

Title 332 WAC

NATURAL RESOURCES, BOARD AND DEPARTMENT OF

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Chapter 332-08 WAC PRACTICE AND PROCEDURE

WAC

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WAC 332-08-010 Appearance and practice before agency—Who may appear. No person may appear in a representative capacity before the department of natural resources or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation. [Regulation .08.010, filed 2/7/61.]

WAC 332-08-020 Appearance and practice before agency—Appearance in certain proceedings may be limited to attorneys. In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the department of natural resources or its designated hearing officer determines that representative activity in such hearing requires a high degree of legal training, experience, and skill, the department of natural resources or its designated hearing officer may limit those who may appear in a representative capacity to attorneys at law. [Regulation .08.020, filed 2/7/61.]

WAC 332-08-040 Appearance and practice before agency—Standards of ethical conduct. All persons appearing in proceedings before the department of natural resources in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the department of natural resources may decline to permit such person to appear in a representative capacity in any proceeding before the department. [Regulation .08.040, filed 2/7/61.]

WAC 332-08-050 Appearance and practice before agency—Appearance by former employee of department or former member of the attorney general's staff. No former employee of the department of natural resources or member of the attorney general's staff may at any time after severing his employment with the department or the attorney general appear, except with the written permission of the department, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the department. [Regulation 08.050, filed 2/7/61.]

WAC 332-08-060 Appearance and practice before agency—Former employee as expert witness. No

former employee of the department of natural resources shall at any time after severing his employment with the department appear, except with the written permission of the department, as an expert witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation as a representative of the department. [Regulation .08.060, filed 2/7/61.]

WAC 332-08-070 Computation of time. In computing any period of time prescribed or allowed by the department of natural resources rules, by order of the department or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. [Regulation .08.070, filed 2/7/61.]

WAC 332-08-080 Notice and opportunity for hearing in contested cases. In any contested case, all parties shall be served with a notice at least ten days before the date set for the hearing. The notice shall state the time, place, and issues involved, as required by RCW 34.04.090(1). [Regulation .08.080, filed 2/7/61.]

WAC 332-08-090 Service of process—By whom served. The department of natural resources shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it. [Regulation .08.090, filed 2/7/61.]

WAC 332-08-100 Service of process—Upon whom served. All papers served by either the department of natural resources or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact. [Regulation .08.100, filed 2/7/61.]

WAC 332-08-110 Service of process—Service upon parties. The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record. [Regulation .08.110, filed 2/7/61.]

WAC 332-08-120 Service of process—Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail, or by telegraph. [Regulation .08.120, filed 2/7/61.]

WAC 332-08-130 Service of process—When service complete. Service upon parties shall be regarded as complete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid. [Regulation .08.130, filed 2/7/61.]

WAC 332-08-140 Service of process—Filing with agency. Papers required to be filed with the department of natural resources shall be deemed filed upon actual receipt by the department accompanied by proof of service upon parties required to be served. [Regulation .08.140, filed 2/7/61.]

WAC 332-08-150 Subpoenas where provided by law—Form. Every subpoena shall be issued in the name of the department of natural resources and shall set forth the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place. [Regulation .08.150, filed 2/7/61.]

WAC 332-08-160 Subpoenas where provided by law—Issuance to parties. Upon application of counsel for any party to a contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The department of natural resources may issue subpoenas to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought. No subpoena shall be issued except where authorized by statute. [Regulation .08.160, filed 2/7/61.]

WAC 332-08-170 Subpoenas where provided by law—Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand the fees for one day's attendance and the mileage allowed by law. [Regulation .08.170, filed 2/7/61.]

WAC 332-08-180 Subpoenas where provided by law—Fees. Witnesses summoned before the department of natural resources shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington. [Regulation .08.180, filed 2/7/61.]

WAC 332-08-190 Subpoenas where provided by law—Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the department of natural resources or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the department, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of

service does not affect the validity of the service. [Regulation .08.190, filed 2/7/61.]

WAC 332-08-200 Subpoenas where provided by law—Quashing. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued) the department of natural resources or its authorized members or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion just and reasonable conditions. [Regulation .08.200, filed 2/7/61.]

WAC 332-08-210 Subpoenas where provided by law—Enforcement. Upon application and for good cause shown, the department of natural resources will seek judicial enforcement of subpoenas issued to parties and which have not been quashed. [Regulation .08.210, filed 2/7/61.]

WAC 332-08-220 Subpoenas where provided by law—Geographical scope. Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing. [Regulation .08.220, filed 2/7/61.]

WAC 332-08-230 Depositions and interrogatories in contested cases—Right to take. Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within ten days after service of original process. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule on subpoenas. [Regulation .08.230, filed 2/7/61.]

WAC 332-08-240 Depositions and interrogatories in contested cases—Scope. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding. [Regulation .08.240, filed 2/7/61.]

WAC 332-08-250 Depositions and interrogatories in contested cases—Officer before whom taken. Within the United States or within a territory or insular possession subject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the department of natural resources or agreed upon by the parties by stipulation in writing filed

with the department. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding. [Regulation .08.250, filed 2/7/61.]

WAC 332-08-260 Depositions and interrogatories in contested cases—Authorization. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the department of natural resources and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions. [Regulation .08.260, filed 2/7/61.]

WAC 332-08-270 Depositions and interrogatories in contested cases—Protection of parties and deponents. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the department of natural resources or its designated hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel or that after being sealed, the deposition shall be opened only by order of the department, or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the department; or the department may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the department or its designated hearing officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the agency. Upon demand of the objecting party or deponent, the taking of the deposition

shall be suspended for the time necessary to make a motion for an order. [Regulation .08.270, filed 2/7/61.]

WAC 332-08-280 Depositions and interrogatories in contested cases—Oral examination and cross-examination. Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim. [Regulation .08.280, filed 2/7/61.]

WAC 332-08-290 Depositions and interrogatories in contested cases—Recordation. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived. [Regulation .08.290, filed 2/7/61.]

WAC 332-08-300 Depositions and interrogatories in contested cases—Signing attestation and return. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the department of natural resources holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the department or its designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the

deposition to any party or to the deponent. [Regulation .08.300, filed 2/7/61.]

WAC 332-08-310 Depositions and interrogatories in contested cases—Use and effect. Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party. [Regulation .08.310, filed 2/7/61.]

WAC 332-08-320 Depositions and interrogatories in contested cases—Fees of officers and deponents. Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington, which fees shall be paid by the party at whose instance the depositions are taken. [Regulation .08.320, filed 2/7/61.]

WAC 332-08-330 Depositions upon interrogatories—Submission of interrogatories. Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within 10 days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories. [Regulation .08.330, filed 2/7/61.]

WAC 332-08-340 Depositions upon interrogatories—Interrogation. Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 332-08-250 the officer taking the same after duly swearing the deponent, shall read to him seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation. [Regulation .08.340, filed 2/7/61.]

WAC 332-08-350 Depositions upon interrogatories—Attestation and return. The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that

no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the department, or its designated hearing officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent. [Regulation .08.350, filed 2/7/61.]

WAC 332-08-360 Depositions upon interrogatories—Provisions of deposition rule. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule. [Regulation .08.360, filed 2/7/61.]

WAC 332-08-370 Official notice—Matters of law. The department of natural resources or its hearing officer, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions and administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) **Agency organization.** The department of natural resources' organization, administration, officers, personnel, official publications, and practitioners before its bar. [Regulation .08.370, filed 2/7/61.]

WAC 332-08-380 Official notice—Material facts. In the absence of controverting evidence, the department of natural resources and its hearing officers, upon request made before or during a hearing, may officially notice:

(1) **Agency proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the department;

(2) **Business customs.** General customs and practices followed in the transaction of business;

(3) **Notorious facts.** Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) **Technical knowledge.** Matters within the technical knowledge of the department as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) **Request or suggestion.** Any party may request, or the hearing officer or the department may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) **Statement.** Where an initial or final decision of the department rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer of the department may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) **Evaluation of evidence.** Nothing herein shall be construed to preclude the department or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them. [Regulation .08.380, filed 2/7/61.]

