-106	296-24-82535	REP	00-08-078

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-24-82537	REP	00-08-078	296-27-150	REP-P	00-05-058	296-62-05120	NEW-C	00-04-075
296-24-82539	REP	00-08-078	296-27-150	REP	00-11-098	296-62-05122	NEW-C	00-04-075
296-24-82541	REP	00-08-078	296-27-160	REP-P	00-05-058	296-62-05130	NEW-C	00-04-075
296-24-82543	REP	00-08-078	296-27-160	REP	00-11-098	296-62-05140	NEW-C	00-04-075
296-24-82545	REP	00-08-078	296-27-16001	REP-P	00-05-058	296-62-05150	NEW-C	00-04-075
296-24-84001	REP	00-08-078	296-27-16001	REP	00-11-098	296-62-05160	NEW-C	00-04-075
296-24-84003	REP	00-08-078	296-27-16002	REP-P	00-05-058	296-62-05170	NEW-C	00-04-075
296-24-84005	REP	00-08-078	296-27-16002	REP	00-11-098	296-62-05172	NEW-C	00-04-075
296-24-84007	REP	00-08-078	296-27-16003	REP-P	00-05-058	296-62-05174	NEW-C	00-04-075
296-24-84009	REP	00-08-078	296-27-16003	REP	00-11-098	296-62-05176	NEW-C	00-04-075
296-24-84011	REP	00-08-078	296-27-16004	REP-P	00-05-058	296-62-07515	AMD	00-06-075
296-24-84013	REP	00-08-078	296-27-16004	REP	00-11-098	296-62-07709	AMD	00-06-075
296-24-860	NEW	00-08-078	296-27-16007	REP-P	00-05-058	296-62-07713	AMD	00-06-075
296-24-86005	NEW	00-08-078	296-27-16007	REP	00-11-098	296-62-07722	AMD	00-06-075
296-24-86010	NEW	00-08-078	296-27-16011	REP-P	00-05-058	296-62-07727	AMD	00-06-075
296-24-86015	NEW	00-08-078	296-27-16011	REP	00-11-098	296-62-07745	AMD	00-06-075
296-24-86020	NEW	00-08-078	296-27-16018	REP-P	00-05-058	296-65-003	AMD	00-06-075
296-24-861	NEW	00-08-078	296-27-16018	REP	00-11-098	296-67	PREP	00-10-045
296-24-86105	NEW	00-08-078	296-27-16020	REP-P	00-05-058	296-79	PREP	00-10-045
296-24-86110	NEW	00-08-078	296-27-16020	REP	00-11-098	296-104	PREP	00-10-002
296-24-86115	NEW	00-08-078	296-27-16022	REP-P	00-05-058	296-104-010	PREP	00-10-002
296-24-86120	NEW	00-08-078	296-27-16022	REP	00-11-098	296-104-102	PREP	00-10-002
296-24-86125	NEW	00-08-078	296-27-16026	REP-P	00-05-058	296-104-180	PREP	00-10-002
296-24-86130	NEW	00-08-078	296-27-16026	REP	00-11-098	296-104-200	PREP	00-10-002
296-24-862	NEW	00-08-078	296-30-010	AMD-P	00-02-091	296-104-205	PREP	00-10-002
296-24-870	REP	00-08-078	296-30-010	AMD	00-10-003	296-104-210	PREP	00-10-002
296-24-87001	REP	00-08-078	296-30-080	AMD	00-03-056	296-104-215	PREP	00-10-002
296-24-87009	REP	00-08-078	296-30-081	AMD	00-03-056	296-104-220	PREP	00-10-002
296-24-87011	REP	00-08-078	296-30-085	NEW	00-03-056	296-104-230	PREP	00-10-002
296-24-87013	REP	00-08-078	296-30-090	NEW	00-03-056	296-104-235	PREP	00-10-002
296-24-87015	REP	00-08-078	296-30-095	NEW	00-03-056	296-104-240	PREP	00-10-002
296-24-87017	REP	00-08-078	296-30-100	NEW	00-03-056	296-104-245	PREP	00-10-002
296-24-87019	REP	00-08-078	296-30-105	NEW	00-03-056	296-104-265	PREP	00-10-002
296-24-87031	REP	00-08-078	296-30-120	AMD	00-03-056	296-104-502	PREP	00-10-002
296-24-87033	REP	00-08-078	296-30-130	AMD-P	00-02-091	296-104-700	PREP	00-10-002
296-24-87035	REP	00-08-078	296-30-130	AMD	00-10-003	296-104-701	PREP	00-10-002
296-24-87037	REP	00-08-078	296-30-170	AMD	00-03-056	296-127	PREP	00-07-122
296-24-875	NEW	00-08-078	296-30-180	AMD	00-03-056	296-127-013	AMD-E	00-07-123
296-24-87505	NEW	00-08-078	296-31-012	AMD-P	00-02-091	296-127-013	AMD-P	00-11-136
296-24-87510	NEW	00-08-078	296-31-012	AMD	00-10-003	296-127-01301	NEW-E	00-07-123
296-24-87515	NEW	00-08-078	296-31-020	REP-P	00-02-091	296-127-01301	NEW-P	00-11-136
296-24-880	NEW	00-08-078	296-31-020	REP	00-10-003	296-127-01303	NEW-E	00-07-123
296-24-88005	NEW	00-08-078	296-31-030	AMD	00-03-056	296-127-01303	NEW-P	00-11-136
296-24-88010	NEW	00-08-078	296-31-035	NEW	00-03-056	296-127-01305	NEW-E	00-07-123
296-24-88015	NEW	00-08-078	296-31-045	NEW	00-03-056	296-127-01305	NEW-P	00-11-136
296-24-88020	NEW	00-08-078	296-31-050	REP	00-03-056	296-127-01306	NEW-E	00-07-123
296-24-88025	NEW	00-08-078	296-31-055	NEW	00-03-056	296-127-01306	NEW-P	00-11-136
296-24-88030	NEW	00-08-078	296-31-056	NEW	00-03-056	296-127-01308	NEW-E	00-07-123
296-24-88035	NEW	00-08-078	296-31-057	NEW	00-03-056	296-127-01308	NEW-P	00-11-136
296-24-88040	NEW	00-08-078	296-31-058	NEW	00-03-056	296-127-01309	NEW-E	00-07-123
296-24-88045	NEW	00-08-078	296-31-070	AMD	00-03-056	296-127-01309	NEW-P	00-11-136
296-24-88050	NEW	00-08-078	296-31-074	NEW	00-03-056	296-127-01310	NEW-E	00-07-123
296-24-88055	NEW	00-08-078	296-31-090	REP	00-03-056	296-127-01310	NEW-P	00-11-136
296-24-885	REP	00-08-078	296-46	PREP	00-10-116	296-127-01312	NEW-E	00-07-123
296-24-88501	REP	00-08-078	296-46-930	AMD-E	00-06-076	296-127-01312	NEW-P	00-11-136
296-24-88503	REP	00-08-078	296-62	PREP	00-10-045	296-127-01313	NEW-P	00-11-136
296-24-88505	REP	00-08-078	296-62	PREP	00-10-046	296-127-01315	NEW-E	00-07-123
296-24-90001	AMD	00-08-078	296-62-051	NEW-C	00-04-075	296-127-01315	NEW-P	00-11-136
296-24-90003	AMD	00-08-078	296-62-05101	NEW-C	00-04-075	296-127-01317	NEW-E	00-07-123
296-24-90005	AMD	00-08-078	296-62-05103	NEW-C	00-04-075	296-127-01317	NEW-P	00-11-136
296-24-90007	AMD	00-08-078	296-62-05105	NEW-C	00-04-075	296-127-01318	NEW-E	00-07-123
296-24-90009	AMD	00-08-078	296-62-05110	NEW-C	00-04-075	296-127-01318	NEW-P	00-11-136

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-127-01320	NEW-E	00-07-123	296-127-01374	NEW-E	00-07-123	296-307-16101	NEW	00-06-081
296-127-01320	NEW-P	00-11-136	296-127-01374	NEW-P	00-11-136	296-307-16103	NEW	00-06-081
296-127-01322	NEW-E	00-07-123	296-127-01375	NEW-E	00-07-123	296-307-16105	NEW	00-06-081
296-127-01322	NEW-P	00-11-136	296-127-01375	NEW-P	00-11-136	296-307-16110	NEW	00-06-081
296-127-01323	NEW-E	00-07-123	296-127-01376	NEW-E	00-07-123	296-307-16115	NEW	00-06-081
296-127-01323	NEW-P	00-11-136	296-127-01376	NEW-P	00-11-136	296-307-16120	NEW	00-06-081
296-127-01325	NEW-E	00-07-123	296-127-01377	NEW-E	00-07-123	296-307-16125	NEW	00-06-081
296-127-01325	NEW-P	00-11-136	296-127-01377	NEW-P	00-11-136	296-307-16130	NEW	00-06-081
296-127-01327	NEW-E	00-07-123	296-127-01378	NEW-E	00-07-123	296-307-16135	NEW	00-06-081
296-127-01327	NEW-P	00-11-136	296-127-01378	NEW-P	00-11-136	296-307-16140	NEW	00-06-081
296-127-01328	NEW-E	00-07-123	296-127-01379	NEW-E	00-07-123	296-307-16145	NEW	00-06-081
296-127-01328	NEW-P	00-11-136	296-127-01379	NEW-P	00-11-136	296-307-16150	NEW	00-06-081
296-127-01329	NEW-E	00-07-123	296-127-01382	NEW-E	00-07-123	296-307-16155	NEW	00-06-081
296-127-01329	NEW-P	00-11-136	296-127-01382	NEW-P	00-11-136	296-307-16160	NEW	00-06-081
296-127-01331	NEW-E	00-07-123	296-127-01384	NEW-E	00-07-123	296-307-16165	NEW	00-06-081
296-127-01331	NEW-P	00-11-136	296-127-01384	NEW-P	00-11-136	296-307-16170	NEW	00-06-081
296-127-01332	NEW-E	00-07-123	296-127-01386	NEW-E	00-07-123	296-307-16175	NEW	00-06-081
296-127-01332	NEW-P	00-11-136	296-127-01386	NEW-P	00-11-136	296-307-16180	NEW	00-06-081
296-127-01333	NEW-E	00-07-123	296-127-01387	NEW-E	00-07-123	296-307-16185	NEW	00-06-081
296-127-01333	NEW-P	00-11-136	296-127-01387	NEW-P	00-11-136	296-307-16190	NEW	00-06-081
296-127-01335	NEW-E	00-07-123	296-127-01389	NEW-E	00-07-123	296-307-163	NEW	00-06-081
296-127-01335	NEW-P	00-11-136	296-127-01389	NEW-P	00-11-136	296-307-16301	NEW	00-06-081
296-127-01337	NEW-E	00-07-123	296-127-01391	NEW-E	00-07-123	296-307-16303	NEW	00-06-081
296-127-01337	NEW-P	00-11-136	296-127-01391	NEW-P	00-11-136	296-307-16305	NEW	00-06-081
296-127-01339	NEW-E	00-07-123	296-150C	PREP	00-06-077	296-307-16310	NEW	00-06-081
296-127-01339	NEW-P	00-11-136	296-150F	PREP	00-06-077	296-307-16315	NEW	00-06-081
296-127-01340	NEW-E	00-07-123	296-150M	PREP	00-06-077	296-307-16320	NEW	00-06-081
296-127-01340	NEW-P	00-11-136	296-150P	PREP	00-06-077	296-307-16325	NEW	00-06-081
296-127-01342	NEW-E	00-07-123	296-150R	PREP	00-06-077	296-307-16330	NEW	00-06-081
296-127-01342	NEW-P	00-11-136	296-150V	PREP	00-06-077	296-307-16335	NEW	00-06-081
296-127-01344	NEW-E	00-07-123	296-155	PREP	00-04-002	296-307-16340	NEW	00-06-081
296-127-01344	NEW-P	00-11-136	296-155	PREP	00-05-057	296-307-16345	NEW	00-06-081
296-127-01346	NEW-E	00-07-123	296-155-110	AMD	00-08-078	296-307-16350	NEW	00-06-081
296-127-01346	NEW-P	00-11-136	296-155-24501	AMD-XA	00-08-079	296-307-16355	NEW	00-06-081
296-127-01347	NEW-E	00-07-123	296-155-24503	AMD-XA	00-08-079	296-307-16360	NEW	00-06-081
296-127-01347	NEW-P	00-11-136	296-155-24505	AMD-XA	00-08-079	296-307-16365	NEW	00-06-081
296-127-01349	NEW-E	00-07-123	296-155-24510	AMD-XA	00-08-079	296-307-16370	NEW	00-06-081
296-127-01349	NEW-P	00-11-136	296-155-24515	AMD-XA	00-08-079	296-307-16375	NEW	00-06-081
296-127-01351	NEW-E	00-07-123	296-155-24520	AMD-XA	00-08-079	296-307-16380	NEW	00-06-081
296-127-01351	NEW-P	00-11-136	296-155-24521	AMD-XA	00-08-079	296-307-16385	NEW	00-06-081
296-127-01352	NEW-E	00-07-123	296-155-24525	AMD-XA	00-08-079	296-307-16390	NEW	00-06-081
296-127-01352	NEW-P	00-11-136	296-155-483	AMD-XA	00-08-079	296-307-16395	NEW	00-06-081
296-127-01354	NEW-E	00-07-123	296-155-505	AMD-XA	00-08-079	296-350	AMD-P	00-05-058
296-127-01354	NEW-P	00-11-136	296-155-526	NEW-P	00-06-056	296-350	AMD	00-11-098
296-127-01356	NEW-E	00-07-123	296-155-680	AMD-XA	00-08-079	296-350-010	AMD-P	00-05-058
296-127-01356	NEW-P	00-11-136	296-305	PREP	00-10-045	296-350-010	AMD	00-11-098
296-127-01358	NEW-E	00-07-123	296-307	PREP	00-10-046	296-350-020	REP-P	00-05-058
296-127-01358	NEW-P	00-11-136	296-307-160	REP	00-06-081	296-350-020	REP	00-11-098
296-127-01360	NEW-E	00-07-123	296-307-16001	REP	00-06-081	296-350-030	REP-P	00-05-058
296-127-01360	NEW-P	00-11-136	296-307-16003	REP	00-06-081	296-350-030	REP	00-11-098
296-127-01362	NEW-E	00-07-123	296-307-16004	REP	00-06-081	296-350-040	REP-P	00-05-058
296-127-01362	NEW-P	00-11-136	296-307-16005	REP	00-06-081	296-350-040	REP	00-11-098
296-127-01364	NEW-E	00-07-123	296-307-16007	REP	00-06-081	296-350-050	REP-P	00-05-058
296-127-01364	NEW-P	00-11-136	296-307-16009	REP	00-06-081	296-350-050	REP	00-11-098
296-127-01367	NEW-E	00-07-123	296-307-16011	REP	00-06-081	296-350-060	REP-P	00-05-058
296-127-01367	NEW-P	00-11-136	296-307-16013	REP	00-06-081	296-350-060	REP	00-11-098
296-127-01369	NEW-E	00-07-123	296-307-16015	REP	00-06-081	296-350-070	REP-P	00-05-058
296-127-01369	NEW-P	00-11-136	296-307-16017	REP	00-06-081	296-350-070	REP	00-11-098
296-127-01370	NEW-E	00-07-123	296-307-16019	REP	00-06-081	296-350-080	REP-P	00-05-058
296-127-01370	NEW-P	00-11-136	296-307-16021	REP	00-06-081	296-350-080	REP	00-11-098
296-127-01372	NEW-E	00-07-123	296-307-16023	REP	00-06-081	296-350-090	REP-P	00-05-058
296-127-01372	NEW-P	00-11-136	296-307-161	NEW	00-06-081	296-350-090	REP	00-11-098