WAC 332-08-390 Presumptions. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the department of natural resources, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) **Continuity.** That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) **Identity.** That persons and objects of the same name and description are identical;

(3) **Delivery.** Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the

post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) **Ordinary course.** That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly coexists with the fact presumed;

(5) **Acceptance of benefit.** That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) **Interference with remedy.** That evidence, with respect to a material fact which in bad faith is destroyed, eluded, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact. [Regulation 08.390, filed 2/7/61.]

WAC 332-08-400 Stipulations and admissions of record. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) **Upon whom binding.** Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or non-existence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a pre-hearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer or the department of natural resources that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding. [Regulation .08.400, filed 2/7/61.]

WAC 332-08-410 Form and content of decisions in contested cases. Every decision and order, whether proposed, initial, or final shall:

(1) Be correctly captioned as to name of agency and name of proceeding;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;

(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;

(6) Wherever practical, the conclusions and/or order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same. [Regulation .08.410, filed 2/7/61.]

WAC 332-08-420 Definition of issues before hearing. In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that hearing officers may proceed promptly to conduct the hearings on relevant and material matter only. [Regulation .08.420, filed 2/7/61.]

WAC 332-08-430 Prehearing conference rule. In any proceeding the department of natural resources or its designated hearing officer upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider

- (1) The simplification of the issues;
- (2) The necessity of amendments to the pleadings;
- (3) The possibility of obtaining stipulations, admissions of facts and of documents;
- (4) The limitation of the number of expert witnesses;
- (5) Such other matters as may aid in the disposition of the proceeding. [Regulation .08.430, filed 2/7/61.]

WAC 332-08-440 Prehearing conference rule—Record of. The department of natural resources or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subsequent course of the proceeding unless modified for good cause by subsequent order. [Regulation .08.440, filed 2/7/61.]

WAC 332-08-450 Submission of documentary evidence in advance. Where practicable the department of natural resources or its designated hearing officer may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by section (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is

required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection. [Regulation .08.450, filed 2/7/61.]

WAC 332-08-460 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding. [Regulation .08.460, filed 2/7/61.]

WAC 332-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. The hearing examiner or other appropriate officer in all classes of cases where practicable shall make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, shall require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications. [Regulation .08.470, filed 2/7/61.]

WAC 332-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. The hearing examiner or other appropriate officer, in all classes of cases in which it is practicable and permissible, shall require, and when not so permissible, shall make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally. Witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses. [Regulation .08.480, filed 2/7/61.]

WAC 332-08-490 Expert or opinion testimony and testimony based on economic and statistical data—

Supporting data. That the hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties, cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 332-08-480, but, wherever practicable that he restrict to a minimum the placing of such data in the record. [Regulation .08.490, filed 2/7/61.]

WAC 332-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 332-08-470 or 332-08-480. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 332-08-470 or 332-08-480, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements. [Regulation .08.500, filed 2/7/61.]

WAC 332-08-510 Continuances. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the department of natural resources or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The department or its designated hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For good cause shown, the department or its designated hearing officer may grant such a continuance and may at any time order a continuance upon its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may in his discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing. [Regulation .08.510, filed 2/7/61.]

WAC 332-08-520 Rules of evidence—Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington. [Regulation .08.520, filed 2/7/61.]

WAC 332-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. When objection is made to the admissibility of evidence, such evidence may be received subject to a later

ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered. [Regulation 08.530, filed 2/7/61.]

WAC 332-08-540 Petitions for rule making, amendment, or repeal—Who may petition. Any interested person may petition the department of natural resources requesting the promulgation, amendment, or repeal of any rule. [Regulation .08.540, filed 2/7/61.]

WAC 332-08-550 Petitions for rule making, amendment, or repeal—Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule. [Regulation .08.550, filed 2/7/61.]

WAC 332-08-560 Petitions for rule making, amendment, or repeal—Agency must consider. All petitions shall be considered by the department of natural resources and it may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule. [Regulation .08.560, filed 2/7/61.]

WAC 332-08-570 Petitions for rule making, amendment, or repeal—Notice of disposition. The department of natural resources shall notify the petitioning party within a reasonable time for the disposition, if any, of the petition. [Regulation .08.570, filed 2/7/61.]

WAC 332-08-580 Declaratory rulings. As prescribed by RCW 34.04.080, any interested person may petition the department of natural resources for a declaratory ruling. The department shall consider the petition and within a reasonable time it shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued; or
- (3) Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

If a hearing as provided in subsection (3) is conducted, the department shall within a reasonable time:

- (1) Issue a binding declaratory rule; or
- (2) Issue a nonbinding declaratory ruling; or
- (3) Notify the person that no declaratory ruling is to be issued. [Regulation .08.580, filed 2/7/61.]

WAC 332-08-590 Forms. (1) Any interested person petitioning the department of natural resources for a declaratory ruling pursuant to RCW 34.04.080, shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Board of Natural Resources, (Commissioner of Public Lands, Supervisor, as the case may be), Department of Natural Resources, State of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

The original and five legible copies shall be filed with the agency. Petitions shall be on white paper, 8 1/2" x 11" in size.

(2) Any interested person petitioning the department of natural resources requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Board of Natural Resources, Department of Natural Resources, State of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney.

The original and five legible copies of the petition shall be filed with the agency. Petitions shall be on white paper 8 1/2" x 11" in size. [Regulation 08.590, filed 2/7/61.]

Chapter 332-10 WAC

PUBLIC RECORDS--DEPARTMENT OF NATURAL RESOURCES AND BOARD OF NATURAL RESOURCES

WAC

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332-10-120	Protection of public records.
332-10-130	Records index for the department.
332-10-135	Records index for the board.
332-10-140	Address for communication requests.

WAC 332-10-010 Purpose of rules. The purpose of this chapter shall be to insure compliance by the Department of Natural Resources and the Board of Natural Resources with the provisions of chapter 42.17 RCW, disclosure-campaign-finances-lobbying-records, and in particular with RCW 42.17.250 through 42.17.340 of that act dealing with public records. [Order 262, § 332-10-010, filed 6/16/76.]

WAC 332-10-020 Definition. The following definitions shall apply in this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of governmental or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics not otherwise confidential by law.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Board" means the Board of Natural Resources, a policy setting board whose five members serve in an ex-officio capacity.

(4) "Department" means the Department of Natural Resources which is:

(a) a regulatory agency with regard to forestry, outdoor burning and geology activities on state and privately owned land,

(b) a land management agency for state owned and administered land,

(c) a service and information repository agency regarding surveys and maps of the state, farm forestry advice and general geology information.

(5) "Commissioner" means the Commissioner of Public Lands who is an elected official and serves as the administrator of the Department. The Commissioner, in accordance with the RCW, has delegated to the supervisor of the Department the direct supervision of the Department activities. [Order 262, § 332-10-020, filed 6/16/76.]

WAC 332-10-030 Description of central and field organization of Department of Natural Resources. (1)

The Department is a regulatory and land management agency. The administrative office of the Department and its staff are located in the Public Lands Building, Olympia, Washington, 98504. Field offices of the Department are located at:

Area Office	Address
Olympic	Rt. 1, Box 1375, Forks, WA 98331
Northwest	Rt. 4, Box 17, Sedro Woolley, WA 98284
South Puget Sound	28329 SE 448th St., Enumclaw, WA 98022
Central	P.O. Box 1004, Chehalis, WA 98532
Southwest	Box 798, Castle Rock, WA 98611
Southeast	Rt. 3, Box 1, Ellensburg, WA 98926
Northeast	Box 190, Colville, WA 99114

(2) Map.

[Order 262, § 332-10-030, filed 6/16/76.]

WAC 332-10-035 Description of organization of Board of Natural Resources.

The Board is primarily a policy setting board consisting of five members. The members are: The Governor, the Superintendent of Public Instruction, the Commissioner of Public Lands, the Dean of the College of Forest Resources University of Washington, and the Director of the Institute of Agricultural Sciences for the Washington State University. The Board selects its own chairman and vice-chairman among its members. In the absence of the chairman and vice-chairman at a meeting of the Board, the members select a chairman pro tem. The Commissioner of Public Lands is the secretary of the Board. The Board meets on every second Tuesday of every month at the Capitol in Olympia, Washington. However, the Board may hold special meetings when called by the chairman or the majority of the Board membership upon written notice to all members of the Board. No action may be taken by the Board except by the agreement of at least three members. The Board maintains its principal office at the Public Lands Building, Olympia, Washington, 98504. [Order 262, § 332-10-035, filed 6/16/76.]

WAC 332-10-040 Operations and procedures of the Department of Natural Resources. (1) The legal authority for the Department's activities is provided by:

(a) The State Enabling Act, Section Nos. 10 through 19;

(b) The State Constitution, Article Nos. III, XV, XVI, XVII and Amendment No. 15;

(c) The RCW, Title Nos. 43, 46, 58, 70, 76, 78, 79 and 84;

(d) The WAC Chapter No. 332.

(2) The Board of Natural Resources at monthly meetings:

(a) Establishes broad policy for the Department;

(b) Approves lease and sale proposals submitted by Department regarding state owned grant and forest board lands;

(c) Reviews the Department's administration of the Surface Mine Reclamation Act.

(3) In accordance with legal authority, Board policy and direction from the Commissioner, the Supervisor of the Department provides direct supervision over the Department's activities. Such supervision is applied directly and through deputies:

(a) At the Central office staff level through 10 divisions, each responsible for a specific staff specialty;

(b) At the field level through seven area managers, each responsible for managing the Department's governmental and proprietary functions within their specific area working through district managers and local managers.

(4) Policy and procedure is developed and discussed at all levels of supervision with recommendations passed through the seven Area managers and 10 division supervisors to the Department supervisor for decision.

(5) Inquiry for general information regarding Department activities may be directed by the public to the Central headquarters or any Area office.

(6) Applications for regulatory permits and licenses issued by the Department may be directed as follows:

(a) To the Central headquarters in Olympia for conventional seismic exploration permit, oil and gas drilling permits, geothermal permit, log brand registration, log patrol license;

(b) To the Area office (which manages the area where the permit and license will be used) for surface mining permit, forest practices permit, permit for special recreational activity on state land, right to enter state land, easement on state land, state land lease or purchase application, road use permit, woodcutting permit, burning permit, operating permit (logging), all other permits, licenses, or sales.

(7) Permits, licenses, lease or sale documents are issued or denied by the Department based on facts and/or judgment of the Department of Natural Resources officer involving part or all of the following:

(a) inspection of the site,

(b) compliance with RCW and WAC,

(c) receipt of compliance or performance bond,

(d) receipt of fee, rent or purchase payment (if any),

(e) completion of appraisal packet,

(f) board of Natural Resources approval (when required),

(g) environmental impact statement (if required).

[Order 262, § 332-10-040, filed 6/16/76.]

WAC 332-10-045 Operations and procedures of Board of Natural Resources. The Board of Natural Resources together with an administrator and a supervisor composes the Department of Natural Resources. The Board performs all duties relating to appraisal, appeal, approval and hearing functions of the Department. The Board establishes policies to insure that the acquisition, management and disposition of all lands and resources within the Department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources. The Board constitutes the Board of Appraisers and the Commission on Harbor Lines. The Board fixes the value of public lands and gives authority to the Commissioner to inspect, appraise and offer for sale state lands. The Board will hold public hearings on the withdrawal of any state trust lands for recreational purposes and determines the market value of trust lands used for state park purposes. The Board administers the Surface Mine Reclamation Act (RCW 78.44.040) by utilizing the services of the Department. The Board adopts and enforces such rules and regulations as may be deemed necessary and proper for carrying out the powers, duties and functions imposed upon it by law. [Order 262, § 332-10-045, filed 6/16/76.]

WAC 332-10-050 Public records available. All public records of the Department and the Board, as defined in WAC 332-120-020, are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310, WAC 332-120-100 and other laws. [Order 262, § 332-10-050, filed 6/16/76.]

WAC 332-10-060 Public records officer for the Department of Natural Resources. The public records officer for the Department is designated as the office manager located in the Department's administrative office. In addition, the operations forester, located in each of the Area offices is designated as a records officer. The public records officer shall be in charge of the Department's public records and shall be responsible for the following: The implementation of the Department's rules and regulations regarding release of public records, coordinating the staff of the Department in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW. [Order 262, § 332-10-060, filed 6/16/76.]

WAC 332-10-065 Public records officer for the Board of Natural Resources. The public records officer for the Board is designated as the secretary of the Commissioner. [Order 262, § 332-10-065, filed 6/16/76.]

WAC 332-10-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the Department. For the purpose of this chapter, the customary office hours shall be from 8:00 a.m. until noon and from 1:00 p.m. until 4:30 p.m., Monday through Friday, excluding legal holidays. Such inspection and copying may be postponed if, in the Department's opinion, it would interfere with duties related

to an emergency at an Area office or the Fire Control Division in Central headquarters. [Order 262, § 332-10-070, filed 6/16/76.]

WAC 332-10-080 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied, or copies of such records may be obtained by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the Department and the Board which shall be available at its Central and Area offices. The form shall be presented to the public records officer, or a designated substitute, if the public records officer is not available, at the Central and Area offices of the Department during customary office hours. The request shall include the following information:

(a) The name and address of the person requesting the record and the organization they represent;

(b) The time of day and calendar date on which the request was made;

(c) A description of the material requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

(3) The Department will also honor requests received by mail for identifiable public records unless exempted. [Order 262, § 332-10-080, filed 6/16/76.]

WAC 332-10-090 Copying. No fee shall be charged for the inspection of public records. For printed, typed and written material of a maximum size of 8 1/2" by 14", the Department shall charge a reasonable fee determined from time to time by the Department for providing copies of public records and for use of the Department's copy equipment, payable at the time copies are furnished. This charge is the amount necessary to reimburse the Department for its actual costs incident to such copying. Copies of maps, photos, reports and other non-standard items shall be furnished at the regular price established by the Department. When other special copy work of non-standard items is requested, the fee charged will reflect the total cost including the time of Department personnel. [Order 262, § 332-10-090, filed 6/16/76.]

WAC 332-10-100 Exemptions. (1) The Department and the Board reserve the right to determine that a public record requested in accordance with the procedures outlined in WAC 332-120-180 is exempt under the provisions of section 31, chapter 1, Laws of 1973. Exemptions shall include, but are not limited to:

(a) *Lists of Individuals.* The lists will include the names and/or addresses of individuals. A request for this inspection requested for commercial purposes shall not

be made available unless the Department or Board is specifically authorized or directed by law to do so;

(b) *Personnel Files*. The contents of these files include data of a personal nature regarding each individual employee such as: Personal references, performance evaluations, promotional evaluations, salary, payroll withholding, disciplinary and warning letters, employment applications, civil service promotional grades;

(c) *Civil Service Examination Data*. These records contain questions used in civil service examinations (written, oral and performance);

(d) *Law Enforcement Files*. These files contain investigation reports, witness statements, permit or license violations and other data related to enforcement of state law, trespass on state land, theft and vandalism of state property and collection of bills. This information shall remain confidential until court action is completed or the case is formally closed by the Department;

(e) *Income Reports or Credit Reports on Applicants Applying for Proprietary Interests*. These reports contain confidential data from an individual company which frequently contains income data regarding the entire company operation;

(f) *Material Obtained by the State with Copyright or Contract Condition Prohibiting Further Distribution by the Department*.

(g) *State Land Inspection Reports and Appraisal Data*. This data constitutes an appraisal of the value of state land and the products therefrom which we use to determine minimum bid level for purchase or rent. This data shall remain confidential until after the sale or lease is consummated, but in no event shall disclosure be denied for more than three years after the appraisal;

(h) *Oil and Gas Exploration Reports, Drilling Logs and Core Samples*. These files contain confidential information from an individual company regarding an expensive exploration operation. Disclosure would provide an unfair advantage to competitors;

(i) *Confidential Surveys*. This information constitutes confidential production data gathered from individuals and companies for statistical purposes to prepare reports reflecting trends and general production statistics. All data except the final report shall remain confidential;

(j) *Data Processing Discs and Tapes*. Contains stored data on magnetic discs and tapes, a large part of which includes confidential data. Since the confidential data cannot be deleted, the discs and tapes shall be exempt from review and copying. Printout reports may be available for review and copying;

(k) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(l) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action;

(m) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the Department 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 42-.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All public records otherwise exempt by law shall be considered exempt under the provision of these rules.

(4) All denials of requests for public records will 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.