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-350-095	REP-P	00-05-058	296-350-60015	NEW-P	00-05-058	296-402-100	REP-P	00-07-137
296-350-095	REP	00-11-098	296-350-60015	NEW	00-11-098	296-402-100	REP	00-11-115
296-350-100	NEW-P	00-05-058	296-350-60020	NEW-P	00-05-058	296-402-110	REP-P	00-07-137
296-350-100	NEW	00-11-098	296-350-60020	NEW	00-11-098	296-402-110	REP	00-11-115
296-350-10010	NEW-P	00-05-058	296-350-60025	NEW-P	00-05-058	296-402-120	REP-P	00-07-137
296-350-10010	NEW	00-11-098	296-350-60025	NEW	00-11-098	296-402-120	REP	00-11-115
296-350-10020	NEW-P	00-05-058	296-350-60030	NEW-P	00-05-058	296-402-130	REP-P	00-07-137
296-350-10020	NEW	00-11-098	296-350-60030	NEW	00-11-098	296-402-130	REP	00-11-115
296-350-10030	NEW-P	00-05-058	296-350-60035	NEW-P	00-05-058	296-402-140	REP-P	00-07-137
296-350-10030	NEW	00-11-098	296-350-60035	NEW	00-11-098	296-402-140	REP	00-11-115
296-350-10040	NEW-P	00-05-058	296-350-60040	NEW-P	00-05-058	296-402-150	REP-P	00-07-137
296-350-10040	NEW	00-11-098	296-350-60040	NEW	00-11-098	296-402-150	REP	00-11-115
296-350-10050	NEW-P	00-05-058	296-350-60045	NEW-P	00-05-058	296-402-160	REP-P	00-07-137
296-350-10050	NEW	00-11-098	296-350-60045	NEW	00-11-098	296-402-160	REP	00-11-115
296-350-150	NEW-P	00-05-058	296-350-700	NEW-P	00-05-058	296-402-170	REP-P	00-07-137
296-350-150	NEW	00-11-098	296-350-700	NEW	00-11-098	296-402-170	REP	00-11-115
296-350-15010	NEW-P	00-05-058	296-350-70010	NEW-P	00-05-058	296-402-180	REP-P	00-07-137
296-350-15010	NEW	00-11-098	296-350-70010	NEW	00-11-098	296-402-180	REP	00-11-115
296-350-15015	NEW-P	00-05-058	296-350-70015	NEW-P	00-05-058	296-402-190	REP-P	00-07-137
296-350-15015	NEW	00-11-098	296-350-70015	NEW	00-11-098	296-402-190	REP	00-11-115
296-350-15020	NEW-P	00-05-058	296-350-70020	NEW-P	00-05-058	296-402-200	REP-P	00-07-137
296-350-15020	NEW	00-11-098	296-350-70020	NEW	00-11-098	296-402-200	REP	00-11-115
296-350-15025	NEW-P	00-05-058	296-350-70025	NEW-P	00-05-058	296-402A-010	NEW-P	00-07-137
296-350-15025	NEW	00-11-098	296-350-70025	NEW	00-11-098	296-402A-010	NEW	00-11-115
296-350-15030	NEW-P	00-05-058	296-350-70030	NEW-P	00-05-058	296-402A-020	NEW-P	00-07-137
296-350-15030	NEW	00-11-098	296-350-70030	NEW	00-11-098	296-402A-020	NEW	00-11-115
296-350-15035	NEW-P	00-05-058	296-350-70035	NEW-P	00-05-058	296-402A-030	NEW-P	00-07-137
296-350-15035	NEW	00-11-098	296-350-70035	NEW	00-11-098	296-402A-030	NEW	00-11-115
296-350-15040	NEW-P	00-05-058	296-350-70040	NEW-P	00-05-058	296-402A-040	NEW-P	00-07-137
296-350-15040	NEW	00-11-098	296-350-70040	NEW	00-11-098	296-402A-040	NEW	00-11-115
296-350-15045	NEW-P	00-05-058	296-350-70045	NEW-P	00-05-058	296-402A-050	NEW-P	00-07-137
296-350-15045	NEW	00-11-098	296-350-70045	NEW	00-11-098	296-402A-050	NEW	00-11-115
296-350-200	REP-P	00-05-058	296-350-70050	NEW-P	00-05-058	296-402A-060	NEW-P	00-07-137
296-350-200	REP	00-11-098	296-350-70050	NEW	00-11-098	296-402A-060	NEW	00-11-115
296-350-210	REP-P	00-05-058	296-350-70055	NEW-P	00-05-058	296-402A-070	NEW-P	00-07-137
296-350-210	REP	00-11-098	296-350-70055	NEW	00-11-098	296-402A-070	NEW	00-11-115
296-350-230	REP-P	00-05-058	296-350-70060	NEW-P	00-05-058	296-402A-080	NEW-P	00-07-137
296-350-230	REP	00-11-098	296-350-70060	NEW	00-11-098	296-402A-080	NEW	00-11-115
296-350-240	REP-P	00-05-058	296-350-70065	NEW-P	00-05-058	296-402A-090	NEW-P	00-07-137
296-350-240	REP	00-11-098	296-350-70065	NEW	00-11-098	296-402A-090	NEW	00-11-115
296-350-250	REP-P	00-05-058	296-350-70070	NEW-P	00-05-058	296-402A-100	NEW-P	00-07-137
296-350-250	REP	00-11-098	296-350-70070	NEW	00-11-098	296-402A-100	NEW	00-11-115
296-350-255	REP-P	00-05-058	296-401A	PREP	00-10-116	296-402A-110	NEW-P	00-07-137
296-350-255	REP	00-11-098	296-401A-140	AMD-E	00-06-076	296-402A-110	NEW	00-11-115
296-350-260	REP-P	00-05-058	296-402-010	REP-P	00-07-137	296-402A-130	NEW-P	00-07-137
296-350-260	REP	00-11-098	296-402-010	REP	00-11-115	296-402A-130	NEW	00-11-115
296-350-270	REP-P	00-05-058	296-402-020	REP-P	00-07-137	296-402A-140	NEW-P	00-07-137
296-350-270	REP	00-11-098	296-402-020	REP	00-11-115	296-402A-140	NEW	00-11-115
296-350-280	REP-P	00-05-058	296-402-030	REP-P	00-07-137	296-402A-150	NEW-P	00-07-137
296-350-280	REP	00-11-098	296-402-030	REP	00-11-115	296-402A-150	NEW	00-11-115
296-350-400	REP-P	00-05-058	296-402-040	REP-P	00-07-137	296-402A-160	NEW-P	00-07-137
296-350-400	REP	00-11-098	296-402-040	REP	00-11-115	296-402A-160	NEW	00-11-115
296-350-450	REP-P	00-05-058	296-402-050	REP-P	00-07-137	296-402A-170	NEW-P	00-07-137
296-350-450	REP	00-11-098	296-402-050	REP	00-11-115	296-402A-170	NEW	00-11-115
296-350-460	REP-P	00-05-058	296-402-060	REP-P	00-07-137	296-402A-180	NEW-P	00-07-137
296-350-460	REP	00-11-098	296-402-060	REP	00-11-115	296-402A-180	NEW	00-11-115
296-350-470	REP-P	00-05-058	296-402-070	REP-P	00-07-137	296-402A-190	NEW-P	00-07-137
296-350-470	REP	00-11-098	296-402-070	REP	00-11-115	296-402A-190	NEW	00-11-115
296-350-600	NEW-P	00-05-058	296-402-080	REP-P	00-07-137	296-402A-200	NEW-P	00-07-137
296-350-600	NEW	00-11-098	296-402-080	REP	00-11-115	296-402A-200	NEW	00-11-115
296-350-60010	NEW-P	00-05-058	296-402-090	REP-P	00-07-137	296-402A-210	NEW-P	00-07-137
296-350-60010	NEW	00-11-098	296-402-090	REP	00-11-115	296-402A-210	NEW	00-11-115

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-402A-220	NEW-P	00-07-137	296-402A-540	NEW-P	00-07-137	308-04-020	AMD	00-08-032
296-402A-220	NEW	00-11-115	296-402A-540	NEW	00-11-115	308-12-321	PREP	00-11-172
296-402A-230	NEW-P	00-07-137	296-402A-550	NEW-P	00-07-137	308-12-322	PREP	00-11-172
296-402A-230	NEW	00-11-115	296-402A-550	NEW	00-11-115	308-12-323	PREP	00-11-172
296-402A-240	NEW-P	00-07-137	296-402A-560	NEW-P	00-07-137	308-12-324	PREP	00-11-172
296-402A-240	NEW	00-11-115	296-402A-560	NEW	00-11-115	308-12-325	PREP	00-11-172
296-402A-250	NEW-P	00-07-137	296-402A-570	NEW-P	00-07-137	308-56A	PREP	00-07-092
296-402A-250	NEW	00-11-115	296-402A-570	NEW	00-11-115	308-56A-020	PREP	00-07-092
296-402A-260	NEW-P	00-07-137	296-402A-580	NEW-P	00-07-137	308-56A-021	PREP	00-07-092
296-402A-260	NEW	00-11-115	296-402A-580	NEW	00-11-115	308-56A-022	PREP	00-07-092
296-402A-270	NEW-P	00-07-137	296-402A-590	NEW-P	00-07-137	308-56A-023	PREP	00-07-092
296-402A-270	NEW	00-11-115	296-402A-590	NEW	00-11-115	308-56A-090	PREP	00-07-092
296-402A-290	NEW-P	00-07-137	296-402A-600	NEW-P	00-07-137	308-56A-335	PREP	00-09-018
296-402A-290	NEW	00-11-115	296-402A-600	NEW	00-11-115	308-56A-355	PREP	00-09-018
296-402A-300	NEW-P	00-07-137	296-402A-610	NEW-P	00-07-137	308-56A-450	AMD	00-04-046
296-402A-300	NEW	00-11-115	296-402A-610	NEW	00-11-115	308-56A-455	AMD	00-04-046
296-402A-310	NEW-P	00-07-137	296-402A-620	NEW-P	00-07-137	308-56A-460	AMD	00-06-025
296-402A-310	NEW	00-11-115	296-402A-620	NEW	00-11-115	308-56A-465	REP	00-04-046
296-402A-320	NEW-P	00-07-137	296-402A-630	NEW-P	00-07-137	308-56A-470	REP	00-04-046
296-402A-320	NEW	00-11-115	296-402A-630	NEW	00-11-115	308-56A-500	AMD	00-06-004
296-402A-330	NEW-P	00-07-137	296-402A-640	NEW-P	00-07-137	308-56A-500	AMD-P	00-09-007
296-402A-330	NEW	00-11-115	296-402A-640	NEW	00-11-115	308-56A-505	AMD	00-06-004
296-402A-340	NEW-P	00-07-137	296-402A-650	NEW-P	00-07-137	308-56A-510	REP	00-06-004
296-402A-340	NEW	00-11-115	296-402A-650	NEW	00-11-115	308-56A-515	REP	00-06-004
296-402A-350	NEW-P	00-07-137	296-402A-660	NEW-P	00-07-137	308-56A-520	REP	00-06-004
296-402A-350	NEW	00-11-115	296-402A-660	NEW	00-11-115	308-56A-610	REP	00-06-020
296-402A-360	NEW-P	00-07-137	296-402A-670	NEW-P	00-07-137	308-56A-620	AMD	00-06-020
296-402A-360	NEW	00-11-115	296-402A-670	NEW	00-11-115	308-56A-620	REP-P	00-09-007
296-402A-370	NEW-P	00-07-137	296-402A-675	NEW	00-11-115	308-56A-640	AMD	00-06-020
296-402A-370	NEW	00-11-115	296-402A-680	NEW-P	00-07-137	308-56A-650	REP	00-06-020
296-402A-380	NEW-P	00-07-137	296-402A-680	NEW	00-11-115	308-56A-660	REP	00-06-020
296-402A-380	NEW	00-11-115	296-402A-690	NEW-P	00-07-137	308-56A-670	REP	00-06-020
296-402A-390	NEW-P	00-07-137	296-402A-690	NEW	00-11-115	308-56A-680	REP	00-06-020
296-402A-390	NEW	00-11-115	296-403	PREP	00-10-116	308-56A-690	REP	00-06-020
296-402A-400	NEW-P	00-07-137	304-12-030	AMD	00-11-028	308-57-005	PREP	00-06-001
296-402A-400	NEW	00-11-115	304-12-035	REP	00-11-028	308-57-005	REP-P	00-09-019
296-402A-410	NEW-P	00-07-137	304-12-040	REP	00-11-028	308-57-005	REP-W	00-11-041
296-402A-410	NEW	00-11-115	304-12-047	NEW	00-11-028	308-57-010	PREP	00-06-001
296-402A-420	NEW-P	00-07-137	304-12-050	REP	00-11-028	308-57-010	REP-P	00-09-019
296-402A-425	NEW-P	00-07-137	304-12-070	REP	00-11-028	308-57-010	REP-W	00-11-041
296-402A-430	NEW-P	00-07-137	304-12-125	AMD	00-11-028	308-57-020	PREP	00-06-001
296-402A-430	NEW	00-11-115	304-12-140	REP	00-11-028	308-57-020	REP-P	00-09-019
296-402A-440	NEW-P	00-07-137	304-12-145	REP	00-11-028	308-57-020	REP-W	00-11-041
296-402A-440	NEW	00-11-115	304-12-275	REP	00-11-028	308-57-030	PREP	00-06-001
296-402A-450	NEW-P	00-07-137	304-12-290	REP	00-11-028	308-57-030	REP-P	00-09-019
296-402A-450	NEW	00-11-115	304-12-360	REP	00-11-028	308-57-030	REP-W	00-11-041
296-402A-460	NEW-P	00-07-137	304-12-370	REP	00-11-028	308-57-110	PREP	00-06-001
296-402A-460	NEW	00-11-115	304-12-380	REP	00-11-028	308-57-110	REP-P	00-09-019
296-402A-470	NEW-P	00-07-137	304-20	AMD	00-11-028	308-57-110	REP-W	00-11-041
296-402A-470	NEW	00-11-115	304-20-005	NEW	00-11-028	308-57-120	PREP	00-06-001
296-402A-480	NEW-P	00-07-137	304-20-010	AMD	00-11-028	308-57-120	REP-P	00-09-019
296-402A-480	NEW	00-11-115	304-20-020	REP	00-11-028	308-57-120	REP-W	00-11-041
296-402A-490	NEW-P	00-07-137	304-20-030	REP	00-11-028	308-57-130	PREP	00-06-001
296-402A-490	NEW	00-11-115	304-20-040	REP	00-11-028	308-57-130	REP-P	00-09-019
296-402A-500	NEW-P	00-07-137	304-20-050	AMD	00-11-028	308-57-130	REP-W	00-11-041
296-402A-500	NEW	00-11-115	304-20-060	AMD	00-11-028	308-57-135	PREP	00-06-001
296-402A-510	NEW-P	00-07-137	304-20-065	NEW	00-11-028	308-57-135	REP-P	00-09-019
296-402A-510	NEW	00-11-115	304-20-070	AMD	00-11-028	308-57-135	REP-W	00-11-041
296-402A-520	NEW-P	00-07-137	304-20-090	REP	00-11-028	308-57-140	PREP	00-06-001
296-402A-520	NEW	00-11-115	304-20-100	REP	00-11-028	308-57-140	REP-P	00-09-019
296-402A-530	NEW-P	00-07-137	304-20-990	REP	00-11-028	308-57-140	REP-W	00-11-041
296-402A-530	NEW	00-11-115	308-04-020	AMD-P	00-05-014	308-57-210	PREP	00-06-001

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
308-57-210	REP-P	00-09-019	308-77-170	PREP	00-03-037	308-93-360	PREP	00-07-105
308-57-210	REP-W	00-11-041	308-77-170	AMD-P	00-11-037	308-93-440	PREP	00-07-093
308-57-230	PREP	00-06-001	308-77-180	PREP	00-03-037	308-93-450	PREP	00-07-093
308-57-230	REP-P	00-09-019	308-77-180	AMD-P	00-11-037	308-93-460	PREP	00-07-093
308-57-230	REP-W	00-11-041	308-77-215	PREP	00-08-062	308-93-470	PREP	00-07-093
308-57-240	PREP	00-06-001	308-77-240	PREP	00-03-037	308-93-640	PREP	00-07-105
308-57-240	REP-P	00-09-019	308-77-240	AMD-P	00-11-037	308-93-650	AMD-P	00-05-049
308-57-240	REP-W	00-11-041	308-77-265	PREP	00-03-037	308-93-650	AMD	00-09-065
308-57-500	PREP	00-06-001	308-77-265	AMD-P	00-11-037	308-94	PREP	00-06-034
308-57-500	REP-P	00-09-019	308-77-270	PREP	00-03-037	308-94-010	REP-P	00-05-050
308-57-500	REP-W	00-11-041	308-77-270	REP-P	00-11-037	308-94-010	REP	00-09-066
308-58-010	REP	00-06-025	308-77-280	PREP	00-03-037	308-94-030	PREP	00-07-094
308-58-020	REP	00-06-025	308-77-280	AMD-P	00-11-037	308-94-050	PREP	00-07-094
308-58-030	REP	00-06-025	308-77-290	NEW-P	00-05-014	308-94-080	PREP	00-07-094
308-58-040	REP	00-06-025	308-77-290	NEW	00-08-032	308-94-100	PREP	00-07-094
308-58-050	REP	00-06-025	308-78-010	PREP	00-08-064	308-94-160	REP-P	00-05-050
308-63	PREP	00-06-007	308-78-100	NEW-P	00-05-014	308-94-160	REP	00-09-066
308-63-020	AMD-P	00-09-069	308-78-100	NEW	00-08-032	308-96A-005	AMD-P	00-03-094
308-63-030	AMD-P	00-09-069	308-80	PREP	00-06-032	308-96A-005	AMD	00-09-008
308-63-040	AMD-P	00-09-069	308-80-015	AMD-P	00-09-070	308-96A-065	PREP	00-07-108
308-63-050	AMD-P	00-09-069	308-80-020	AMD-P	00-09-070	308-96A-066	PREP	00-07-108
308-63-060	AMD-P	00-09-069	308-88-010	REP	00-06-024	308-96A-067	PREP	00-07-108
308-63-070	AMD-P	00-09-069	308-88-020	AMD	00-06-024	308-96A-068	PREP	00-07-108
308-63-080	AMD-P	00-09-069	308-88-030	REP	00-06-024	308-96A-070	PREP	00-07-108
308-63-090	AMD-P	00-09-069	308-88-040	REP	00-06-024	308-96A-071	PREP	00-07-108
308-63-100	AMD-P	00-09-069	308-88-050	REP	00-06-024	308-96A-072	PREP	00-07-108
308-63-110	AMD-P	00-09-069	308-88-170	REP	00-06-024	308-96A-073	PREP	00-07-108
308-63-120	AMD-P	00-09-069	308-90	PREP	00-06-033	308-96A-074	PREP	00-07-108
308-63-130	AMD-P	00-09-069	308-91-090	PREP	00-03-038	308-96A-099	PREP	00-06-001
308-63-140	AMD-P	00-09-069	308-91-090	AMD-P	00-11-037	308-96A-099	AMD-P	00-09-019
308-63-150	REP-P	00-09-069	308-91-150	AMD-P	00-05-014	308-96A-099	AMD-W	00-11-041
308-63-160	AMD-P	00-09-069	308-91-150	AMD	00-08-032	308-96A-135	PREP	00-06-001
308-65	PREP	00-06-031	308-93-010	AMD-P	00-07-065	308-96A-135	REP-P	00-09-019
308-65-020	AMD-P	00-09-071	308-93-010	PREP	00-07-107	308-96A-135	REP-W	00-11-041
308-65-030	AMD-P	00-09-071	308-93-010	AMD	00-11-131	308-96A-145	PREP	00-06-001
308-65-040	AMD-P	00-09-071	308-93-030	PREP	00-07-107	308-96A-145	AMD-P	00-09-019
308-65-050	AMD-P	00-09-071	308-93-050	PREP	00-07-107	308-96A-145	AMD-W	00-11-041
308-65-060	AMD-P	00-09-071	308-93-055	PREP	00-07-107	308-96A-175	PREP	00-06-001
308-65-080	AMD-P	00-09-071	308-93-056	PREP	00-07-107	308-96A-175	PREP	00-07-108
308-65-090	AMD-P	00-09-071	308-93-060	PREP	00-07-105	308-96A-175	AMD-P	00-09-019
308-65-100	AMD-P	00-09-071	308-93-069	PREP	00-07-105	308-96A-175	AMD-W	00-11-041
308-65-110	AMD-P	00-09-071	308-93-070	PREP	00-07-105	308-96A-176	PREP	00-06-001
308-65-130	AMD-P	00-09-071	308-93-071	PREP	00-07-105	308-96A-176	PREP	00-07-108
308-65-140	AMD-P	00-09-071	308-93-073	PREP	00-07-105	308-96A-176	AMD-P	00-09-019
308-65-150	AMD-P	00-09-071	308-93-078	PREP	00-07-105	308-96A-176	AMD-W	00-11-041
308-65-170	AMD-P	00-09-071	308-93-079	PREP	00-07-107	308-96A-180	PREP	00-06-001
308-65-180	REP-P	00-09-071	308-93-090	PREP	00-07-107	308-96A-180	AMD-P	00-09-019
308-65-190	AMD-P	00-09-071	308-93-145	AMD-P	00-05-056	308-96A-180	AMD-W	00-11-041
308-72-500	PREP	00-08-063	308-93-145	AMD	00-09-065	308-96A-202	PREP	00-06-001
308-72-665	PREP	00-08-063	308-93-165	REP-P	00-05-049	308-96A-202	AMD-P	00-09-019
308-72-690	PREP	00-08-063	308-93-165	REP	00-09-065	308-96A-202	AMD-W	00-11-041
308-72-700	PREP	00-08-063	308-93-200	PREP	00-07-106	308-96A-203	PREP	00-06-001
308-72-710	PREP	00-08-063	308-93-220	PREP	00-07-106	308-96A-203	AMD-P	00-09-019
308-72-720	NEW-P	00-05-014	308-93-230	PREP	00-07-106	308-96A-203	AMD-W	00-11-041
308-72-720	NEW	00-08-032	308-93-241	PREP	00-07-104	308-96A-306	PREP	00-08-043
308-77	PREP	00-03-037	308-93-242	PREP	00-07-104	308-96A-306	AMD-P	00-11-120
308-77-045	PREP	00-03-037	308-93-243	PREP	00-07-104	308-96A-311	PREP	00-08-043
308-77-045	REP-P	00-11-037	308-93-244	PREP	00-07-104	308-96A-312	PREP	00-08-043
308-77-155	PREP	00-03-037	308-93-245	PREP	00-07-104	308-96A-313	PREP	00-08-043
308-77-155	AMD-P	00-11-037	308-93-285	PREP	00-07-105	308-96A-314	PREP	00-08-043
308-77-165	PREP	00-03-037	308-93-295	PREP	00-07-106	308-96A-316	PREP	00-08-043
308-77-165	AMD-P	00-11-037	308-93-350	PREP	00-07-105	308-96A-345	AMD	00-03-057

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
308-96A-350	AMD	00-03-057	308-124H-039	NEW	00-08-035	308-300-070	PREP	00-08-067
308-96A-355	AMD	00-03-057	308-124H-041	AMD-P	00-03-063	308-300-075	PREP	00-08-067
308-96A-360	REP	00-03-057	308-124H-041	AMD	00-08-035	308-300-080	PREP	00-08-067
308-96A-365	AMD	00-03-057	308-124H-042	NEW-P	00-03-063	308-300-090	PREP	00-08-067
308-96A-370	REP	00-03-057	308-124H-042	NEW	00-08-035	308-300-100	PREP	00-08-067
308-96A-375	REP	00-03-057	308-124H-051	AMD-P	00-03-063	308-300-110	PREP	00-08-067
308-96A-380	REP	00-03-057	308-124H-051	AMD	00-08-035	308-300-120	PREP	00-08-067
308-96A-400	PREP	00-06-001	308-124H-061	AMD-P	00-03-063	308-300-130	PREP	00-08-067
308-96A-400	REP-P	00-09-019	308-124H-061	AMD	00-08-035	308-300-140	PREP	00-08-067
308-96A-400	REP-W	00-11-041	308-124H-062	AMD-P	00-03-063	308-300-150	PREP	00-08-067
308-96A-410	PREP	00-06-001	308-124H-062	AMD	00-08-035	308-300-160	PREP	00-08-067
308-96A-410	REP-P	00-09-019	308-124H-210	AMD-P	00-03-063	308-300-170	PREP	00-08-067
308-96A-410	REP-W	00-11-041	308-124H-210	AMD	00-08-035	308-300-180	PREP	00-08-067
308-96A-550	PREP	00-07-108	308-124H-220	REP-P	00-03-063	308-300-190	PREP	00-08-067
308-96A-560	PREP	00-07-108	308-124H-220	REP	00-08-035	308-300-200	PREP	00-08-067
308-97-011	NEW	00-07-053	308-124H-221	NEW-P	00-03-063	308-320	PREP	00-10-029
308-97-230	PREP	00-06-001	308-124H-221	NEW	00-08-035	308-320-010	PREP	00-10-029
308-97-230	AMD-P	00-09-019	308-124H-230	AMD-P	00-03-063	308-320-020	PREP	00-10-029
308-97-230	AMD-W	00-11-041	308-124H-230	AMD	00-08-035	308-320-030	PREP	00-10-029
308-99-010	REP-P	00-07-126	308-124H-240	REP-P	00-03-063	308-320-040	PREP	00-10-029
308-99-010	REP-W	00-09-009	308-124H-240	REP	00-08-035	308-320-050	PREP	00-10-029
308-99-020	AMD-P	00-07-126	308-124H-245	NEW-P	00-03-063	308-320-060	PREP	00-10-029
308-99-020	AMD-W	00-09-009	308-124H-245	NEW	00-08-035	308-320-070	PREP	00-10-029
308-99-021	REP-P	00-07-126	308-124H-246	NEW-P	00-03-063	308-320-080	PREP	00-10-029
308-99-021	REP-W	00-09-009	308-124H-246	NEW	00-08-035	308-320-090	PREP	00-10-029
308-99-025	REP-P	00-07-126	308-124H-260	AMD-P	00-03-063	314-02-005	NEW	00-07-091
308-99-025	REP-W	00-09-009	308-124H-260	AMD	00-08-035	314-02-010	NEW	00-07-091
308-99-030	REP-P	00-07-126	308-124H-270	AMD-P	00-03-063	314-02-015	NEW	00-07-091
308-99-030	REP-W	00-09-009	308-124H-270	AMD	00-08-035	314-02-020	NEW	00-07-091
308-99-040	AMD-P	00-07-126	308-124H-290	AMD-P	00-03-063	314-02-025	NEW	00-07-091
308-99-040	AMD-W	00-09-009	308-124H-290	AMD	00-08-035	314-02-030	NEW	00-07-091
308-99-050	REP-P	00-07-126	308-124H-300	AMD-P	00-03-063	314-02-035	NEW	00-07-091
308-99-050	REP-W	00-09-009	308-124H-300	AMD	00-08-035	314-02-040	NEW	00-07-091
308-99-060	NEW-P	00-07-126	308-124H-310	AMD-P	00-03-063	314-02-045	NEW	00-07-091
308-99-060	NEW-W	00-09-009	308-124H-310	AMD	00-08-035	314-02-050	NEW	00-07-091
308-124-021	AMD-P	00-03-063	308-124H-320	AMD-P	00-03-063	314-02-055	NEW	00-07-091
308-124-021	AMD	00-08-035	308-124H-320	AMD	00-08-035	314-02-060	NEW	00-07-091
308-124E-013	AMD-P	00-03-063	308-124H-510	AMD-P	00-03-063	314-02-065	NEW	00-07-091
308-124E-013	AMD	00-08-035	308-124H-510	AMD	00-08-035	314-02-070	NEW	00-07-091
308-124H-011	AMD-P	00-03-063	308-124H-520	REP-P	00-03-063	314-02-075	NEW	00-07-091
308-124H-011	AMD	00-08-035	308-124H-520	REP	00-08-035	314-02-080	NEW	00-07-091
308-124H-012	NEW-P	00-03-063	308-124H-525	NEW-P	00-03-063	314-02-085	NEW	00-07-091
308-124H-012	NEW	00-08-035	308-124H-525	NEW	00-08-035	314-02-090	NEW	00-07-091
308-124H-013	NEW-P	00-03-063	308-124H-530	AMD-P	00-03-063	314-02-095	NEW	00-07-091
308-124H-013	NEW	00-08-035	308-124H-530	AMD	00-08-035	314-02-100	NEW	00-07-091
308-124H-021	REP-P	00-03-063	308-124H-551	NEW-P	00-03-063	314-02-105	NEW	00-07-091
308-124H-021	REP	00-08-035	308-124H-551	NEW	00-08-035	314-02-110	NEW	00-07-091
308-124H-025	AMD-P	00-03-063	308-124H-580	AMD-P	00-03-063	314-02-115	NEW	00-07-091
308-124H-025	AMD	00-08-035	308-124H-580	AMD	00-08-035	314-02-120	NEW	00-07-091
308-124H-026	NEW-P	00-03-063	308-124H-800	AMD-P	00-03-063	314-02-125	NEW	00-07-091
308-124H-026	NEW	00-08-035	308-124H-800	AMD	00-08-035	314-02-130	NEW	00-07-091
308-124H-027	NEW-P	00-03-063	308-125-200	AMD	00-04-057	314-15-010	REP	00-07-117
308-124H-027	NEW	00-08-035	308-129-100	AMD-P	00-08-005	314-15-020	REP	00-07-117
308-124H-028	NEW-P	00-03-063	308-129-100	AMD	00-11-047	314-15-030	REP	00-07-117
308-124H-028	NEW	00-08-035	308-129-230	REP-P	00-08-005	314-15-040	REP	00-07-117
308-124H-029	NEW-P	00-03-063	308-129-230	REP	00-11-047	314-15-050	REP	00-07-117
308-124H-029	NEW	00-08-035	308-300-010	PREP	00-08-067	314-16-040	AMD-XA	00-07-116
308-124H-031	NEW-P	00-03-063	308-300-020	PREP	00-08-067	314-16-055	REP	00-07-117
308-124H-031	NEW	00-08-035	308-300-030	PREP	00-08-067	314-16-115	REP	00-07-117
308-124H-034	NEW-P	00-03-063	308-300-040	PREP	00-08-067	314-16-130	REP-P	00-09-095
308-124H-034	NEW	00-08-035	308-300-050	PREP	00-08-067	314-16-140	REP	00-07-117
308-124H-039	NEW-P	00-03-063	308-300-060	PREP	00-08-067	314-16-180	REP	00-07-117