(5) The Department recognizes that the preservation of personal rights is of paramount importance. Accordingly, the Department policy shall be to conduct the disclosure of public records in such a manner to preserve the personal privacy of all Department personnel. The policy shall extend to companies and individuals from outside the Department whose records come into possession of the Department.

The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

Inspection or copying of any specific records, exempt under the provisions of this section, may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records, is clearly unnecessary to protect any individual's right of privacy or any vital governmental function. [Order 262, § 332-10-100, filed 6/16/76.]

WAC 332-10-105 Statement of reason for denial of request for records. When the Department or Board refuses, in whole or part, inspections of any public record, it shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. [Order 262, § 332-10-105, filed 6/16/76.]

WAC 332-10-110 Reviews of denials of public records requests. (1) Any person who objects to the denial of a request for a public record 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 supervisor of the Department.

The supervisor or his designee shall immediately consider the matter and either affirm or reverse such denial. 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 Department has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first. [Order 262, § 332-10-110, filed 6/16/76.]

WAC 332-10-120 Protection of public records. In order to adequately protect the public records in the custody of the Department and the Board, the following guidelines shall be adhered to by any person inspecting such public records:

(1) No public records shall be removed from the Department's premises.

(2) Inspection of any public record shall be conducted in the presence of a designated Department employee.

(3) No public records may be marked or defaced in any manner during inspection.

(4) Public records which are maintained in a file or jacket, or chronological order, may not be dismantled except for purposes of copying and then only by a designated employee of the Department.

(5) Access to file cabinets, shelves, vaults, etc., is restricted to Department personnel or Board members. [Order 262, § 332-10-120, filed 6/16/76.]

WAC 332-10-130 Records index for the department. The Department does not maintain a records index for its own use, and it would be unduly burdensome to develop an index just for public access to the records. The Department does not use a central filing system. Records are maintained in each of the Area offices spread throughout the state and in each of the divisions in the Central office. Each organizational unit maintains a record system to meet its specific needs. The Department and the Board can respond to requests for records, by the public describing the type of information they are seeking. General correspondence related to governmental and regulatory activities and internal services can usually be identified by subject and usually in the division responsible for that activity. Regulatory permits and licenses may be identified by legal description or application number. Correspondence and other data related to proprietary activities are identified by application number and can be cross referenced by legal description. [Order 262, § 332-10-130, filed 6/16/76.]

WAC 332-10-135 Records index for the board. The Board will maintain a records index. The records index will be kept current by the Board's public records officer. [Order 262, § 332-10-135, filed 6/16/76.]

WAC 332-10-140 Address for communication requests. All communications with the Department and the Board including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973, and these rules, requests for copies of the Department's decisions and other matters, shall be addressed as follows:

Department of Natural Resources, c/o Public Records Officer, Olympia, Washington, 98504. [Order 262, § 332-10-140, filed 6/16/76.]

Chapter 332-12 WAC OIL AND GAS LEASES

WAC

332-12-010	Application for lease.
332-12-020	Approval or rejection of applications.
332-12-030	Land descriptions.
332-12-040	Application for renewal of productive lease.
332-12-050	Withdrawal of application.
332-12-060	Offer of oil and gas leases by competitive bidding.
332-12-070	Issuance of leases.
332-12-080	Cooperative or unit plans.
332-12-090	Right of inspection.
332-12-100	Surface rights.
332-12-150	Lands not under the jurisdiction of the department of natural resources.

WAC 332-12-010 Application for lease. (1) **Qualification of applicants.** Any citizen of the United States, or person who has, in good faith, declared his intention of becoming a citizen of the United States, or any corporation, organized and existing under and by virtue of the laws of any state or territory of the United States, may apply for and hold an oil and gas lease on public and other lands of the state of Washington.

(2) **Form and manner of application.** All such applications shall be filed in the office of the commissioner of public lands at Olympia, Washington, and shall be on forms provided by the commissioner and accompanied by first year advance rental of \$0.50 per acre per year and a lease fee of \$5.00. [Rule (I)(1), filed 8/7/62; Rule (I)(2), filed 3/23/60.]

WAC 332-12-020 Approval or rejection of applications. (1) Upon receipt of an application duly filed, the commissioner of public lands shall, as soon as the normal course of business allows, examine the application and lands concerned and either approve or reject said application.

(2) In event of rejection the commissioner shall promptly notify the applicant, giving reason for rejection and return the rental money paid. The filing fee will not be returned. Should an application be rejected in part, only that rental money paid for the rejected portion will be returned. Upon approval of application, the commissioner shall offer the lands for lease under a competitive bidding sale unless otherwise prescribed by law. [Rule (I)(3), filed 3/23/60.]

WAC 332-12-030 Land descriptions. Applications for leases on accreted, tide and submerged lands of the Pacific Ocean or any arm thereof shall describe the area desired by metes and bounds with reference to the abutting upland survey or recorded plat, provided that in the case of applications on detached tide lands and submerged lands a plat showing the survey of the desired area shall accompany the application. In the case of submerged lands, the area applied for shall conform as nearly as practicable to extensions of the upland subdivisional survey lines. [Rule (I)(4), filed 3/23/60.]

WAC 332-12-040 Application for renewal of productive lease. An application to renew a productive lease at the end of the first 20-year period shall be filed with the commissioner at least 90 days, but not more than six months, prior to the expiration of its term. [Rule (I)(5), filed 3/23/60.]

WAC 332-12-050 Withdrawal of application. Should an applicant desire to withdraw his application, the applicant shall make a written request. If the request is received prior to the time the commissioner of public lands first advertises the lease for competitive bidding, all money tendered by the applicant except the filing fee will be refunded. No application withdrawal will be allowed after advertising begins. [Rule (I)(6), filed 3/23/60.]

WAC 332-12-060 Offer of oil and gas leases by competitive bidding. (1) **Offer of oil and gas leases by competitive bidding.** Unless otherwise prescribed by law, oil and gas leases will be issued after competitive offers by sealed bid or public auction. Lands to be offered by sealed bid or public auction shall be advertised not less than 30 days nor more than 180 days after date of filing application by any person for lease of such lands. Notice of the offer of such lands for lease shall be given by publication in a newspaper of general circulation in Olympia, Washington, and in such other publications as the commissioner may authorize. Such notice shall specify the place, date, and hour of the offer and contain a description of the lands to be offered for lease, with a statement of the minimum bid which will be accepted. This notice shall also be posted on the bulletin board in the lobby of the office of the commissioner of public lands for 30 days prior to the offer.

(2) **Sealed bid offer.** In the event two or more sealed bids tie for the highest bid on an individual tract the commissioner shall reject all bids for the tract of land involved and reoffer said tract for competitive bidding within 30 days.

(3) **Oral auction offer.** The commissioner will accept and hold sealed bids, said sealed bids to be opened at time of auction and to be considered as a single oral auction bid. No sealed bids will be accepted after ten o'clock a.m. on day of auction.

(4) **Award of leases.** Subject to the commissioner's powers to withhold any tract or tracts from leasing and to reject any or all bids, oil and gas leases offered shall be awarded to the qualified person who offers the greatest cash bonus; however, in event a cash bonus is not offered a lease may be awarded to the applicant for the minimum acceptable bid or withdrawn until further notice subject to approval by the commissioner.

(5) **Competitive bid terms.** The successful bidder must submit with his bid the following: Certified check, money order or cash for at least one-fifth of the cash bonus bid by him. Following the auction, the commissioner will send to the successful bidder three copies of the lease. The bidder will be required within 30 days after receipt thereof to execute the lease, pay the balance of his bonus

bid, and the first year's rental. Upon failure of the successful bidder to fulfill the above requirements, the deposit will be forfeited and the application rejected. Further consideration of the land involved will require a new application.

(6) **Rejection of bids and reoffer of lease.** If any bid is rejected by the commissioner, the deposit will be returned. Lands for which no award has been made may be reauctioned not less than 30 days after notice of reauction has been published. [Rule (II), filed 3/23/60.]

WAC 332-12-070 Issuance of leases. (1) **Form of lease.** Leases issued under said act shall be on forms prepared and prescribed by the commissioner of public lands.

(2) **Size of lease.** Lease shall not exceed the acreage specified in RCW 78.28.290. No single lease will be issued embracing lands which cannot be included within a six mile square area.

(3) **Bonds.** Each lessee shall prior to the beginning of operations on the leased lands file a surety bond with the commissioner of public lands by a company authorized to do business in the state of Washington in an amount not less than \$5,000 to guarantee the faithful performance by the lessee of the terms, covenants and conditions of such lease and of the provisions of chapter 78.28 RCW and of the rules and regulations promulgated thereunder as of the date of the issuance of such lease. In event the lessee desires he may file with the commissioner of public lands a blanket surety bond in the amount of not less than \$25,000 guaranteeing the faithful performance by the lessee of the terms, covenants and conditions of all state of Washington leases held by him and of the provisions of RCW 78.28 and of the rules and regulations promulgated thereunder. All bonds shall be in a form acceptable by the commissioner of public lands.

(4) **Operating requirements.** All operations shall be conducted subject to compliance with the oil and gas conservation act of 1951 (chapter 78.52 RCW) and the provisions of chapter 78.28 RCW, and of the rules and regulations promulgated thereunder.

(5) **General.** The state of Washington reserves the right to allow use of easements or rights of way including easements upon, through or in the leased lands as may be necessary or appropriate for the working of any state lands, *Provided, however,* That such use shall not unreasonably interfere with or cause injury to the rights and property of the lessee. The state of Washington also reserves the right to lease for other than oil and gas development purposes or otherwise dispose of the surface of the lands under oil and gas lease subject to lessee's right to use the leased lands in its operations. [Rule (III), filed 3/23/60.]

WAC 332-12-080 Cooperative or unit plans. Agreements for a cooperative or unit plan of development of an oil and gas pool, field or like area or any part thereof shall comply with the provisions of RCW 78.28.370. All unit or cooperative plans containing lands leased under the provisions of RCW 78.28 require approval by the commissioner. [Rule (IV), filed 3/23/60.]

WAC 332-12-090 Right of inspection. The commissioner of public lands or his representative may at all times examine the leased lands, the work done and in progress thereon, and the production therefrom and may inspect the books kept by lessee in relation to the leased lands to ascertain the production, the amount of oil and gas shipped therefrom and the performance of the lessee under the terms of the lease. [Rule (V), filed 3/23/60.]

WAC 332-12-100 Surface rights. (1) **Private surface rights.** Before lessee shall commence any operations upon lands covered by his lease, lessee shall file with the commissioner of public lands evidence satisfactory to the commissioner that lessee has provided for compensation to owners of private rights under the lease according to law, or in lieu thereof, file a surety bond with the commissioner in an amount sufficient in the opinion of the commissioner to cover such compensation until the amount of compensation is determined by agreement, arbitration or judicial decision.

(2) **State owned surface rights.** In event it becomes necessary for any lessee to remove, change, destroy or damage any state owned improvements, valuable materials or valuable products of the surface of leased lands in order to carry on operations thereunder, the lessee shall prior to such operations notify the commissioner of such necessity and secure his approval of such operations.

(3) **Other state agencies.** The lessee shall, before commencing any operations on the leased lands, inform himself of and then abide by the laws and by the rules and regulations affecting such operations, which have been promulgated by the following state agencies with respect to resources on or in the leased lands:

Department of natural resources, Olympia, Washington
Oil and gas conservation committee, division of mines and geology, general administration building, Olympia, Washington

Division of water resources, general administration building, Olympia, Washington

Department of fisheries, general administration building, Olympia, Washington

Department of game, general administration building, Olympia, Washington

Pollution control commission, Old capitol building, Olympia, Washington

[Rule (VI), filed 3/23/60.]

WAC 332-12-150 Lands not under the jurisdiction of the department of natural resources. (1) **May be leased by the commissioner.** The commissioner of public lands is authorized to execute oil and gas leases, in accordance with and by authority of chapter 79.14 RCW, upon lands of the state of Washington not under the jurisdiction of the department of natural resources, when requested so to do by the agency of state government having and exercising jurisdiction over such lands.

(2) **Competitive bid requirements.** All oil and gas leases issued under this regulation shall be issued after competitive bidding unless otherwise requested by the agency requesting issuance.

(3) **Form of lease.** Oil and gas leases issued under this regulation shall contain, in addition to the statutory provisions required by chapter 79.14 RCW, such further terms, conditions, covenants, and limitations as the requesting agency may deem desirable.

(4) **Administrative expense.** The commissioner of public lands may enter into necessary agreements with the agency requesting the issuance of oil and gas leases under this regulation to provide for the reimbursement of the department of natural resources for expenses reasonably incurred.

(5) **Revenue from leases.** All revenue derived from oil and gas leases issued under the regulation upon lands of the state of Washington not under the jurisdiction of the department of natural resources shall be paid to the agency requesting the issuance of the lease for distribution as authorized by law. [§ 2 (part), filed 8/7/62.]

Chapter 332-16 WAC

MINERAL PROSPECTING LEASES AND MINING CONTRACTS

WAC

332-16-010	General objectives of mineral resource management.
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332-16-320	Assignments.
332-16-330	Consolidation of mining contracts.
332-16-340	Administrative procedure act.

WAC 332-16-010 General objectives of mineral resource management. The general objective of the Department of Natural Resources in its management of state-owned mineral resources is to provide for the maximum dollar return to the state from those resources

consistent with general conservation principles. In implementation of this general objective, the department shall seek to:

(1) Secure the highest dollar return to the state under good management practice.

(2) Achieve the maximum income from the utilization of mineral resources by encouraging exploration, development, and production consistent with accepted standards of good mineral industry practices.

(3) Encourage the mineral utilization of state lands through administrative policy and management practices which conform to the requirements of practical operation.

(4) Encourage the release of technical and scientific information regarding minerals on state lands and secure appropriate engineering records of all mineral exploration and utilization. [Order 3, § 332-16-010, filed 2/6/68; Resolution 72 (part), filed 1/19/67; Mineral prospecting lease rules, adopted 6/1/59.]

WAC 332-16-020 Lands subject to mineral leasing law and chapter 332-16 WAC. Lands subject to the provisions of the "Mineral Leasing Law," i.e., chapter 56, Laws of 1965 (RCW 79.01.614-79.01.650), and chapter 332-16 WAC are all lands, or interest therein, under the administration of the Department of Natural Resources. [Order 3, § 332-16-020, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-030 Definitions. The following definitions are, unless the context otherwise required, applicable to chapter 56, Laws of 1965 (RCW 79.01.614-79.01.650), and to these rules and regulations. These definitions shall be used in connection with applications, reports, prospecting leases, mining contracts, and other documents issued in connection therewith:

(1) "Department" shall mean the department of natural resources.

(2) "Commissioner" shall mean the commissioner of public lands.

(3) "Board" shall mean the board of natural resources, as established by chapter 38, Laws of 1957 (chapter 43.30 RCW).

(4) "Proper office," as used in RCW 79.01.620 and 79.01.636 shall mean the authorized office of the department in Olympia, Washington.

(5) "Mineral Leasing Law" shall mean RCW 79.01.614-79.01.650.

(6) "Leased premises" shall mean public lands held under mineral prospecting lease or mining contract.

(7) "Lessee" shall mean any person holding a prospecting lease or mining contract.

(8) "Valuable minerals and specified materials" may include but are not restricted to peat, dolomite, limestone, pumice, and nonfuel or nonhydrocarbon gases, such as carbon dioxide, helium, nitrogen, and sulfur gas. Such materials as those used for riprap, ballast, fill material, and road material shall not be considered as valuable minerals or specified materials except when they are the by-product of mining operations.

The determination of the department of whether any particular materials are "specified materials" within the

meaning of the Mineral Leasing Law shall be based on the best interests of the state.

(9) "Ore" shall mean any material containing "valuable minerals" or "specified materials," the nature and composition of which, in the judgment of the lessee, justifies either: (a) mining or removing from place during the term of his lease and either shipping and selling the same or delivering the same to a processing plant for physical or chemical treatment; or (b) leaching and treating in place during the term of the lease.

(10) "Waste" shall mean earth, rock, or material mined or removed from place and/or premises during the term of lease, but which is not ore as defined above.

(11) "Product" shall mean: (a) all ore mined or removed from place in the leased premises during the term of the lease and shipped and sold by the lessee prior to treatment; and (b) all concentrates, precipitates, and mill products produced by or for the lessee from ore mined or removed from place in the premises, or from ore leached in the premises, during the term of the lease.