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
314-16-190	AMD-XA	00-07-116	315-11A-195	REP	00-07-131	352-32-15001	AMD-P	00-10-117
314-16-196	AMD-XA	00-07-116	315-11A-196	REP-XR	00-02-055	352-32-155	AMD-P	00-10-117
314-16-197	REP	00-07-117	315-11A-196	REP	00-07-131	352-32-157	AMD-P	00-10-117
314-16-199	REP	00-07-117	315-11A-197	REP-XR	00-02-055	352-32-165	AMD-P	00-10-117
314-16-200	REP	00-07-117	315-11A-197	REP	00-07-131	352-32-195	AMD-P	00-10-117
314-16-205	REP	00-07-117	315-11A-198	REP-XR	00-02-055	352-32-200	AMD-P	00-10-117
314-16-210	REP	00-07-117	315-11A-198	REP	00-07-131	352-32-210	AMD-P	00-10-117
314-16-240	REP	00-07-117	315-11A-199	REP-XR	00-02-055	352-32-215	AMD-P	00-10-117
314-19-005	NEW-P	00-09-095	315-11A-199	REP	00-07-131	352-32-230	AMD-P	00-10-117
314-19-010	NEW-P	00-09-095	315-11A-200	REP-XR	00-02-055	352-32-235	AMD-P	00-10-117
314-19-015	NEW-P	00-09-095	315-11A-200	REP	00-07-131	352-32-250	AMD-P	00-10-117
314-19-020	NEW-P	00-09-095	315-11A-201	REP-XR	00-02-055	352-32-251	AMD-P	00-10-117
314-19-025	NEW-P	00-09-095	315-11A-201	REP	00-07-131	352-32-255	AMD-P	00-10-117
314-19-030	NEW-P	00-09-095	315-11A-202	REP-XR	00-02-055	352-32-280	AMD-P	00-10-117
314-19-035	NEW-P	00-09-095	315-11A-202	REP	00-07-131	352-32-285	PREP	00-04-081
314-19-040	NEW-P	00-09-095	315-11A-203	REP-XR	00-02-055	352-32-285	AMD-P	00-10-117
314-20-010	REP-P	00-09-095	315-11A-203	REP	00-07-131	352-32-290	AMD-P	00-10-117
314-20-015	AMD-P	00-09-095	315-11A-204	REP-XR	00-02-055	352-32-330	AMD-P	00-10-117
314-20-040	REP-P	00-09-095	315-11A-204	REP	00-07-131	356-14-045	AMD-P	00-04-052
314-20-060	REP-P	00-09-095	315-11A-205	REP-XR	00-02-055	356-14-045	AMD-C	00-06-050
314-20-150	REP-P	00-09-095	315-11A-205	REP	00-07-131	356-14-045	AMD	00-10-026
314-20-160	AMD-P	00-09-095	315-11A-206	REP-XR	00-02-055	356-15-100	AMD-W	00-10-025
314-20-170	AMD-P	00-09-095	315-11A-206	REP	00-07-131	356-15-110	AMD-W	00-10-025
314-20-180	REP-P	00-09-095	315-11A-207	REP-XR	00-02-055	356-26-040	AMD-P	00-04-052
314-24-095	REP-P	00-09-095	315-11A-207	REP	00-07-131	356-26-040	AMD-C	00-06-050
314-24-110	REP-P	00-09-095	315-11A-208	REP-XR	00-02-055	356-26-040	AMD	00-10-026
314-24-120	AMD-P	00-09-095	315-11A-208	REP	00-07-131	356-30-075	AMD-P	00-04-052
314-24-160	AMD-P	00-09-095	315-11A-209	REP-XR	00-02-055	356-30-075	AMD-C	00-06-050
314-26-010	REP-P	00-09-095	315-11A-209	REP	00-07-131	356-30-075	AMD	00-10-026
314-37	PREP	00-02-087	315-11A-210	REP-XR	00-02-055	356-30-331	AMD-P	00-06-047
314-42-010	NEW-P	00-02-089	315-11A-210	REP	00-07-131	356-30-331	AMD	00-11-122
314-42-010	NEW	00-06-016	315-11A-211	REP-XR	00-02-055	359-14-010	NEW-P	00-04-054
314-48-010	PREP	00-02-087	315-11A-211	REP	00-07-131	359-14-010	NEW-C	00-06-049
314-56-010	REP-XR	00-02-086	315-11A-212	REP-XR	00-02-055	359-14-010	NEW	00-10-028
314-56-020	REP-XR	00-02-086	315-11A-212	REP	00-07-131	359-14-020	NEW-P	00-04-054
314-60	PREP	00-02-088	315-11A-213	REP-XR	00-02-055	359-14-020	NEW-C	00-06-049
314-62	PREP	00-02-088	315-11A-213	REP	00-07-131	359-14-020	NEW	00-10-028
314-64	PREP	00-02-087	315-11A-214	REP-XR	00-02-055	359-14-030	NEW-P	00-04-054
314-76-010	PREP	00-02-087	315-11A-214	REP	00-07-131	359-14-030	NEW-C	00-06-049
314-78-010	REP-XR	00-02-086	317-10	PREP	00-05-096	359-14-030	NEW	00-10-028
315-04-020	PREP	00-11-016	326-30-041	PREP	00-10-105	359-14-050	NEW-P	00-04-054
315-06-120	PREP	00-05-059	332-130-050	AMD-P	00-08-034	359-14-050	NEW-C	00-06-049
315-06-120	AMD-P	00-07-130	352-32	PREP	00-04-081	359-14-050	NEW	00-10-028
315-11A-165	REP-XR	00-02-055	352-32-010	AMD-P	00-10-117	359-14-070	NEW-P	00-04-054
315-11A-165	REP	00-07-131	352-32-011	AMD-P	00-10-117	359-14-070	NEW-C	00-06-049
315-11A-187	REP-XR	00-02-055	352-32-030	AMD-P	00-10-117	359-14-070	NEW	00-10-028
315-11A-187	REP	00-07-131	352-32-040	AMD-P	00-10-117	359-14-080	NEW-P	00-04-054
315-11A-188	REP-XR	00-02-055	352-32-045	AMD-P	00-10-117	359-14-080	NEW-C	00-06-049
315-11A-188	REP	00-07-131	352-32-050	AMD-P	00-10-117	359-14-080	NEW	00-10-028
315-11A-189	REP-XR	00-02-055	352-32-053	AMD-P	00-10-117	359-14-100	NEW-P	00-04-054
315-11A-189	REP	00-07-131	352-32-056	AMD-P	00-10-117	359-14-100	NEW-C	00-06-049
315-11A-190	REP-XR	00-02-055	352-32-060	AMD-P	00-10-117	359-14-100	NEW	00-10-028
315-11A-190	REP	00-07-131	352-32-070	AMD-P	00-10-117	359-14-130	NEW-P	00-04-054
315-11A-191	REP-XR	00-02-055	352-32-075	AMD-P	00-10-117	359-14-130	NEW-C	00-06-049
315-11A-191	REP	00-07-131	352-32-080	AMD-P	00-10-117	359-14-130	NEW	00-10-028
315-11A-192	REP-XR	00-02-055	352-32-085	AMD-P	00-10-117	359-40-010	NEW-P	00-04-054
315-11A-192	REP	00-07-131	352-32-090	AMD-P	00-10-117	359-40-010	NEW-C	00-06-049
315-11A-193	REP-XR	00-02-055	352-32-100	AMD-P	00-10-117	359-40-010	NEW	00-10-028
315-11A-193	REP	00-07-131	352-32-110	AMD-P	00-10-117	359-40-020	NEW-P	00-04-054
315-11A-194	REP-XR	00-02-055	352-32-120	AMD-P	00-10-117	359-40-020	NEW-C	00-06-049
315-11A-194	REP	00-07-131	352-32-130	AMD-P	00-10-117	359-40-020	NEW	00-10-028
315-11A-195	REP-XR	00-02-055	352-32-150	AMD-P	00-10-117	359-40-050	NEW-P	00-04-054

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-03-118	NEW	00-06-014	388-11-170	PREP	00-06-039	388-14-300	PREP	00-06-039
388-03-120	NEW	00-06-014	388-11-180	PREP	00-06-039	388-14-310	PREP	00-06-039
388-03-122	NEW	00-06-014	388-11-205	PREP	00-06-039	388-14-350	PREP	00-06-039
388-03-123	NEW	00-06-014	388-11-210	PREP	00-06-039	388-14-360	PREP	00-06-039
388-03-124	NEW	00-06-014	388-11-215	PREP	00-06-039	388-14-365	PREP	00-06-039
388-03-125	NEW	00-06-014	388-11-220	PREP	00-06-039	388-14-370	PREP	00-06-039
388-03-126	NEW	00-06-014	388-11-280	PREP	00-06-039	388-14-376	PREP	00-06-039
388-03-130	NEW	00-06-014	388-11-285	PREP	00-06-039	388-14-385	PREP	00-06-039
388-03-132	NEW	00-06-014	388-11-285	REP-P	00-10-096	388-14-386	PREP	00-06-039
388-03-133	NEW	00-06-014	388-11-290	PREP	00-06-039	388-14-387	PREP	00-06-039
388-03-135	NEW	00-06-014	388-11-290	REP-P	00-10-096	388-14-388	PREP	00-06-039
388-03-138	NEW	00-06-014	388-11-295	PREP	00-06-039	388-14-390	PREP	00-06-039
388-03-140	NEW	00-06-014	388-11-295	REP-P	00-10-096	388-14-395	PREP	00-06-039
388-03-150	NEW	00-06-014	388-11-300	PREP	00-06-039	388-14-410	PREP	00-06-039
388-03-152	NEW	00-06-014	388-11-305	PREP	00-06-039	388-14-415	PREP	00-06-039
388-03-154	NEW	00-06-014	388-11-305	AMD-P	00-10-096	388-14-420	PREP	00-06-039
388-03-156	NEW	00-06-014	388-11-310	PREP	00-06-039	388-14-421	PREP	00-06-039
388-03-170	NEW	00-06-014	388-11-310	AMD-P	00-10-096	388-14-422	PREP	00-06-039
388-03-172	NEW	00-06-014	388-11-315	PREP	00-06-039	388-14-423	PREP	00-06-039
388-03-174	NEW	00-06-014	388-11-315	REP-P	00-06-068	388-14-424	PREP	00-06-039
388-03-176	NEW	00-06-014	388-11-315	REP	00-09-076	388-14-427	PREP	00-06-039
388-08-410	REP-P	00-10-094	388-11-320	PREP	00-06-039	388-14-435	PREP	00-06-039
388-08-413	REP-P	00-10-094	388-11-325	PREP	00-06-039	388-14-440	PREP	00-06-039
388-08-425	REP-P	00-10-094	388-11-330	PREP	00-06-039	388-14-445	PREP	00-06-039
388-08-428	REP-P	00-10-094	388-11-335	PREP	00-06-039	388-14-445	REP-P	00-10-096
388-08-431	REP-P	00-10-094	388-11-340	PREP	00-06-039	388-14-450	PREP	00-06-039
388-08-434	REP-P	00-10-094	388-11-340	PREP	00-06-039	388-14-460	PREP	00-06-039
388-08-437	REP-P	00-10-094	388-11-400	PREP	00-06-039	388-14-460	PREP	00-06-039
388-08-440	REP-P	00-10-094	388-11-400	REP-P	00-10-096	388-14-480	PREP	00-06-039
388-08-446	REP-P	00-10-094	388-11-410	PREP	00-06-039	388-14-490	PREP	00-06-039
388-08-449	REP-P	00-10-094	388-11-410	REP-P	00-10-096	388-14-495	PREP	00-06-039
388-08-452	REP-P	00-10-094	388-11-415	PREP	00-06-039	388-14-500	PREP	00-06-039
388-08-461	REP-P	00-10-094	388-11-415	REP-P	00-10-096	388-14-510	PREP	00-06-039
388-08-462	REP-P	00-10-094	388-11-420	PREP	00-06-039	388-14-520	PREP	00-06-039
388-08-464	REP-P	00-10-094	388-11-420	REP-P	00-10-096	388-14-530	PREP	00-06-039
388-08-466	REP-P	00-10-094	388-11-425	PREP	00-06-039	388-14-540	PREP	00-06-039
388-08-470	REP-P	00-10-094	388-11-425	REP-P	00-10-096	388-14-550	PREP	00-06-039
388-08-515	REP-P	00-10-094	388-11-430	PREP	00-06-039	388-14-560	PREP	00-06-039
388-08-525	REP-P	00-10-094	388-11-430	REP-P	00-10-096	388-14-570	PREP	00-06-039
388-08-535	REP-P	00-10-094	388-13	PREP	00-06-039	388-14A-3100	NEW-P	00-10-096
388-08-545	REP-P	00-10-094	388-14-010	PREP	00-06-039	388-14A-3102	NEW-P	00-10-096
388-08-555	REP-P	00-10-094	388-14-020	PREP	00-06-039	388-14A-3105	NEW-P	00-10-096
388-08-565	REP-P	00-10-094	388-14-030	PREP	00-06-039	388-14A-3110	NEW-P	00-10-096
388-08-575	REP-P	00-10-094	388-14-035	PREP	00-06-039	388-14A-3115	NEW-P	00-10-096
388-08-585	REP-P	00-10-094	388-14-040	PREP	00-06-039	388-14A-3120	NEW-P	00-10-096
388-11-011	PREP	00-06-039	388-14-045	PREP	00-06-039	388-14A-3125	NEW-P	00-10-096
388-11-011	AMD-P	00-10-096	388-14-050	PREP	00-06-039	388-14A-3130	NEW-P	00-10-096
388-11-015	PREP	00-06-039	388-14-100	PREP	00-06-039	388-14A-3131	NEW-P	00-10-096
388-11-045	PREP	00-06-039	388-14-200	PREP	00-06-039	388-14A-3132	NEW-P	00-10-096
388-11-048	PREP	00-06-039	388-14-201	PREP	00-06-039	388-14A-3133	NEW-P	00-10-096
388-11-065	PREP	00-06-039	388-14-202	PREP	00-06-039	388-14A-3135	NEW-P	00-10-096
388-11-067	PREP	00-06-039	388-14-203	PREP	00-06-039	388-14A-3140	NEW-P	00-10-096
388-11-100	PREP	00-06-039	388-14-205	PREP	00-06-039	388-14A-3200	NEW-P	00-10-096
388-11-100	AMD-P	00-10-096	388-14-210	PREP	00-06-039	388-14A-3205	NEW-P	00-10-096
388-11-120	PREP	00-06-039	388-14-220	PREP	00-06-039	388-14A-3850	NEW-P	00-06-068
388-11-120	AMD-P	00-10-096	388-14-250	PREP	00-06-039	388-14A-3850	NEW	00-09-076
388-11-135	PREP	00-06-039	388-14-260	PREP	00-06-039	388-14A-3855	NEW-P	00-06-068
388-11-140	PREP	00-06-039	388-14-270	PREP	00-06-039	388-14A-3855	NEW	00-09-076
388-11-145	PREP	00-06-039	388-14-271	PREP	00-06-039	388-14A-3860	NEW-P	00-06-068
388-11-150	PREP	00-06-039	388-14-272	PREP	00-06-039	388-14A-3860	NEW	00-09-076
388-11-150	AMD-P	00-10-096	388-14-273	PREP	00-06-039	388-14A-3865	NEW-P	00-06-068
388-11-155	PREP	00-06-039	388-14-274	PREP	00-06-039	388-14A-3865	NEW	00-09-076
			388-14-276	PREP	00-06-039	388-14A-3870	NEW-P	00-06-068

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 14A-3870	NEW	00-09-076	388- 15-705	REP	00-04-056	388- 71-0465	NEW	00-04-056
388- 14A-3875	NEW-P	00-06-068	388- 15-710	REP	00-04-056	388- 71-0470	NEW	00-04-056
388- 14A-3875	NEW	00-09-076	388- 15-715	REP	00-04-056	388- 71-0470	PREP	00-07-100
388- 15-120	REP	00-03-029	388- 15-810	REP	00-04-056	388- 71-0475	NEW	00-04-056
388- 15-145	REP	00-04-056	388- 15-830	REP	00-04-056	388- 71-0480	NEW	00-04-056
388- 15-194	PREP	00-11-092	388- 15-880	REP	00-04-056	388- 71-0480	PREP	00-07-100
388- 15-196	REP	00-03-043	388- 15-890	REP	00-04-056	388- 71-0500	NEW	00-03-043
388- 15-19600	REP	00-03-043	388- 15-895	REP	00-04-056	388- 71-0505	NEW	00-03-043
388- 15-19610	REP	00-03-043	388- 17-010	REP	00-04-056	388- 71-0510	NEW	00-03-043
388- 15-19620	REP	00-03-043	388- 17-020	REP	00-04-056	388- 71-0515	NEW	00-03-043
388- 15-19630	REP	00-03-043	388- 17-100	REP	00-04-056	388- 71-0520	NEW	00-03-043
388- 15-19640	REP	00-03-043	388- 17-120	REP	00-04-056	388- 71-0525	NEW	00-03-043
388- 15-19650	REP	00-03-043	388- 17-160	REP	00-04-056	388- 71-0530	NEW	00-03-043
388- 15-19660	REP	00-03-043	388- 17-180	REP	00-04-056	388- 71-0535	NEW	00-03-043
388- 15-19670	REP	00-03-043	388- 17-500	REP	00-04-056	388- 71-0540	NEW	00-03-043
388- 15-19680	REP	00-03-043	388- 17-510	REP	00-04-056	388- 71-0545	NEW	00-03-043
388- 15-198	REP	00-03-043	388- 18-010	REP-XR	00-11-061	388- 71-0550	NEW	00-03-043
388- 15-200	REP	00-04-056	388- 18-020	REP-XR	00-11-061	388- 71-0555	NEW	00-03-043
388- 15-201	REP	00-04-056	388- 18-030	REP-XR	00-11-061	388- 71-0560	NEW	00-03-043
388- 15-202	PREP	00-11-092	388- 18-040	REP-XR	00-11-061	388- 71-0580	NEW	00-03-043
388- 15-203	PREP	00-11-092	388- 18-050	REP-XR	00-11-061	388- 71-0600	NEW	00-04-056
388- 15-204	PREP	00-11-092	388- 18-060	REP-XR	00-11-061	388- 71-0605	NEW	00-04-056
388- 15-205	PREP	00-11-092	388- 18-070	REP-XR	00-11-061	388- 71-0610	NEW	00-04-056
388- 15-206	REP	00-04-056	388- 18-080	REP-XR	00-11-061	388- 71-0615	NEW	00-04-056
388- 15-207	REP	00-04-056	388- 18-090	REP-XR	00-11-061	388- 71-0620	NEW	00-04-056
388- 15-209	REP	00-04-056	388- 18-100	REP-XR	00-11-061	388- 71-1000	NEW	00-04-056
388- 15-214	REP	00-04-056	388- 18-110	REP-XR	00-11-061	388- 71-1005	NEW	00-04-056
388- 15-215	REP	00-04-056	388- 18-120	REP-XR	00-11-061	388- 71-1010	NEW	00-04-056
388- 15-219	REP	00-04-056	388- 18-130	REP-XR	00-11-061	388- 71-1015	NEW	00-04-056
388- 15-222	REP	00-04-056	388- 24-2070	REP	00-03-012	388- 71-1020	NEW	00-04-056
388- 15-548	REP	00-04-056	388- 24-2100	REP	00-03-012	388- 71-1025	NEW	00-04-056
388- 15-551	REP	00-04-056	388- 24-2150	REP	00-03-012	388- 71-1030	NEW	00-04-056
388- 15-552	REP	00-04-056	388- 24-2200	REP	00-03-012	388- 71-1035	NEW	00-04-056
388- 15-553	REP	00-04-056	388- 24-2250	REP	00-03-012	388- 71-1065	NEW	00-04-056
388- 15-554	REP	00-04-056	388- 24-2350	REP	00-03-012	388- 71-1070	NEW	00-04-056
388- 15-555	REP	00-04-056	388- 24-2430	REP	00-03-012	388- 71-1075	NEW	00-04-056
388- 15-560	REP	00-04-056	388- 31	PREP	00-09-034	388- 71-1080	NEW	00-04-056
388- 15-562	REP	00-04-056	388- 71-0100	NEW	00-03-029	388- 71-1085	NEW	00-04-056
388- 15-563	REP	00-04-056	388- 71-0105	NEW	00-03-029	388- 71-1090	NEW	00-04-056
388- 15-564	REP	00-04-056	388- 71-0110	NEW	00-03-029	388- 71-1095	NEW	00-04-056
388- 15-566	REP	00-04-056	388- 71-0115	NEW	00-03-029	388- 71-1100	NEW	00-04-056
388- 15-568	REP	00-04-056	388- 71-0120	NEW	00-03-029	388- 71-1105	NEW	00-04-056
388- 15-600	REP	00-04-056	388- 71-0150	NEW	00-03-029	388- 71-1110	NEW	00-04-056
388- 15-610	REP-P	00-10-033	388- 71-0155	NEW	00-03-029	388- 76-61510	PREP	00-07-057
388- 15-620	REP	00-04-056	388- 71-0400	NEW	00-04-056	388- 76-640	PREP	00-07-057
388- 15-630	REP	00-04-056	388- 71-0405	NEW	00-04-056	388- 81	PREP	00-07-055
388- 15-650	PREP	00-08-049	388- 71-0410	NEW	00-04-056	388- 86	PREP	00-03-011
388- 15-651	PREP	00-08-049	388- 71-0410	PREP	00-11-092	388- 86-005	DECOD	00-11-183
388- 15-652	PREP	00-08-049	388- 71-0415	NEW	00-04-056	388- 86-012	PREP	00-03-011
388- 15-653	PREP	00-08-049	388- 71-0420	NEW	00-04-056	388- 86-012	REP-XR	00-08-057
388- 15-654	PREP	00-08-049	388- 71-0425	NEW	00-04-056	388- 86-012	REP	00-11-142
388- 15-655	PREP	00-08-049	388- 71-0430	NEW	00-04-056	388- 86-017	PREP	00-05-108
388- 15-656	PREP	00-08-049	388- 71-0430	AMD-P	00-10-033	388- 86-018	DECOD	00-11-183
388- 15-657	PREP	00-08-049	388- 71-0435	NEW-P	00-10-033	388- 86-019	PREP	00-03-011
388- 15-658	PREP	00-08-049	388- 71-0440	NEW	00-04-056	388- 86-019	REP-P	00-11-138
388- 15-659	PREP	00-08-049	388- 71-0440	PREP	00-11-092	388- 86-024	REP-P	00-09-041
388- 15-660	PREP	00-08-049	388- 71-0445	NEW	00-04-056	388- 86-027	DECOD	00-11-183
388- 15-661	PREP	00-08-049	388- 71-0445	PREP	00-07-100	388- 86-035	PREP	00-07-056
388- 15-662	PREP	00-08-049	388- 71-0445	PREP	00-11-092	388- 86-035	REP-P	00-11-093
388- 15-690	REP	00-04-056	388- 71-0450	NEW	00-04-056	388- 86-067	REP	00-05-039
388- 15-695	REP	00-04-056	388- 71-0455	NEW	00-04-056	388- 86-071	PREP	00-09-033
388- 15-700	REP	00-04-056	388- 71-0460	NEW	00-04-056	388- 86-087	PREP	00-07-056

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 86-090	REP	00-04-019	388- 97-07005	NEW	00-06-028	388- 97-212	NEW	00-06-028
388- 86-105	REP-XR	00-09-039	388- 97-07010	NEW	00-06-028	388- 97-215	REP	00-06-028
388- 86-110	PREP	00-03-011	388- 97-07015	NEW	00-06-028	388- 97-220	AMD	00-06-028
388- 86-115	PREP	00-03-011	388- 97-07020	NEW	00-06-028	388- 97-225	REP	00-06-028
388- 86-120	PREP	00-03-011	388- 97-07025	NEW	00-06-028	388- 97-230	REP	00-06-028
388- 86-300	PREP	00-03-011	388- 97-07030	NEW	00-06-028	388- 97-235	REP	00-06-028
388- 87	PREP	00-03-011	388- 97-07035	NEW	00-06-028	388- 97-240	REP	00-06-028
388- 87-005	REP-P	00-09-043	388- 97-07040	NEW	00-06-028	388- 97-245	REP	00-06-028
388- 87-007	REP-P	00-09-043	388- 97-07045	NEW	00-06-028	388- 97-247	NEW	00-06-028
388- 87-008	REP-P	00-09-043	388- 97-07050	NEW	00-06-028	388- 97-249	NEW	00-06-028
388- 87-010	REP-P	00-09-043	388- 97-07055	NEW	00-06-028	388- 97-250	REP	00-06-028
388- 87-011	REP-P	00-09-043	388- 97-07060	NEW	00-06-028	388- 97-251	NEW	00-06-028
388- 87-012	REP-P	00-09-043	388- 97-07065	NEW	00-06-028	388- 97-253	NEW	00-06-028
388- 87-015	REP-P	00-09-042	388- 97-07070	NEW	00-06-028	388- 97-255	REP	00-06-028
388- 87-019	REP-P	00-11-138	388- 97-075	AMD	00-06-028	388- 97-260	AMD	00-06-028
388- 87-027	PREP	00-03-011	388- 97-076	NEW	00-06-028	388- 97-265	REP	00-06-028
388- 87-045	REP-XR	00-09-040	388- 97-077	NEW	00-06-028	388- 97-270	REP	00-06-028
388- 87-048	DECOD	00-11-183	388- 97-080	REP	00-06-028	388- 97-275	REP	00-06-028
388- 87-067	REP	00-05-039	388- 97-08010	NEW	00-06-028	388- 97-280	REP	00-06-028
388- 87-077	REP	00-05-039	388- 97-08020	NEW	00-06-028	388- 97-285	NEW	00-06-028
388- 87-090	REP	00-04-019	388- 97-08030	NEW	00-06-028	388- 97-295	AMD	00-06-028
388- 87-200	PREP	00-07-056	388- 97-08040	NEW	00-06-028	388- 97-29510	NEW	00-06-028
388- 87-200	REP-P	00-09-043	388- 97-08050	NEW	00-06-028	388- 97-29520	NEW	00-06-028
388- 90-010	REP	00-07-045	388- 97-08060	NEW	00-06-028	388- 97-29530	NEW	00-06-028
388- 96-779	NEW-P	00-09-080	388- 97-08070	NEW	00-06-028	388- 97-29540	NEW	00-06-028
388- 96-779	NEW-E	00-10-035	388- 97-085	AMD	00-06-028	388- 97-29550	NEW	00-06-028
388- 96-780	NEW-P	00-09-080	388- 97-090	AMD	00-06-028	388- 97-29560	NEW	00-06-028
388- 96-780	NEW-E	00-10-035	388- 97-095	REP	00-06-028	388- 97-300	REP	00-06-028
388- 96-781	NEW-P	00-09-080	388- 97-097	NEW	00-06-028	388- 97-305	REP	00-06-028
388- 96-781	NEW-E	00-10-035	388- 97-100	REP	00-06-028	388- 97-310	AMD	00-06-028
388- 96-782	NEW-P	00-09-080	388- 97-105	REP	00-06-028	388- 97-315	AMD	00-06-028
388- 96-782	NEW-E	00-10-035	388- 97-110	AMD	00-06-028	388- 97-320	REP	00-06-028
388- 96-901	AMD-P	00-09-080	388- 97-115	AMD	00-06-028	388- 97-325	AMD	00-06-028
388- 96-901	AMD-E	00-10-035	388- 97-120	AMD	00-06-028	388- 97-32510	NEW	00-06-028
388- 97-005	AMD	00-06-028	388- 97-12010	NEW	00-06-028	388- 97-32520	NEW	00-06-028
388- 97-010	REP	00-06-028	388- 97-12020	NEW	00-06-028	388- 97-32530	NEW	00-06-028
388- 97-012	NEW	00-06-028	388- 97-12030	NEW	00-06-028	388- 97-32540	NEW	00-06-028
388- 97-015	REP	00-06-028	388- 97-12040	NEW	00-06-028	388- 97-32550	NEW	00-06-028
388- 97-017	NEW	00-06-028	388- 97-12050	NEW	00-06-028	388- 97-32560	NEW	00-06-028
388- 97-020	REP	00-06-028	388- 97-12060	NEW	00-06-028	388- 97-32570	NEW	00-06-028
388- 97-022	NEW	00-06-028	388- 97-12070	NEW	00-06-028	388- 97-32580	NEW	00-06-028
388- 97-022	PREP	00-11-105	388- 97-125	AMD	00-06-028	388- 97-330	AMD	00-06-028
388- 97-025	REP	00-06-028	388- 97-130	AMD	00-06-028	388- 97-33010	NEW	00-06-028
388- 97-027	NEW	00-06-028	388- 97-135	AMD	00-06-028	388- 97-33020	NEW	00-06-028
388- 97-027	PREP	00-11-105	388- 97-140	AMD	00-06-028	388- 97-33030	NEW	00-06-028
388- 97-030	REP	00-06-028	388- 97-145	REP	00-06-028	388- 97-33040	NEW	00-06-028
388- 97-032	NEW	00-06-028	388- 97-147	NEW	00-06-028	388- 97-33050	NEW	00-06-028
388- 97-035	REP	00-06-028	388- 97-150	REP	00-06-028	388- 97-335	AMD	00-06-028
388- 97-037	NEW	00-06-028	388- 97-155	AMD	00-06-028	388- 97-33510	NEW	00-06-028
388- 97-040	REP	00-06-028	388- 97-160	AMD	00-06-028	388- 97-33520	NEW	00-06-028
388- 97-042	NEW	00-06-028	388- 97-162	NEW	00-06-028	388- 97-33530	NEW	00-06-028
388- 97-043	NEW	00-06-028	388- 97-165	AMD	00-06-028	388- 97-33540	NEW	00-06-028
388- 97-045	REP	00-06-028	388- 97-170	AMD	00-06-028	388- 97-33550	NEW	00-06-028
388- 97-047	NEW	00-06-028	388- 97-175	AMD	00-06-028	388- 97-33560	NEW	00-06-028
388- 97-050	REP	00-06-028	388- 97-180	AMD	00-06-028	388- 97-33570	NEW	00-06-028
388- 97-051	NEW	00-06-028	388- 97-185	AMD	00-06-028	388- 97-33580	NEW	00-06-028
388- 97-052	NEW	00-06-028	388- 97-190	AMD	00-06-028	388- 97-340	AMD	00-06-028
388- 97-053	NEW	00-06-028	388- 97-195	AMD	00-06-028	388- 97-34010	NEW	00-06-028
388- 97-055	AMD	00-06-028	388- 97-200	REP	00-06-028	388- 97-34020	NEW	00-06-028
388- 97-060	AMD	00-06-028	388- 97-202	NEW	00-06-028	388- 97-345	AMD	00-06-028
388- 97-065	AMD	00-06-028	388- 97-205	AMD	00-06-028	388- 97-347	NEW	00-06-028
388- 97-070	REP	00-06-028	388- 97-210	REP	00-06-028	388- 97-350	AMD	00-06-028

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-97-35010	NEW	00-06-028	388-97-46560	NEW	00-06-028	388-155-330	AMD-XA	00-09-089
388-97-35020	NEW	00-06-028	388-97-46570	NEW	00-06-028	388-155-340	AMD	00-06-040
388-97-35030	NEW	00-06-028	388-97-46580	NEW	00-06-028	388-155-350	AMD	00-06-040
388-97-35040	NEW	00-06-028	388-97-46590	NEW	00-06-028	388-155-360	AMD	00-06-040
388-97-35050	NEW	00-06-028	388-97-470	AMD	00-06-028	388-155-370	AMD-XA	00-09-089
388-97-35060	NEW	00-06-028	388-97-47010	NEW	00-06-028	388-155-380	AMD-XA	00-09-089
388-97-352	NEW	00-06-028	388-97-47020	NEW	00-06-028	388-155-390	AMD	00-06-040
388-97-353	NEW	00-06-028	388-97-475	REP	00-06-028	388-155-400	AMD	00-06-040
388-97-355	AMD	00-06-028	388-97-480	AMD	00-06-028	388-155-410	AMD	00-06-040
388-97-357	NEW	00-06-028	388-97-48010	NEW	00-06-028	388-155-420	AMD-XA	00-09-089
388-97-35710	NEW	00-06-028	388-97-48020	NEW	00-06-028	388-155-430	AMD	00-06-040
388-97-35720	NEW	00-06-028	388-97-48030	NEW	00-06-028	388-155-440	AMD	00-06-040
388-97-360	AMD	00-06-028	388-97-48040	NEW	00-06-028	388-155-450	AMD	00-06-040
388-97-36010	NEW	00-06-028	388-97-550	NEW	00-06-028	388-155-460	AMD	00-06-040
388-97-36020	NEW	00-06-028	388-97-555	NEW	00-06-028	388-155-470	AMD	00-06-040
388-97-36030	NEW	00-06-028	388-97-560	NEW	00-06-028	388-155-480	AMD-XA	00-09-089
388-97-36040	NEW	00-06-028	388-97-565	NEW	00-06-028	388-155-490	AMD	00-06-040
388-97-36050	NEW	00-06-028	388-97-570	NEW	00-06-028	388-155-500	AMD	00-06-040
388-97-36060	NEW	00-06-028	388-97-575	NEW	00-06-028	388-155-600	AMD	00-06-040
388-97-36070	NEW	00-06-028	388-97-580	NEW	00-06-028	388-155-605	AMD-XA	00-09-089
388-97-365	AMD	00-06-028	388-97-585	NEW	00-06-028	388-155-610	AMD-XA	00-09-089
388-97-36510	NEW	00-06-028	388-97-590	NEW	00-06-028	388-155-620	AMD-XA	00-09-089
388-97-36520	NEW	00-06-028	388-97-595	NEW	00-06-028	388-155-630	AMD-XA	00-09-089
388-97-36530	NEW	00-06-028	388-97-600	NEW	00-06-028	388-155-640	AMD-XA	00-09-089
388-97-370	AMD	00-06-028	388-155-010	AMD	00-06-040	388-155-650	AMD-XA	00-09-089
388-97-37010	NEW	00-06-028	388-155-020	AMD	00-06-040	388-155-660	AMD-XA	00-09-089
388-97-37020	NEW	00-06-028	388-155-040	AMD-XA	00-09-089	388-155-670	AMD-XA	00-09-089
388-97-375	AMD	00-06-028	388-155-050	AMD-XA	00-09-089	388-155-680	AMD-XA	00-09-089
388-97-380	REP	00-06-028	388-155-060	AMD-XA	00-09-089	388-200-1160	REP	00-03-035
388-97-385	AMD	00-06-028	388-155-070	AMD	00-06-040	388-200-1300	PREP	00-04-036
388-97-390	REP	00-06-028	388-155-085	AMD-XA	00-09-089	388-200-1350	PREP	00-04-036
388-97-395	REP	00-06-028	388-155-090	AMD-XA	00-09-089	388-235	PREP	00-08-051
388-97-400	AMD	00-06-028	388-155-092	AMD-XA	00-09-089	388-235-1500	REP-P	00-11-129
388-97-40010	NEW	00-06-028	388-155-093	AMD-XA	00-09-089	388-235-5000	REP-P	00-11-129
388-97-401	NEW	00-06-028	388-155-094	AMD-XA	00-09-089	388-235-5050	REP-P	00-11-129
388-97-402	NEW	00-06-028	388-155-095	AMD-XA	00-09-089	388-235-5060	REP-P	00-11-129
388-97-403	NEW	00-06-028	388-155-098	AMD	00-06-040	388-235-5070	REP-P	00-11-129
388-97-405	AMD	00-06-028	388-155-100	AMD	00-06-040	388-235-5080	REP-P	00-11-129
388-97-410	AMD	00-06-028	388-155-110	AMD	00-06-040	388-235-5090	REP-P	00-11-129
388-97-415	AMD	00-06-028	388-155-120	AMD	00-06-040	388-235-5100	REP-P	00-11-129
388-97-420	AMD	00-06-028	388-155-130	AMD	00-06-040	388-235-5200	REP-P	00-11-129
388-97-425	AMD	00-06-028	388-155-140	AMD	00-06-040	388-235-5300	REP-P	00-11-129
388-97-430	AMD	00-06-028	388-155-150	AMD	00-06-040	388-235-5400	REP-P	00-11-129
388-97-43010	NEW	00-06-028	388-155-160	AMD-XA	00-09-089	388-235-5500	REP-P	00-11-129
388-97-43020	NEW	00-06-028	388-155-165	AMD	00-06-040	388-235-5600	REP-P	00-11-129
388-97-43030	NEW	00-06-028	388-155-170	AMD	00-06-040	388-235-5700	REP-P	00-11-129
388-97-43040	NEW	00-06-028	388-155-180	AMD	00-06-040	388-235-5800	REP-P	00-11-129
388-97-43050	NEW	00-06-028	388-155-190	AMD-XA	00-09-089	388-235-5900	REP-P	00-11-129
388-97-435	REP	00-06-028	388-155-200	AMD	00-06-040	388-235-6000	REP-P	00-11-129
388-97-440	REP	00-06-028	388-155-210	REP	00-06-040	388-235-7000	REP-P	00-11-129
388-97-445	REP	00-06-028	388-155-220	AMD	00-06-040	388-235-7100	REP-P	00-11-129
388-97-450	REP	00-06-028	388-155-230	AMD	00-06-040	388-235-7200	REP-P	00-11-129
388-97-455	AMD	00-06-028	388-155-240	AMD	00-06-040	388-235-7300	REP-P	00-11-129
388-97-45510	NEW	00-06-028	388-155-250	AMD	00-06-040	388-235-7400	REP-P	00-11-129
388-97-460	AMD	00-06-028	388-155-260	REP	00-06-040	388-235-7500	REP-P	00-11-129
388-97-46010	NEW	00-06-028	388-155-270	AMD	00-06-040	388-235-7600	REP-P	00-11-129
388-97-465	AMD	00-06-028	388-155-270	AMD-XA	00-09-089	388-235-8000	REP-P	00-11-129
388-97-46510	NEW	00-06-028	388-155-280	AMD	00-06-040	388-235-8100	REP-P	00-11-129
388-97-46520	NEW	00-06-028	388-155-290	AMD	00-06-040	388-235-8130	REP-P	00-11-129
388-97-46530	NEW	00-06-028	388-155-295	AMD	00-06-040	388-235-8140	REP-P	00-11-129
388-97-46540	NEW	00-06-028	388-155-310	AMD	00-06-040	388-235-8150	REP-P	00-11-129
388-97-46550	NEW	00-06-028	388-155-320	AMD	00-06-040	388-235-8200	REP-P	00-11-129