(12) "Treatment" shall mean beneficiation, concentration, crushing, screening, smelting, refining, leaching, and otherwise treating in any manner, any ore product and material mined and produced from the leased premises and from other lands.

(13) "Stockpiling" shall mean storing on the leased premises any ore or product mined or produced from the leased lands or other lands by the lessee or affiliated companies.

(14) "Commingling" shall mean the mixing of ores or materials or products from the leased premises with the ore, materials, or products from other lands.

(15) "Cross-Mining" shall mean the mining or removal of ores and materials from the leased premises through, or by means of, shafts, openings, or pits, which may be in or upon adjoining or nearby property owned or controlled by the lessee. [Order 3, § 332-16-030, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-040 Applications. Applications for prospecting leases or mining contracts will be received during business hours in the proper office of the Department of Natural Resources, Public Lands-Social Security Building, P.O. Box 168, Olympia, Washington 98501. An application fee of \$5.00 and the first year's rental must be submitted with each application. All applications received by any means other than the United States mail shall be stamped by the department with the date and time of receipt in the Olympia office. Applications will be accepted in the order received, and priority of leasing will be established on this basis, except as provided in WAC 332-16-050. Applications received through the United States mail on any business day shall be considered as having been received as of the close of business on that day. An application may be submitted for a mining contract without first obtaining a prospecting lease. [Order 3, § 332-16-040, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-050 Applications—Simultaneous. In the event more than one application for a prospecting lease and/or mining contract is received for the same

land through the mail on the same day and no other applications are received that day, such applications will be considered to have been filed simultaneously and to be in conflict. Such applicants will be advised by mail of the fact of simultaneous filing and that their applications are in conflict. The conflict will be resolved by the drawing of lots in the Olympia office of the department. [Order 3, § 332-16-050, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-060 Applications—Return of moneys. In the event an application for a prospecting lease or mining contract is rejected by the department, all moneys tendered by the applicant will be refunded. In the event an application is rejected in part, money tendered for rental of such rejected part will be refunded upon completion of processing. An applicant for a prospecting lease or a mining contract may submit to the department, in writing, a request that his application be withdrawn in whole or in part. If the request is received prior to processing of the lease or contract by the department, all moneys tendered for the area withdrawn will be refunded. If the request is received after the lease or contract processing, all moneys tendered shall be forfeited to the state, unless otherwise ordered by the department for good cause.

In the event an application is received for a prospecting lease or mining contract covering land that is encumbered by a prospecting lease or mining contract, all moneys tendered with such application will be refunded.

In the event of simultaneous filings, as defined in WAC 332-16-050, one or more of the applicants may request, in writing, that his application be withdrawn. All moneys tendered by such applicants shall be refunded. In simultaneous filing cases, all moneys tendered by unsuccessful applicants will be refunded.

The department may reject any and all applications for prospecting leases or for mining contracts when the interests of the state shall justify it, and in such case it shall forthwith refund to the applicant all moneys tendered. [Order 3, § 332-16-060, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-070 Area and term of leases and contracts. A person may hold any number of leases or contracts at any time. No lease or contract may exceed the equivalent of one section or be less than the equivalent of one-sixteenth of a section in legal subdivisions, according to the United States Government surveys, unless the available land managed by the department is less than one-sixteenth of a section. Scattered tracts may, at the discretion of the department, be included in a single lease or contract, provided such leases or contracts are situated in the same or contiguous sections.

All prospecting leases shall be for a term of two years from the date of the lease unless converted to a mining contract prior to the expiration of the prospecting lease.

All mining contracts shall be for a term of not to exceed 20 years. The holder of a mining contract shall have the option to a new contract. [Order 3, § 332-16-070, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-080 Leases and contracts in effect on June 10, 1965. All prospecting leases or mining contracts in effect June 10, 1965, shall be eligible, upon application, for a new prospecting lease or mining contract, as provided in chapter 56, Laws of 1965 (RCW 79.01.614-79.01.650). [Order 3, § 332-16-080, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-090 Tide and shore land descriptions. Lease or contract descriptions of beds of navigable waters, tidelands, and shorelands may be based on projected sections according to the United States Government survey of adjoining lands; however, the bed and shorelands of navigable rivers or lakes, where such descriptions would be impractical, may be described by metes and bounds or as follows:

(1) "Bed and shorelands, or shorelands of _____ River as it flows through _____ (describe land) _____"; or

(2) "Bed and shorelands, or shorelands of _____ (river or lake) _____ in front of _____ (describe land) _____." [Order 3, § 332-16-090, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-100 Conversion of leases to contracts. To convert a prospecting lease to a mining contract, the lessee, prior to the expiration of the prospecting lease, must submit an application to the department with the \$5.00 application fee, the first year's rental under the contract, and evidence of development work in an amount of not less than \$1.25 per acre per year or fractional year thereof. Any contract issued upon conversion from a prospecting lease shall have the time already expended on said prospecting lease deducted from the prospecting or exploration period of the contract, but said prospecting lease and contract shall be for a total term not to exceed 20 years. [Order 3, § 332-16-100, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-110 Conversion of leases to contracts—Failure to convert. Any prospecting lease not converted as provided in WAC 332-16-100 shall not be renewable. The holder of an expired prospecting lease or his agents shall not be entitled to a new lease or a contract on the premises covered by the prior lease for one year from the expiration date of the expired prospecting lease. [Order 3, § 332-16-110, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-120 Forms. Application, lease, contract and related forms shall be developed and furnished by the department in accordance with established leasing procedures, statutory requirements, and necessary accountability. All leases and contracts shall contain terms and conditions in conformity with the law and these rules and regulations. [Order 3, § 332-16-120, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-130 Time for return of executed leases and contracts. After processing by the department, leases and contracts will be mailed to the applicant for signature. Applicant will be allowed 30 days in

which to sign and return the lease or contract. If the applicant fails to sign and return the lease or contract within 30 days, the lease or contract will be rejected and the application fee and the first year's rental will be forfeited to the state. Additional time in which to sign and return the lease or contract may be granted by the department if the applicant submits a request for such additional time, in writing, prior to the expiration of the 30-day period. [Order 3, § 332-16-130, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-140 Cash or surety bond may be required. The department may, at its option, require the applicant to post a cash bond or an approved surety bond guaranteeing his compliance with the terms and conditions of a prospecting lease or mining contract. Such bonds may be required in those cases in which the applicant and the department cannot agree regarding the payment for damages to land, and in such other cases as the department may, at its discretion, require. [Order 3, § 332-16-140, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-150 Timber. The department is responsible for managing the timber as well as the mineral resources on state lands. The department has the right to sell or otherwise dispose of timber on state lands. It is not obligated to withhold from sale any timber usable for prospecting or mining purposes.

The lessee may cut and use such timber located on the leased premises as is necessary to prospecting or mining operations. No timber may be removed from the leased premises for processing or manufacturing. No charge will be made for timber cut and used on the premises if such timber is necessary to the prospecting or mining operations. Prior to any cutting of timber from the leased premises, the lessee must contact the local district administrator of the department for approval. All timber to be cut must be marked by the lessee or otherwise designated by the department.

Prior approval of the department must also be obtained for the cutting and removing or destruction of forest products which is necessary to the lessees' operations and which will not be used on the premises. The lessee shall submit a request, in writing, and a plat indicating the area from which forest products are to be cut and removed or destroyed to either the department's local district administrator or its Olympia office. All forest products proposed to be cut and removed or destroyed must be appropriately marked by the lessee. The department will then appraise the forest products involved, utilizing its established techniques. Lessee shall, upon being billed, pay the appraised value of such forest products. Payment shall be made within 30 days of billing unless a longer period is approved, in writing, by the department, but in any event, prior to the cutting, removal, or destruction.

In cases where the appraised value of forest products, as provided in the paragraph last above, cannot be readily established in advance due to the nature of the proposed prospecting or mining operations, the lessee may,

in lieu of advance payment, post a cash bond or approved surety bond, in an amount sufficient, in the opinion of the department, to cover possible damages.