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-235-9000	AMD	00-05-007	388-290-950	AMD-E	00-10-090	388-430-0025	REP	00-05-007
388-235-9000	REP-P	00-11-129	388-310-0200	AMD-P	00-03-051	388-436-0010	REP-P	00-06-067
388-235-9100	REP-P	00-11-129	388-310-0200	AMD	00-06-062	388-436-0010	REP	00-10-036
388-235-9200	REP-P	00-11-129	388-310-0200	PREP	00-07-102	388-440	PREP	00-09-032
388-235-9300	REP-P	00-11-129	388-310-0200	AMD-P	00-11-140	388-440-0001	AMD	00-03-034
388-240-0010	REP-P	00-11-107	388-310-0300	AMD-P	00-03-051	388-440-0005	AMD	00-03-034
388-240-0020	REP-P	00-11-107	388-310-0300	AMD	00-06-062	388-442-0010	AMD	00-05-007
388-240-1100	REP-P	00-11-107	388-310-0400	AMD-P	00-03-051	388-444-0015	AMD	00-04-006
388-240-1200	REP-P	00-11-107	388-310-0400	AMD	00-06-062	388-444-0035	AMD	00-04-006
388-240-2100	REP-P	00-11-107	388-310-0400	PREP	00-07-102	388-444-0055	AMD	00-04-006
388-240-2300	REP-P	00-11-107	388-310-0500	PREP	00-07-102	388-444-0065	AMD	00-04-006
388-240-2400	REP-P	00-11-107	388-310-0600	PREP	00-07-102	388-444-0075	AMD	00-04-006
388-240-2450	REP-P	00-11-107	388-310-0600	AMD-P	00-11-140	388-448-0001	PREP	00-08-055
388-240-2500	REP-P	00-11-107	388-310-0700	AMD-P	00-03-051	388-448-0001	AMD-P	00-11-127
388-240-2550	REP-P	00-11-107	388-310-0700	AMD	00-06-062	388-448-0005	PREP	00-08-055
388-240-2570	REP-P	00-11-107	388-310-0800	PREP	00-05-109	388-448-0005	REP-P	00-11-127
388-240-2600	REP-P	00-11-107	388-310-0800	AMD-E	00-06-061	388-448-0010	NEW-P	00-11-129
388-240-3100	REP-P	00-11-107	388-310-0800	AMD-P	00-08-089	388-448-0020	NEW-P	00-11-129
388-240-4100	REP-P	00-11-107	388-310-0800	AMD-S	00-10-091	388-448-0030	NEW-P	00-11-129
388-240-4200	REP-P	00-11-107	388-310-1400	AMD-P	00-03-051	388-448-0035	NEW-P	00-11-129
388-240-4400	REP-P	00-11-107	388-310-1400	AMD	00-06-062	388-448-0040	NEW-P	00-11-129
388-240-4600	REP-P	00-11-107	388-310-1450	NEW-P	00-03-051	388-448-0050	NEW-P	00-11-129
388-240-5100	REP-P	00-11-107	388-310-1450	NEW	00-06-062	388-448-0060	NEW-P	00-11-129
388-240-6100	REP-P	00-11-107	388-310-1800	PREP	00-07-102	388-448-0070	NEW-P	00-11-129
388-255	PREP	00-08-054	388-310-1800	AMD-P	00-11-140	388-448-0080	NEW-P	00-11-129
388-265-1650	PREP	00-07-101	388-310-1850	AMD-E	00-03-013	388-448-0090	NEW-P	00-11-129
388-265-1750	PREP	00-07-101	388-310-1850	AMD-P	00-04-091	388-448-0100	NEW-P	00-11-129
388-290-015	AMD-P	00-10-089	388-310-1850	AMD	00-08-021	388-448-0110	NEW-P	00-11-129
388-290-015	AMD-E	00-10-090	388-400	PREP	00-11-182	388-448-0120	NEW-P	00-11-129
388-290-280	AMD-P	00-10-089	388-400-0005	AMD	00-05-007	388-448-0130	NEW-P	00-11-129
388-290-280	AMD-E	00-10-090	388-400-0010	AMD	00-05-007	388-448-0140	NEW-P	00-11-129
388-290-350	AMD-P	00-10-089	388-400-0025	PREP	00-08-056	388-448-0150	NEW-P	00-11-129
388-290-350	AMD-E	00-10-090	388-400-0025	AMD-P	00-11-128	388-448-0160	NEW-P	00-11-129
388-290-450	AMD-P	00-10-089	388-404	PREP	00-11-182	388-448-0170	NEW-P	00-11-129
388-290-450	AMD-E	00-10-090	388-404-0005	AMD	00-05-007	388-448-0180	NEW-P	00-11-129
388-290-475	AMD-P	00-10-089	388-406-0015	AMD	00-06-015	388-448-0190	NEW-P	00-11-129
388-290-475	AMD-E	00-10-090	388-406-0060	PREP	00-06-060	388-448-0200	NEW-P	00-11-129
388-290-550	REP-P	00-10-089	388-406-0060	AMD-P	00-10-093	388-448-0210	NEW-P	00-11-129
388-290-550	REP-E	00-10-090	388-408	PREP	00-11-182	388-450	PREP	00-10-031
388-290-600	AMD-P	00-10-089	388-408-0020	AMD	00-05-007	388-450	PREP	00-11-182
388-290-600	AMD-E	00-10-090	388-408-0025	PREP	00-08-050	388-450-0015	PREP	00-03-060
388-290-650	AMD-P	00-10-089	388-408-0035	PREP	00-08-052	388-450-0015	AMD-E	00-06-023
388-290-650	AMD-E	00-10-090	388-414-0001	AMD-P	00-07-076	388-450-0015	AMD-P	00-09-081
388-290-850	AMD-E	00-08-061	388-414-0001	AMD	00-11-035	388-450-0035	AMD-E	00-02-062
388-290-854	NEW-E	00-08-061	388-416-0015	AMD-P	00-04-045	388-450-0035	AMD-P	00-10-087
388-290-858	NEW-E	00-08-061	388-416-0015	AMD	00-08-002	388-450-0035	AMD-E	00-10-088
388-290-862	NEW-E	00-08-061	388-418-0012	REP-P	00-03-062	388-454	PREP	00-11-182
388-290-866	NEW-E	00-08-061	388-418-0012	REP	00-07-077	388-478	PREP	00-11-182
388-290-870	NEW-E	00-08-061	388-418-0025	AMD-P	00-04-045	388-478-0026	PREP	00-10-030
388-290-874	NEW-E	00-08-061	388-418-0025	AMD	00-08-002	388-478-0050	PREP	00-08-053
388-290-878	NEW-E	00-08-061	388-422	PREP	00-11-182	388-478-0055	AMD-P	00-08-058
388-290-882	NEW-E	00-08-061	388-424	PREP	00-11-182	388-478-0055	AMD-E	00-08-059
388-290-886	NEW-E	00-08-061	388-424-0015	AMD-P	00-05-110	388-478-0055	AMD	00-11-130
388-290-888	NEW-E	00-08-061	388-424-0015	AMD	00-08-060	388-478-0070	AMD-P	00-07-075
388-290-905	AMD-E	00-08-061	388-424-0025	AMD-E	00-08-004	388-478-0070	AMD	00-10-095
388-290-910	AMD-E	00-08-061	388-424-0025	AMD-P	00-09-082	388-478-0075	PREP	00-07-054
388-290-920	AMD-P	00-10-089	388-426	PREP	00-09-032	388-478-0075	AMD-E	00-07-089
388-290-920	AMD-E	00-10-090	388-430-0001	REP	00-05-007	388-478-0080	AMD-P	00-07-075
388-290-925	AMD-E	00-08-061	388-430-0005	REP	00-05-007	388-478-0080	AMD	00-10-095
388-290-940	AMD-E	00-08-061	388-430-0010	REP	00-05-007	388-478-0085	PREP	00-07-054
388-290-945	AMD-E	00-08-061	388-430-0015	REP	00-05-007	388-478-0085	AMD-E	00-07-089
388-290-950	AMD-P	00-10-089	388-430-0020	REP	00-05-007	388-480-0001	AMD	00-05-007

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-490-0005	AMD-P	00-04-092	388-538-150	REP	00-04-080	388-800-0085	NEW-P	00-11-107
388-490-0005	AMD	00-08-091	388-539	PREP	00-05-038	388-800-0090	NEW-P	00-11-107
388-492	PREP	00-08-088	388-539	AMD-P	00-11-062	388-800-0100	NEW-P	00-11-107
388-501-0050	PREP	00-10-032	388-539-0001	REP-P	00-11-062	388-800-0110	NEW-P	00-11-107
388-501-0125	PREP	00-03-011	388-539-0050	REP-P	00-11-062	388-800-0115	NEW-P	00-11-107
388-501-0150	REP-XR	00-09-038	388-539-0100	REP-P	00-11-062	388-800-0120	NEW-P	00-11-107
388-501-0160	AMD	00-03-035	388-539-0150	REP-P	00-11-062	388-800-0130	NEW-P	00-11-107
388-501-0165	AMD	00-03-035	388-539-0200	NEW-P	00-11-062	388-800-0135	NEW-P	00-11-107
388-501-0200	AMD-XA	00-07-044	388-539-0500	RECOD	00-11-183	388-800-0140	NEW-P	00-11-107
388-501-0200	AMD	00-11-141	388-539-0550	RECOD	00-11-183	388-800-0145	NEW-P	00-11-107
388-502-0010	NEW-P	00-09-043	388-542-0050	NEW-P	00-03-061	388-800-0150	NEW-P	00-11-107
388-502-0020	NEW-P	00-09-043	388-542-0050	NEW	00-07-103	388-800-0155	NEW-P	00-11-107
388-502-0030	NEW-P	00-09-043	388-542-0100	NEW-P	00-03-061	388-800-0160	NEW-P	00-11-107
388-502-0100	NEW-P	00-09-043	388-542-0100	NEW	00-07-103	388-800-0165	NEW-P	00-11-107
388-502-0110	NEW-P	00-09-043	388-542-0125	NEW-P	00-03-061	388-825-226	AMD-P	00-05-107
388-502-0150	NEW-P	00-09-042	388-542-0125	NEW	00-07-103	388-825-226	AMD	00-08-090
388-502-0160	NEW-P	00-09-075	388-542-0150	NEW-P	00-03-061	388-825-228	AMD-P	00-05-107
388-502-0205	REP	00-06-022	388-542-0150	NEW	00-07-103	388-825-228	AMD	00-08-090
388-502-0205	PREP-P	00-09-043	388-542-0200	NEW-P	00-03-061	388-825-254	AMD-P	00-05-107
388-502-0210	AMD-P	00-10-064	388-542-0200	NEW	00-07-103	388-825-254	AMD	00-08-090
388-502-0230	PREP	00-09-037	388-542-0250	NEW-P	00-03-061	388-890-0735	NEW-W	00-02-065
388-513-1380	AMD-E	00-08-003	388-542-0250	NEW	00-07-103	388-890-0740	NEW-W	00-02-065
388-529-2940	REP	00-05-039	388-542-0275	NEW-P	00-03-061	388-890-0865	NEW-W	00-02-065
388-529-2950	REP	00-05-039	388-542-0275	NEW	00-07-103	390-05-400	AMD	00-04-058
388-530-1000	PREP	00-07-087	388-542-0300	NEW-P	00-03-061	391-08	PREP	00-04-070
388-530-1050	PREP	00-07-087	388-542-0300	NEW	00-07-103	391-08-001	AMD-P	00-10-107
388-530-1100	PREP	00-07-087	388-545-0500	PREP	00-08-020	391-08-010	AMD-P	00-10-107
388-530-1150	PREP	00-07-087	388-545-500	NEW	00-04-019	391-08-120	AMD-P	00-10-107
388-530-1200	PREP	00-07-087	388-547	PREP	00-03-010	391-08-180	AMD-P	00-10-107
388-530-1250	PREP	00-07-087	388-548-0100	PREP	00-11-034	391-08-230	REP-P	00-10-107
388-530-1300	PREP	00-07-087	388-548-0500	PREP	00-11-034	391-08-310	AMD-P	00-10-107
388-530-1350	PREP	00-07-087	388-548-0500	NEW-E	00-11-036	391-25-050	AMD-P	00-10-107
388-530-1400	PREP	00-07-087	388-550-4500	AMD-W	00-06-046	391-25-090	AMD-P	00-10-107
388-530-1450	PREP	00-07-087	388-556-0200	NEW-P	00-11-138	391-25-230	AMD-P	00-10-107
388-530-1500	PREP	00-07-087	388-556-0400	RECOD	00-11-183	391-25-250	AMD-P	00-10-107
388-530-1550	PREP	00-07-087	388-557-0100	NEW-W	00-10-078	391-25-270	AMD-P	00-10-107
388-530-1650	PREP	00-07-087	388-700-0005	NEW-P	00-11-139	391-25-350	AMD-P	00-10-107
388-530-1700	PREP	00-07-087	388-700-0010	NEW-P	00-11-139	391-25-590	AMD-P	00-10-107
388-530-1750	PREP	00-07-088	388-700-0015	NEW-P	00-11-139	391-25-650	AMD-P	00-10-107
388-530-1750	AMD-P	00-11-106	388-700-0020	NEW-P	00-11-139	391-25-660	AMD-P	00-10-107
388-530-1850	PREP	00-07-087	388-700-0025	NEW-P	00-11-139	391-25-670	AMD-P	00-10-107
388-530-1900	PREP	00-07-087	388-700-0030	NEW-P	00-11-139	391-35-030	AMD-P	00-10-107
388-530-1950	PREP	00-07-087	388-700-0035	NEW-P	00-11-139	391-35-170	AMD-P	00-10-107
388-532	PREP	00-07-056	388-700-0040	NEW-P	00-11-139	391-35-210	AMD-P	00-10-107
388-532-050	NEW-P	00-11-093	388-700-0045	NEW-P	00-11-139	391-35-250	AMD-P	00-10-107
388-532-100	NEW-P	00-11-093	388-700-0050	NEW-P	00-11-139	391-45	PREP	00-04-070
388-533-0300	NEW-P	00-09-041	388-800-0005	NEW-P	00-11-107	391-45-001	AMD-P	00-10-107
388-534-0100	RECOD	00-11-183	388-800-0020	NEW-P	00-11-107	391-45-002	AMD-P	00-10-107
388-538-001	REP	00-04-080	388-800-0025	NEW-P	00-11-107	391-45-010	AMD-P	00-10-107
388-538-050	AMD	00-04-080	388-800-0030	NEW-P	00-11-107	391-45-030	AMD-P	00-10-107
388-538-060	AMD	00-04-080	388-800-0035	NEW-P	00-11-107	391-45-050	AMD-P	00-10-107
388-538-065	NEW	00-04-080	388-800-0040	NEW-P	00-11-107	391-45-070	AMD-E	00-03-053
388-538-066	NEW	00-04-080	388-800-0045	NEW-P	00-11-107	391-45-070	AMD-P	00-10-107
388-538-070	AMD	00-04-080	388-800-0048	NEW-P	00-11-107	391-45-070	AMD-E	00-11-024
388-538-080	AMD	00-04-080	388-800-0050	NEW-P	00-11-107	391-45-090	AMD-P	00-10-107
388-538-090	REP	00-04-080	388-800-0055	NEW-P	00-11-107	391-45-110	AMD-E	00-03-053
388-538-095	AMD	00-04-080	388-800-0057	NEW-P	00-11-107	391-45-110	AMD-P	00-10-107
388-538-100	AMD	00-04-080	388-800-0060	NEW-P	00-11-107	391-45-110	AMD-E	00-11-024
388-538-110	AMD	00-04-080	388-800-0065	NEW-P	00-11-107	391-45-130	AMD-E	00-03-053
388-538-120	AMD	00-04-080	388-800-0070	NEW-P	00-11-107	391-45-130	AMD-P	00-10-107
388-538-130	AMD	00-04-080	388-800-0075	NEW-P	00-11-107	391-45-130	AMD-E	00-11-024
388-538-140	AMD	00-04-080	388-800-0080	NEW-P	00-11-107	391-45-170	AMD-P	00-10-107