In the event land clearings are required by the mining operation, the lessee shall so advise the department and, prior to the commencement of such clearing, obtain written approval from the department. The department, whenever possible, will attempt to sell the timber involved within a reasonable time. Should the department elect not to sell or is unable to sell, the lessee will be charged and payment made as provided in the paragraph next above. [Order 3, § 332-16-150, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-160 Notice of rental or minimum royalty. Advance notice of rental or minimum royalty due is ordinarily sent by the department to the last-known address of the lessee approximately 30 days before such rental or minimum royalty is due. Failure to receive such notice shall not act to relieve the lessee from responsibility for making payments. Lessee will be considered in default if payment is not made as provided in the lease or contract. The lease or contract may be terminated upon the failure of the lessee to comply with these rules and regulations and statutes. [Order 3, § 332-16-160, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-170 Right of entry. The state has retained title to mineral rights on public lands sold subsequent to June 11, 1907. The state, as provided in section 8, chapter 56, Laws of 1965 (RCW 79.01.633), transfers its right of entry to such lands to the lessee during the life of the lease or contract. [Order 3, § 332-16-170, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-180 Damages to encumbered lands. When lands described in an application for a prospecting lease or mining contract shall have been previously encumbered for any other purpose than prospecting or mining, the applicant must provide for compensation to the holder of the surface rights for damages which may result from prospecting or mining. The applicant for a prospecting lease or mining contract must submit evidence of having reached agreement with the holder of the surface rights. In the event the applicant and the holder of the surface rights are unable to reach agreement as to compensation for damages, the department will estimate the amount of damages: *Provided*, That in the event an application is received for a prospecting lease or a mining contract on lands which have been withdrawn by the department, or which have been leased by the department to any other governmental entity for a public use, the department will participate in all negotiations between the applicant and the governmental entity concerned regarding the amount of damage that prospecting or mining will do to the land, giving consideration to the use to which the land is now being, or may reasonably foreseeably be put.

The applicant must post a cash bond or file a surety bond, issued by a bonding company authorized to do business in this state, in an amount sufficient in the

opinion of the department to cover such damages, prior to the department issuing a prospecting lease or mining contract. [Order 3, § 332-16-180, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-190 Use of leased premises. Lessee may use the leased premises and any shafts, openings or pits therein for the mining, removal, treatment, and transportation of ores and materials from the leased premises, adjoining property or nearby property, including cross-mining, or for any purpose connected therewith. In the event the leased premises are used for processing, treatment or stockpiling of ores and/or materials and such use does not result in fair rental compensation for the land so used, the department shall have the right to charge reasonable rentals for such use. No comingling shall take place except such ore, materials, or products shall have been sampled, where necessary, and weighed or measured by volumetric survey or other accepted industry practices, in such a manner as will permit computation of the royalty to be paid. The lessee shall, at all times, follow reasonable and accepted conservation practices in all operations on the leased premises. [Order 3, § 332-16-190, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-200 Development work and improvements. Performance of development work or improvements is required on land held under mining contract in an amount of not less than \$2.50 per acre each year after termination of the prospecting or exploration period of a contract or upon commencement of actual mining, recovery, and saving of minerals or materials, whichever is first. Development work or improvements, to be acceptable, must contribute directly to the mining or mineral potential of the property.

Development work or improvements actually accomplished during any one year in excess of the contract requirements may be applied toward the requirements for the next succeeding year only. To be credited against the next succeeding year, the excess work must be reported to the department at the end of the year such work was performed.

When two or more contracts are involved, development work accomplished on one contract, which exceeds the development requirements on said contract, may be credited on the other contracts subject to the approval of the department: *Provided*, That operation of the contracts has been consolidated under the provisions of section 13, chapter 56, Laws of 1965 (RCW 79.01.648). [Order 3, § 332-16-200, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-210 Development work and improvements—Examples, acceptable. The following are examples of acceptable types of development work or improvements. These are examples only, and acceptable development work or improvements are not limited thereto; however, all work, to be acceptable, must be performed on the leased premises and, in the opinion of the department, directly add to the mineral or mining potential of the property.

(1) Mining operations involving excavation of tunnels, shafts, raises, inclines, drilling, clearing, trenching and related operations.

(2) Geophysical, geochemical, and geological surveys are acceptable for the year reported and the next succeeding year: *Provided*, That maps showing sampling or survey stations must be submitted to the department.

(3) Construction of roads, trails, or tramways to the property, or repair of such improvements, if giving direct access to or on the leased premises.

(4) Construction of buildings if used only for mining, such as: ore bunkers, mine equipment storage facilities, and shops.

(5) Dewatering of property, if performed to add to the development of the property.

(6) Moving machinery or materials, if they are used on the property.

(7) Property surveys deemed necessary by, and made to, department standards. [Order 3, § 332-16-210, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-220 Development work and improvements—Examples, unacceptable. The following are examples of unacceptable development work. These are examples only, and unacceptable development work or improvements are not limited thereto.

(1) Travel or living expenses.

(2) Construction of buildings and facilities not strictly for mining, such as: cookhouses, bunkhouses, and residences of any type.

(3) Milling and smelting.

(4) Legal and attorney fees.

(5) Development work paid for but not performed.

(6) Improvements and development work performed by a prior lessee, except by approved assignment. [Order 3, § 332-16-220, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-230 Development work and improvements—Reports. Reports of development work or improvements performed on the leased premises shall be submitted with the rental or minimum annual royalty when due. Report forms will be furnished the lessee with the rental-due or minimum-annual-royalty-due notice. In the event the dates for reporting development work should be adjusted by reason of weather conditions or the type of operations, the lessee may apply, in writing, to the department for such adjustment.

Development-work reports shall contain sufficient information to indicate the amount and type of work or improvements accomplished on the property. Such report shall specify the length of tunnels, shafts, trenches, drill holes, roads constructed and related activities, and the costs thereof.

The department shall have the right at all times to enter into or upon the premises during the term of the lease or contract to inspect the work done and to examine all books and records pertaining to development work or improvements. [Order 3, § 332-16-230, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-240 Development work and improvements—Additional time. The holder of a mining contract may be granted an additional period of not to exceed 45 days after notification to complete required development work or improvements if it is determined by the department that actual development work or improvements performed do not meet the requirements of the contract. The lessee may apply, in writing, to the department, 30 days prior to the end of the contract year, for permission to make payment of \$2.50 per acre per year to the state in lieu of performing actual development work or improvements. The lessee may, subject to approval by the department, be granted the right to pay the difference between actual work performed and the work required. [Order 3, § 332-16-240, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-250 Advance payment of minimum annual royalty. The lessee shall pay, in advance, a minimum annual royalty of \$2.50 per acre each year after termination of the prospecting or exploration period of a contract or upon commencement of actual mining, recovery, and saving of minerals or materials, whichever is first. The minimum annual royalty shall become due and payable at the beginning of the next lease or contract year and for each year thereafter, following the commencement of mining.

Credit for minimum annual royalty for any one year shall be allowed against royalties payable from production for that same year.

Delayed credit may be granted the lessee if material is stockpiled and not sold until subsequent years. To qualify for delayed credit, it shall be mandatory for the lessee to notify the department of the amount of material placed in stockpiles during the lease year. Delayed credit will be granted for minimum-annual-royalty payments against the royalty due from material placed in stockpile each year. [Order 3, § 332-16-250, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-260 Royalties. All valuable minerals and specified materials removed by any person from lands subject to the Mineral Leasing Law shall be subject to payment of royalties to the department in accordance with these rules and regulations: *Provided*, That any lessee, during a prospecting lease or the prospecting or exploration period of a contract, may in any one year remove from the premises valuable minerals or specified materials of a value not exceeding \$100 for the purpose of testing and assaying, without the payment of royalties and without being construed as having commenced "actual mining, recovery, and saving of minerals and specified materials" in accordance with section 6 and section 10, chapter 56, Laws of 1965 (RCW 79.01-628 and 79.01.636, respectively). In the event that samples for testing and assaying having a value in excess of \$100 are required, the department may, upon application in writing by a lessee, give its consent to such removal for testing and assaying without the payment of

royalties. All other valuable minerals and specified materials removed shall be subject to the payment of royalties. [Order 3, § 332-16-260, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-270 Royalties—Computation. Royalties shall be payable to the department for all valuable minerals and specified materials removed from lands subject to the Mineral Leasing Law computed in one of the following ways:

(1) **Established Royalty.** The department may, from time to time, without notice, and at any time that no application for lease or contract is on file in regard to a specific tract of land, adopt a schedule of royalties for specific valuable minerals and specified materials to be collected upon production from such tract of land. All such established royalties shall be published from time to time and a current file shall be kept available in the office of the department in Olympia, Washington. Any valuable minerals or specified materials contained in a specific tract of land for which no schedule of royalties has been adopted shall be subject to a royalty established in accordance with subparagraph 2, below.