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
391-45-190	AMD-P	00-10-107	392-139-310	AMD-P	00-05-061	392-140-740	REP	00-02-063
391-45-210	AMD-P	00-10-107	392-139-310	AMD	00-09-017	392-140-741	REP	00-02-063
391-45-230	REP-P	00-10-107	392-139-320	AMD-P	00-05-061	392-140-742	REP	00-02-063
391-45-250	AMD-P	00-10-107	392-139-320	AMD	00-09-017	392-140-743	REP	00-02-063
391-45-260	AMD-P	00-10-107	392-139-605	REP-P	00-05-061	392-140-744	REP	00-02-063
391-45-270	AMD-P	00-10-107	392-139-605	REP	00-09-017	392-140-745	REP	00-02-063
391-45-290	AMD-P	00-10-107	392-139-610	AMD-P	00-05-061	392-140-746	REP	00-02-063
391-45-310	AMD-P	00-10-107	392-139-610	AMD	00-09-017	392-140-747	REP	00-02-063
391-45-330	AMD-P	00-10-107	392-139-615	AMD-P	00-05-061	392-140-900	NEW	00-02-063
391-45-350	AMD-P	00-10-107	392-139-615	AMD	00-09-017	392-140-901	NEW	00-02-063
391-45-390	AMD-P	00-10-107	392-139-620	AMD-P	00-05-061	392-140-902	NEW	00-02-063
391-45-410	AMD-P	00-10-107	392-139-620	AMD	00-09-017	392-140-903	NEW	00-02-063
391-45-430	AMD-P	00-10-107	392-139-622	REP-P	00-05-061	392-140-905	NEW	00-02-063
391-45-550	AMD-P	00-10-107	392-139-622	REP	00-09-017	392-140-906	NEW	00-02-063
391-45-552	AMD-P	00-10-107	392-139-623	REP-P	00-05-061	392-140-907	NEW	00-02-063
391-55-030	AMD-P	00-10-107	392-139-623	REP	00-09-017	392-140-908	NEW	00-02-063
391-55-350	AMD-P	00-10-107	392-139-625	AMD-P	00-05-061	392-140-910	NEW	00-02-063
391-65-070	AMD-P	00-10-107	392-139-625	AMD	00-09-017	392-140-911	NEW	00-02-063
391-95	PREP	00-04-070	392-139-660	AMD-P	00-05-061	392-140-912	NEW	00-02-063
391-95-001	AMD-P	00-10-107	392-139-660	AMD	00-09-017	392-140-913	NEW	00-02-063
391-95-010	AMD-P	00-10-107	392-139-661	REP-P	00-05-061	392-172-107	NEW-W	00-06-045
391-95-030	AMD-P	00-10-107	392-139-661	REP	00-09-017	392-172-109	NEW-W	00-06-045
391-95-050	AMD-P	00-10-107	392-139-670	AMD-P	00-05-061	392-172-161	NEW-W	00-06-045
391-95-070	AMD-P	00-10-107	392-139-670	AMD	00-09-017	392-300-070	NEW-E	00-05-099
391-95-090	AMD-P	00-10-107	392-139-676	AMD-P	00-05-061	392-300-070	PREP	00-09-023
391-95-110	AMD-P	00-10-107	392-139-676	AMD	00-09-017	399-30-030	PREP	00-04-096
391-95-130	AMD-P	00-10-107	392-140-600	AMD	00-03-015	399-30-030	AMD-E	00-04-097
391-95-150	AMD-P	00-10-107	392-140-601	AMD	00-03-015	399-30-030	AMD-P	00-08-010
391-95-170	AMD-P	00-10-107	392-140-605	AMD	00-03-015	399-50-010	NEW-C	00-04-100
391-95-190	AMD-P	00-10-107	392-140-613	AMD	00-03-015	399-50-010	NEW	00-11-021
391-95-230	AMD-P	00-10-107	392-140-625	AMD	00-03-015	399-50-020	NEW-C	00-04-100
391-95-250	AMD-P	00-10-107	392-140-626	NEW	00-03-015	399-50-020	NEW	00-11-021
391-95-260	AMD-P	00-10-107	392-140-630	AMD	00-03-015	399-50-030	NEW-C	00-04-100
391-95-270	AMD-P	00-10-107	392-140-660	AMD	00-03-015	399-50-030	NEW	00-11-021
391-95-290	AMD-P	00-10-107	392-140-665	REP	00-03-015	399-50-040	NEW-C	00-04-100
391-95-310	AMD-P	00-10-107	392-140-675	AMD	00-03-015	399-50-040	NEW	00-11-021
392-117-045	AMD-P	00-09-072	392-140-680	AMD	00-03-015	415-02-010	AMD-P	00-04-025
392-127-011	AMD	00-02-064	392-140-700	REP	00-02-063	415-02-010	AMD	00-10-016
392-127-015	AMD	00-02-064	392-140-701	REP	00-02-063	415-02-020	AMD-P	00-04-025
392-127-030	REP	00-02-064	392-140-702	REP	00-02-063	415-02-020	AMD	00-10-016
392-127-035	REP	00-02-064	392-140-710	REP	00-02-063	415-02-030	AMD-P	00-04-025
392-127-040	REP	00-02-064	392-140-711	REP	00-02-063	415-02-030	AMD	00-10-016
392-127-050	REP	00-02-064	392-140-712	REP	00-02-063	415-02-040	REP-P	00-04-025
392-127-055	REP	00-02-064	392-140-713	REP	00-02-063	415-02-040	REP	00-10-016
392-127-060	REP	00-02-064	392-140-714	REP	00-02-063	415-02-050	AMD-P	00-04-025
392-127-065	AMD	00-02-064	392-140-715	REP	00-02-063	415-02-050	AMD	00-10-016
392-127-070	AMD	00-02-064	392-140-716	REP	00-02-063	415-02-060	AMD-P	00-04-025
392-127-085	AMD	00-02-064	392-140-720	REP	00-02-063	415-02-060	AMD	00-10-016
392-127-095	REP	00-02-064	392-140-721	REP	00-02-063	415-02-070	REP-P	00-04-025
392-127-101	REP	00-02-064	392-140-722	REP	00-02-063	415-02-070	REP	00-10-016
392-127-106	REP	00-02-064	392-140-723	REP	00-02-063	415-02-080	AMD-P	00-04-025
392-127-111	AMD	00-02-064	392-140-724	REP	00-02-063	415-02-080	AMD	00-10-016
392-127-112	NEW	00-02-064	392-140-725	REP	00-02-063	415-02-100	AMD-P	00-04-025
392-127-810	REP	00-02-064	392-140-726	REP	00-02-063	415-02-100	AMD	00-10-016
392-139-001	AMD-P	00-05-061	392-140-727	REP	00-02-063	415-02-120	NEW-P	00-04-025
392-139-001	AMD	00-09-017	392-140-728	REP	00-02-063	415-02-120	NEW	00-10-016
392-139-005	AMD-P	00-05-061	392-140-730	REP	00-02-063	415-02-130	NEW-P	00-04-025
392-139-005	AMD	00-09-017	392-140-731	REP	00-02-063	415-02-130	NEW	00-10-016
392-139-007	AMD-P	00-05-061	392-140-732	REP	00-02-063	415-04	PREP	00-04-061
392-139-007	AMD	00-09-017	392-140-733	REP	00-02-063	415-08	PREP	00-04-061
392-139-008	NEW-P	00-05-061	392-140-735	REP	00-02-063	415-10	PREP	00-04-062
392-139-008	NEW	00-09-017	392-140-736	REP	00-02-063	415-103-215	NEW-P	00-08-085

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
415-103-215	NEW	00-11-103	415-501-200	RECOD	00-11-104	415-501-530	RECOD	00-11-104
415-104-450	NEW-P	00-04-023	415-501-210	RECOD-P	00-08-092	415-501-540	RECOD-P	00-08-092
415-104-450	NEW	00-10-017	415-501-210	RECOD	00-11-104	415-501-540	RECOD	00-11-104
415-108-315	NEW-P	00-04-024	415-501-300	RECOD-P	00-08-092	415-501-550	RECOD-P	00-08-092
415-108-315	NEW	00-10-015	415-501-300	RECOD	00-11-104	415-501-550	RECOD	00-11-104
415-112-125	AMD-P	00-04-024	415-501-305	RECOD-P	00-08-092	415-501-560	RECOD-P	00-08-092
415-112-125	AMD	00-10-015	415-501-305	RECOD	00-11-104	415-501-560	RECOD	00-11-104
415-112-140	AMD-P	00-04-024	415-501-310	RECOD-P	00-08-092	415-501-570	RECOD-P	00-08-092
415-112-140	AMD	00-10-015	415-501-310	RECOD	00-11-104	415-501-570	RECOD	00-11-104
415-112-145	AMD-P	00-04-024	415-501-315	NEW-P	00-08-092	415-501-580	RECOD-P	00-08-092
415-112-145	AMD	00-10-015	415-501-315	NEW	00-11-104	415-501-580	RECOD	00-11-104
415-112-155	AMD-P	00-04-024	415-501-320	RECOD-P	00-08-092	415-501-590	RECOD-P	00-08-092
415-112-155	AMD	00-10-015	415-501-320	RECOD	00-11-104	415-501-590	RECOD	00-11-104
415-112-330	AMD-P	00-04-024	415-501-330	RECOD-P	00-08-092	415-501-600	RECOD-P	00-08-092
415-112-330	AMD	00-10-015	415-501-330	RECOD	00-11-104	415-501-600	RECOD	00-11-104
415-112-415	AMD-XA	00-08-030	415-501-340	RECOD-P	00-08-092	415-501-610	RECOD-P	00-08-092
415-112-460	AMD-P	00-04-024	415-501-340	RECOD	00-11-104	415-501-610	RECOD	00-11-104
415-112-460	AMD	00-10-015	415-501-350	RECOD-P	00-08-092	415-501-710	RECOD-P	00-08-092
415-112-4605	AMD-P	00-04-024	415-501-350	RECOD	00-11-104	415-501-710	RECOD	00-11-104
415-112-4605	AMD	00-10-015	415-501-360	RECOD-P	00-08-092	415-501-720	RECOD-P	00-08-092
415-112-4608	AMD-P	00-04-024	415-501-360	RECOD	00-11-104	415-501-720	RECOD	00-11-104
415-112-4608	AMD	00-10-015	415-501-370	RECOD-P	00-08-092	415-504-010	AMD-P	00-08-092
415-112-471	AMD-P	00-04-024	415-501-370	RECOD	00-11-104	415-504-010	DECOD-P	00-08-092
415-112-471	AMD	00-10-015	415-501-380	RECOD-P	00-08-092	415-504-010	AMD	00-11-104
415-112-473	AMD-P	00-04-024	415-501-380	RECOD	00-11-104	415-504-010	DECOD	00-11-104
415-112-473	AMD	00-10-015	415-501-390	RECOD-P	00-08-092	415-504-020	DECOD-P	00-08-092
415-112-475	AMD-P	00-04-024	415-501-390	RECOD	00-11-104	415-504-020	DECOD	00-11-104
415-112-475	AMD	00-10-015	415-501-410	RECOD-P	00-08-092	415-504-030	DECOD-P	00-08-092
415-112-477	AMD-P	00-04-024	415-501-410	RECOD	00-11-104	415-504-030	DECOD	00-11-104
415-112-477	AMD	00-10-015	415-501-415	RECOD-P	00-08-092	415-504-040	DECOD-P	00-08-092
415-112-510	REP-P	00-04-024	415-501-415	RECOD	00-11-104	415-504-040	DECOD	00-11-104
415-112-540	AMD	00-11-053	415-501-420	RECOD-P	00-08-092	415-504-050	DECOD-P	00-08-092
415-112-545	AMD	00-11-053	415-501-420	RECOD	00-11-104	415-504-050	DECOD	00-11-104
415-112-705	NEW-P	00-04-024	415-501-430	RECOD-P	00-08-092	415-504-060	DECOD-P	00-08-092
415-112-705	NEW	00-10-015	415-501-430	RECOD	00-11-104	415-504-060	DECOD	00-11-104
415-112-920	NEW-P	00-04-024	415-501-440	RECOD-P	00-08-092	415-504-070	DECOD-P	00-08-092
415-112-920	NEW	00-10-015	415-501-440	RECOD	00-11-104	415-504-070	DECOD	00-11-104
415-112-950	NEW-P	00-04-024	415-501-450	RECOD-P	00-08-092	415-504-080	DECOD-P	00-08-092
415-112-950	NEW	00-10-015	415-501-450	RECOD	00-11-104	415-504-080	DECOD	00-11-104
415-501-010	AMD-P	00-08-092	415-501-470	RECOD-P	00-08-092	415-504-090	AMD-P	00-08-092
415-501-010	AMD	00-11-104	415-501-470	RECOD	00-11-104	415-504-090	DECOD-P	00-08-092
415-501-020	AMD-P	00-08-092	415-501-475	RECOD-P	00-08-092	415-504-090	AMD	00-11-104
415-501-020	AMD	00-11-104	415-501-475	RECOD	00-11-104	415-504-090	DECOD	00-11-104
415-501-110	RECOD-P	00-08-092	415-501-480	RECOD-P	00-08-092	415-504-100	AMD-P	00-08-092
415-501-110	RECOD	00-11-104	415-501-480	RECOD	00-11-104	415-504-100	DECOD-P	00-08-092
415-501-120	RECOD-P	00-08-092	415-501-485	RECOD-P	00-08-092	415-504-100	AMD	00-11-104
415-501-120	RECOD	00-11-104	415-501-485	RECOD	00-11-104	415-504-100	DECOD	00-11-104
415-501-130	RECOD-P	00-08-092	415-501-486	RECOD-P	00-08-092	415-504-110	AMD-P	00-08-092
415-501-130	RECOD	00-11-104	415-501-486	RECOD	00-11-104	415-504-110	DECOD-P	00-08-092
415-501-140	RECOD-P	00-08-092	415-501-487	RECOD-P	00-08-092	415-504-110	AMD	00-11-104
415-501-140	RECOD	00-11-104	415-501-487	RECOD	00-11-104	415-504-110	DECOD	00-11-104
415-501-150	RECOD-P	00-08-092	415-501-490	RECOD-P	00-08-092	415-508-010	AMD-P	00-08-092
415-501-150	RECOD	00-11-104	415-501-490	RECOD	00-11-104	415-508-010	DECOD-P	00-08-092
415-501-160	RECOD-P	00-08-092	415-501-495	RECOD-P	00-08-092	415-508-010	AMD	00-11-104
415-501-160	RECOD	00-11-104	415-501-495	RECOD	00-11-104	415-508-010	DECOD	00-11-104
415-501-170	RECOD-P	00-08-092	415-501-500	RECOD-P	00-08-092	415-508-020	DECOD-P	00-08-092
415-501-170	RECOD	00-11-104	415-501-500	RECOD	00-11-104	415-508-020	DECOD	00-11-104
415-501-180	RECOD-P	00-08-092	415-501-510	RECOD-P	00-08-092	415-508-030	DECOD-P	00-08-092
415-501-180	RECOD	00-11-104	415-501-510	RECOD	00-11-104	415-508-030	DECOD	00-11-104
415-501-190	RECOD-P	00-08-092	415-501-520	RECOD-P	00-08-092	415-508-040	DECOD-P	00-08-092
415-501-190	RECOD	00-11-104	415-501-520	RECOD	00-11-104	415-508-040	DECOD	00-11-104
415-501-200	RECOD-P	00-08-092	415-501-530	RECOD-P	00-08-092	415-508-050	AMD-P	00-08-092

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
415-508-050	DECOD-P	00-08-092	415-512-110	DECOD	00-11-104	434-219-120	AMD	00-03-003
415-508-050	AMD	00-11-104	415-524-010	AMD-P	00-08-092	434-219-160	AMD	00-03-003
415-508-050	DECOD	00-11-104	415-524-010	DECOD-P	00-08-092	434-219-160	AMD-E	00-03-036
415-512-010	AMD-P	00-08-092	415-524-010	AMD	00-11-104	434-219-165	NEW	00-03-003
415-512-010	DECOD-P	00-08-092	415-524-010	DECOD	00-11-104	434-219-170	NEW	00-03-003
415-512-010	AMD	00-11-104	415-528-010	DECOD-P	00-08-092	434-219-180	AMD	00-03-003
415-512-010	DECOD	00-11-104	415-528-010	DECOD	00-11-104	434-219-185	NEW	00-03-003
415-512-015	AMD-P	00-08-092	415-532-010	AMD-P	00-08-092	434-219-210	AMD	00-03-003
415-512-015	DECOD-P	00-08-092	415-532-010	DECOD-P	00-08-092	434-219-220	AMD	00-03-003
415-512-015	AMD	00-11-104	415-532-010	AMD	00-11-104	434-219-230	AMD	00-03-003
415-512-015	DECOD	00-11-104	415-532-010	DECOD	00-11-104	434-219-240	AMD	00-03-003
415-512-020	AMD-P	00-08-092	415-532-020	AMD-P	00-08-092	434-219-250	AMD	00-03-003
415-512-020	DECOD-P	00-08-092	415-532-020	DECOD-P	00-08-092	434-219-255	NEW	00-03-003
415-512-020	AMD	00-11-104	415-532-020	AMD	00-11-104	434-219-260	AMD	00-03-003
415-512-020	DECOD	00-11-104	415-532-020	DECOD	00-11-104	434-219-270	AMD	00-03-003
415-512-030	AMD-P	00-08-092	415-536-010	AMD-P	00-08-092	434-219-280	AMD	00-03-003
415-512-030	DECOD-P	00-08-092	415-536-010	DECOD-P	00-08-092	434-219-280	AMD-E	00-05-093
415-512-030	AMD	00-11-104	415-536-010	AMD	00-11-104	434-219-285	NEW	00-03-003
415-512-030	DECOD	00-11-104	415-536-010	DECOD	00-11-104	434-219-290	AMD	00-03-003
415-512-040	AMD-P	00-08-092	415-540-010	AMD-P	00-08-092	434-219-300	NEW	00-03-003
415-512-040	DECOD-P	00-08-092	415-540-010	DECOD-P	00-08-092	434-219-310	AMD	00-03-003
415-512-040	AMD	00-11-104	415-540-010	AMD	00-11-104	434-219-320	AMD	00-03-003
415-512-040	DECOD	00-11-104	415-540-010	DECOD	00-11-104	434-230-170	AMD-S	00-07-052
415-512-050	AMD-P	00-08-092	415-544-010	AMD-P	00-08-092	434-230-170	AMD	00-11-042
415-512-050	DECOD-P	00-08-092	415-544-010	DECOD-P	00-08-092	434-230-210	AMD-S	00-07-052
415-512-050	AMD	00-11-104	415-544-010	AMD	00-11-104	434-230-210	AMD	00-11-042
415-512-050	DECOD	00-11-104	415-544-010	DECOD	00-11-104	434-230-220	NEW-S	00-07-052
415-512-070	AMD-P	00-08-092	415-548-010	DECOD-P	00-08-092	434-230-220	NEW	00-11-042
415-512-070	DECOD-P	00-08-092	415-548-010	DECOD	00-11-104	434-240-202	NEW-E	00-03-036
415-512-070	AMD	00-11-104	415-552-010	AMD-P	00-08-092	434-257	AMD-E	00-04-010
415-512-070	DECOD	00-11-104	415-552-010	DECOD-P	00-08-092	434-257-010	AMD-E	00-04-010
415-512-075	AMD-P	00-08-092	415-552-010	AMD	00-11-104	434-257-020	AMD-E	00-04-010
415-512-075	DECOD-P	00-08-092	415-552-010	DECOD	00-11-104	434-257-030	AMD-E	00-04-010
415-512-075	AMD	00-11-104	415-556-010	AMD-P	00-08-092	434-257-050	REP-E	00-04-010
415-512-075	DECOD	00-11-104	415-556-010	DECOD-P	00-08-092	434-257-070	AMD-E	00-04-010
415-512-080	AMD-P	00-08-092	415-556-010	AMD	00-11-104	434-257-080	REP-E	00-04-010
415-512-080	DECOD-P	00-08-092	415-556-010	DECOD	00-11-104	434-257-090	AMD-E	00-04-010
415-512-080	AMD	00-11-104	415-560-010	DECOD-P	00-08-092	434-257-100	AMD-E	00-04-010
415-512-080	DECOD	00-11-104	415-560-010	DECOD	00-11-104	434-257-120	REP-E	00-04-010
415-512-085	AMD-P	00-08-092	415-564-010	AMD-P	00-08-092	434-257-130	AMD-E	00-04-010
415-512-085	DECOD-P	00-08-092	415-564-010	DECOD-P	00-08-092	434-257-150	AMD-E	00-04-010
415-512-085	AMD	00-11-104	415-564-010	AMD	00-11-104	434-262-080	AMD-P	00-05-095
415-512-085	DECOD	00-11-104	415-564-010	DECOD	00-11-104	434-262-080	AMD	00-10-010
415-512-086	AMD-P	00-08-092	415-564-020	AMD-P	00-08-092	434-262-110	AMD-P	00-05-095
415-512-086	DECOD-P	00-08-092	415-564-020	DECOD-P	00-08-092	434-262-110	AMD	00-10-010
415-512-086	AMD	00-11-104	415-564-020	AMD	00-11-104	434-262-120	AMD-P	00-05-095
415-512-086	DECOD	00-11-104	415-564-020	DECOD	00-11-104	434-262-120	AMD	00-10-010
415-512-087	AMD-P	00-08-092	415-564-030	DECOD-P	00-08-092	434-334-090	AMD-P	00-05-094
415-512-087	DECOD-P	00-08-092	415-564-040	AMD-P	00-08-092	434-334-090	AMD	00-10-009
415-512-087	AMD	00-11-104	415-564-040	DECOD-P	00-08-092	434-334-110	AMD-P	00-05-094
415-512-087	DECOD	00-11-104	415-564-040	AMD	00-11-104	434-334-110	AMD	00-10-009
415-512-090	AMD-P	00-08-092	415-564-040	DECOD	00-11-104	434-334-127	NEW-P	00-05-094
415-512-090	DECOD-P	00-08-092	415-564-050	AMD-P	00-08-092	434-334-127	NEW	00-10-009
415-512-090	AMD	00-11-104	415-564-050	DECOD-P	00-08-092	434-334-140	AMD-P	00-05-094
415-512-090	DECOD	00-11-104	415-564-050	AMD	00-11-104	434-334-140	AMD	00-10-009
415-512-095	AMD-P	00-08-092	415-564-050	DECOD	00-11-104	434-334-160	AMD-P	00-05-094
415-512-095	DECOD-P	00-08-092	415-564-060	DECOD-P	00-08-092	434-334-160	AMD	00-10-009
415-512-095	AMD	00-11-104	415-568-010	DECOD-P	00-08-092	434-334-165	AMD-P	00-05-094
415-512-095	DECOD	00-11-104	415-568-010	DECOD	00-11-104	434-334-165	AMD	00-10-009
415-512-110	AMD-P	00-08-092	415-568-020	DECOD-P	00-08-092	434-381	PREP	00-09-027
415-512-110	DECOD-P	00-08-092	415-568-020	DECOD	00-11-104	434-381-010	REP-E	00-09-028
415-512-110	AMD	00-11-104	434-219-020	AMD	00-03-003	434-381-020	REP-E	00-09-028

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
434-381-030	REP-E	00-09-028	440-44-028	REP	00-07-045	458-61-230	AMD	00-09-002
434-381-040	REP-E	00-09-028	446-30-010	AMD	00-02-069	460-21C-005	NEW-P	00-02-068
434-381-050	REP-E	00-09-028	446-85-005	NEW-P	00-06-037	460-21C-005	NEW	00-05-055
434-381-060	REP-E	00-09-028	446-85-005	NEW	00-10-092	460-21C-010	NEW-P	00-02-068
434-381-070	REP-E	00-09-028	446-85-010	NEW-P	00-06-037	460-21C-010	NEW	00-05-055
434-381-080	REP-E	00-09-028	446-85-010	NEW	00-10-092	460-21C-020	NEW-P	00-02-068
434-381-090	REP-E	00-09-028	458-12-315	REP-P	00-05-033	460-21C-020	NEW	00-05-055
434-381-100	REP-E	00-09-028	458-12-315	REP	00-09-003	460-21C-030	NEW-P	00-02-068
434-381-110	NEW-E	00-09-028	458-12-320	AMD-P	00-05-033	460-21C-030	NEW	00-05-055
434-381-120	NEW-E	00-09-028	458-12-320	AMD	00-09-003	460-21C-040	NEW-P	00-02-068
434-381-130	NEW-E	00-09-028	458-16-080	AMD-P	00-05-032	460-21C-040	NEW	00-05-055
434-381-140	NEW-E	00-09-028	458-16-080	AMD	00-09-004	460-44A-500	AMD	00-04-094
434-381-150	NEW-E	00-09-028	458-16-081	REP-P	00-05-032	460-44A-504	AMD	00-04-094
434-381-160	NEW-E	00-09-028	458-16-081	REP	00-09-004	460-46A-010	REP	00-04-095
434-381-170	NEW-E	00-09-028	458-16A-010	AMD-P	00-06-073	460-46A-020	REP	00-04-095
434-381-180	NEW-E	00-09-028	458-16A-010	AMD	00-09-086	460-46A-025	REP	00-04-095
434-663-100	AMD-P	00-04-083	458-16A-020	AMD-P	00-06-073	460-46A-030	REP	00-04-095
434-663-270	NEW-P	00-04-083	458-16A-020	AMD	00-09-086	460-46A-040	REP	00-04-095
434-663-280	NEW-P	00-04-083	458-20-135	AMD-E	00-04-026	460-46A-050	REP	00-04-095
434-663-300	AMD-P	00-04-083	458-20-135	AMD-P	00-04-029	460-46A-055	REP	00-04-095
434-663-305	NEW-P	00-04-083	458-20-135	AMD	00-11-096	460-46A-061	REP	00-04-095
434-663-310	AMD-P	00-04-083	458-20-13501	PREP	00-04-027	460-46A-065	REP	00-04-095
434-663-320	AMD-P	00-04-083	458-20-136	AMD-E	00-04-026	460-46A-071	REP	00-04-095
434-663-400	AMD-P	00-04-083	458-20-136	AMD-P	00-04-029	460-46A-072	REP	00-04-095
434-663-400	DECOD-P	00-04-083	458-20-136	AMD	00-11-096	460-46A-090	REP	00-04-095
434-663-405	NEW-P	00-04-083	458-20-13601	NEW-E	00-04-026	460-46A-091	REP	00-04-095
434-663-410	AMD-P	00-04-083	458-20-13601	NEW-P	00-04-029	460-46A-092	REP	00-04-095
434-663-410	DECOD-P	00-04-083	458-20-13601	NEW	00-11-096	460-46A-095	REP	00-04-095
434-663-420	AMD-P	00-04-083	458-20-18801	PREP	00-08-072	460-46A-100	REP	00-04-095
434-663-420	DECOD-P	00-04-083	458-20-195	PREP	00-08-110	460-46A-105	REP	00-04-095
434-663-430	AMD-P	00-04-083	458-20-217	PREP	00-05-073	460-46A-110	REP	00-04-095
434-663-430	DECOD-P	00-04-083	458-20-228	AMD	00-04-028	460-46A-115	REP	00-04-095
434-663-440	AMD-P	00-04-083	458-20-238	PREP	00-10-115	460-46A-145	REP	00-04-095
434-663-440	DECOD-P	00-04-083	458-20-239	AMD-XA	00-05-015	460-46A-150	REP	00-04-095
434-663-450	DECOD-P	00-04-083	458-20-239	AMD	00-09-092	460-46A-155	REP	00-04-095
434-663-460	REP-P	00-04-083	458-20-261	AMD-XA	00-03-001	460-46A-160	REP	00-04-095
434-663-470	REP-P	00-04-083	458-20-261	AMD	00-11-097	460-46A-165	REP	00-04-095
434-663-480	REP-P	00-04-083	458-30-200	PREP	00-05-074	468-14-010	REP-XR	00-07-027
434-663-490	AMD-P	00-04-083	458-30-200	AMD-P	00-11-026	468-14-010	REP	00-11-133
434-663-490	DECOD-P	00-04-083	458-30-275	PREP	00-05-074	468-14-020	REP-XR	00-07-027
434-663-510	REP-P	00-04-083	458-30-275	AMD-P	00-11-026	468-14-020	REP	00-11-133
434-663-520	REP-P	00-04-083	458-30-285	PREP	00-05-074	468-14-030	REP-XR	00-07-027
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434-663-610	AMD-P	00-04-083	458-30-295	AMD-P	00-11-026	468-14-040	REP	00-11-133
434-663-620	AMD-P	00-04-083	458-30-300	PREP	00-05-074	468-14-050	REP-XR	00-07-027
434-663-640	NEW-P	00-04-083	458-30-300	AMD-P	00-11-026	468-14-050	REP	00-11-133
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434-663-710	RECOD-P	00-04-083	458-30-305	AMD-P	00-11-026	468-16-080	AMD-P	00-11-134
434-663-720	RECOD-P	00-04-083	458-30-310	PREP	00-05-074	468-16-100	PREP	00-07-026
434-663-730	RECOD-P	00-04-083	458-30-310	AMD-P	00-11-026	468-16-100	AMD-P	00-11-134
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474-02-020	AMD	00-11-084	480-66-210	NEW	00-04-011	495A-121-022	NEW-P	00-05-017
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478-132-030	AMD	00-04-038	480-66-230	NEW	00-04-011	495A-121-023	NEW-P	00-05-017
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478-324-030	AMD	00-04-039	480-66-310	NEW	00-04-011	495A-121-024	NEW-P	00-05-017
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478-324-050	REP	00-04-039	480-66-400	NEW	00-04-011	495A-121-025	NEW	00-11-147
478-324-060	AMD	00-04-039	480-66-410	NEW	00-04-011	495A-121-026	NEW-P	00-05-017
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478-324-110	AMD	00-04-039	480-66-440	NEW	00-04-011	495A-121-027	NEW	00-11-147
478-324-120	AMD	00-04-039	480-66-450	NEW	00-04-011	495A-121-028	NEW-P	00-05-017
478-324-130	AMD	00-04-039	480-66-460	NEW	00-04-011	495A-121-028	NEW	00-11-147
478-324-140	AMD	00-04-039	480-66-470	NEW	00-04-011	495A-121-029	NEW-P	00-05-017
478-324-150	AMD	00-04-039	480-66-480	NEW	00-04-011	495A-121-029	NEW	00-11-147
478-324-170	AMD	00-04-039	480-66-490	NEW	00-04-011	495A-121-040	NEW-P	00-05-017
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480-60-012	NEW	00-04-011	495A-120-045	REP	00-11-148	495A-121-049	NEW-P	00-05-017
480-60-014	NEW	00-04-011	495A-120-050	REP	00-11-148	495A-121-049	NEW	00-11-147
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Crime victims compensation			Students		
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	PERM	00-10-003	services, policies and procedures	PREP	00-11-033
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	EMER	00-07-123	adjudicative procedures	PERM	00-02-054
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asbestos removal and encapsulation	PREP	00-10-116	Consolidated licensing system	PREP	00-08-067
construction work	EXAD	00-01-139	Engineers and land surveyors, board of		
	PREP	00-04-002	registration for professional		
	PREP	00-05-057	meetings	MISC	00-01-083
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	PROP	00-06-056	Hulk haulers/scrap processors	PREP	00-06-031
	PERM	00-08-078		PROP	00-09-071
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electrical wires and equipment	PREP	00-10-116	meetings	MISC	00-10-040
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	PERM	00-06-075	Initiative 695 implementation	PREP	00-06-001
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	PERM	00-11-098	abandoned and unauthorized vehicles,		
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