(2) **Standard Royalty.** In the absence of a royalty established in accordance with subparagraph 1, above, and unless a different royalty has been adopted under the provisions of WAC 332-16-270(3), royalties shall be payable to the department upon production from lands held under any lease or mining contract on the basis of 3% of the "gross income from the property from mining," as hereinafter defined in WAC 332-16-280.

(3) **Negotiated Royalty.** If either an Established Royalty or the Standard Royalty is unacceptable to a prospective lessee, he may, at the time of making application for a lease or mining contract, submit, in writing, a proposal for the basis for the payment of royalties. The department shall, within 45 days after receipt of such application and proposal, accept or reject the proposed royalty schedule. In the event the proposed royalty schedule is rejected by the department, the department shall enter into negotiations with the prospective lessee in an attempt to reach agreement upon a royalty schedule. In the event agreement is not reached within 60 days after the application is filed, the applicant for a lease or mining contract shall have the option of either (a) adopting the Established Royalty or the Standard Royalty, whichever royalty is in effect, or (b) withdrawing his application. If the application is withdrawn, the first year's payment, but not the application fee, shall be refunded forthwith. In the establishment of a negotiated royalty, a royalty schedule may be adopted which provides for payment of not less than 3% of the "gross income from the property from mining," or which provides for computation upon the basis of tonnage or quantity rather than of value, or which provides adjustment of royalty payments until after recoupment of agreed-upon exploration and development costs have occurred, or which provides for any other royalty arrangement which may be proposed and agreed upon. [Order 3, § 332-16-270, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-280 Royalties—Gross income. "Gross Income from the Property from Mining" shall mean the gross receipts derived from "mining," as defined and applied in Section 613(C) of the United States Internal Revenue Code of 1954, as the same may now or hereafter be amended, together with the regulation and rulings promulgated by the Internal Revenue Service under Section 613(C). The department shall not be bound by specific rulings of the Internal Revenue Service in the event the department determines such rulings do not result in a fairly representative value of the "gross income from the property from mining." "Mining" shall include the extraction of the valuable minerals and specified materials from the ground, and also the following treatment processes which shall be considered as "mining":

(1) In the case of sulfur recovered by the Frasch process—cleaning, pumping to vats, cooling, breaking, and loading for shipment.

(2) In the case of iron ore, bauxite, ball, and sagger clay, rock asphalt, and ores or minerals which are customarily sold in the form of a crude mineral product—sorting, concentrating, sintering, pelletizing, and substantially equivalent processes to bring to shipping grade and form, and loading for shipment.

(3) In the case of lead, zinc, copper, gold, silver, uranium, or fluorspar ores, potash, and ores or minerals which are not customarily sold in the form of the crude mineral product—crushing, grinding, and beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cyanidation, leaching, crystallization, precipitation (but not including electrolytic deposition, thermal or electric smelting, or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of the economic mineral product or products from the ore or mineral or minerals from other material from the mine or other natural deposit.

(4) The pulverization of talc, the burning of magnesite, the sintering and nodulizing of phosphate rock, and the furnacing of quicksilver ores.

(5) In the case of calcium carbonates and other minerals when used in making cement—all processes (other than preheating of the kiln feed) applied prior to the introduction of the kiln feed into the kiln, but not including any subsequent process.

(6) In the case of clay used in the manufacture of building or paving brick, drainage and roofing tile, sewer pipe, structural clay products, whiteware or fired ware, and kindred products—crushing, grinding, and separating the mineral from waste, but not including any subsequent process.

(7) Such other treatment processes similar to the foregoing which may be necessary or incidental thereto and so much of the transportation costs of valuable minerals and specified materials from the point of extraction from the ground to the plants or mills in which ordinary treatment processes are applied thereto as may be allowed by the Internal Revenue Service in the determination of "gross income from the property from mining." [Order 3, § 332-16-280, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-290 Royalties—Production. Production royalties shall accrue upon any production of valuable minerals or specified materials at the time the same are sold, or are removed from the lands held under lease or contract, unless other arrangements are made in writing with the department. Unless a shorter period of accounting is elected by the department, all production royalties shall be payable within 30 days following the close of each calendar quarter, unless an extension is granted by the department, upon all valuable minerals or specified materials sold or removed during the calendar quarter. Adjustments in royalties which have been paid may be made between the department and the lessee within 45 days subsequent to the close of the lessee's fiscal year in the event that the records of the lessee reflect an adjustment is required or warranted. [Order 3, § 332-16-290, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-300 Royalties—Audit and verification. In order to substantiate computation of royalties, the department may require that, upon reasonable notice to the lessee, supporting data, calculations, books, records, and other necessary materials will be made available to the department for audit and verification. The department may require the lessee to submit a copy of his federal and state tax returns, or such portions of them as may be relevant, for further verification. All such information submitted to the department shall be confidential and shall not be disclosed to anyone not an employee of the department without express written consent of the lessee. [Order 3, § 332-16-300, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-310 Maps, reports, and assays. In the interest of further developing the mineral resources of the state of Washington, all lessees shall be required to submit to the department copies of all geologic maps, reports, and assays relating to the property held under lease or contract at the close of each lease year. Such maps, reports, and assays shall be considered as confidential by the department and shall not be made public unless written permission is granted by the lessee or the lease or contract is terminated. [Order 3, § 332-16-310, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-320 Assignments. The assignment of any lease or contract may be made, subject to written approval by the department, upon submitting the assignment in triplicate to the department together with the required assignment fee. The assignee shall be subject to and governed by the terms and conditions of the lease or contract. The approval of an assignment by the department shall not waive compliance with any terms and conditions of the lease or contract. An assignment shall not be approved by the department if any delinquencies exist on the current lease or contract unless the assignee, in writing, agrees to assume and rectify all such delinquencies. [Order 3, § 332-16-320, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-330 Consolidation of mining contracts. The holders of two or more mining contracts may apply to the department for the consolidation of said contracts under a common management to facilitate proper operation of larger-scale development.

In the event the department, following such examination and investigation as it deems necessary, finds the consolidation applied for to be in the best interests of the state, such consolidation will be approved. [Order 3, § 332-16-330, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

WAC 332-16-340 Administrative procedure act. In the event an applicant or lessee is not in agreement with the terms or conditions of the lease or contract or with the decision of any state official administering the same, he may take such action as is provided in the Administrative Procedure Act, chapter 34.04 RCW. [Order 3, § 332-16-340, filed 2/6/68; Resolution 72 (part), filed 1/19/67.]

Chapter 332-18 WAC

SURFACE MINED LAND RECLAMATION

WAC

332-18-010	Definitions.
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332-18-020	Provisional permit.
332-18-030	Combined operating permits.
332-18-040	Multiple operations at one site.
332-18-050	Inspections and cancellations of permits.
332-18-060	Confidential material.
332-18-070	Time extensions.
332-18-080	Preplanning.
332-18-090	Revegetation.
332-18-100	Water control.
332-18-110	Water impoundment.
332-18-120	Bonds.

WAC 332-18-010 Definitions. The following definitions shall be applicable to these rules and regulations:

(1) "The Act" wherever referred to in these rules and regulations, shall mean the Washington Surface-Mined Land Reclamation Act.

(2) "Stagnant water" shall mean any nonflowing body of water which is, or is likely to become, noxious, odious, or foul.

(3) "Remote area" as contained in section 4(1) of the Act, shall mean a rural area on which the operating area of a surface mining site is not visible from any state highway, county road, or any public street or highway, or, if visible, it is more than one (1) mile away from the point on such road from which it is visible.

Other terms used in these rules are defined in the Act. [Order 86, § 332-18-010, filed 10/27/70, effective 11/28/70.]

WAC 332-18-015 Compliance with local regulations. A surface mining permit for an operation commencing after the effective date of the Act will not be issued until satisfactory evidence has been submitted that the proposed surface mining will not be contrary to local land use ordinances and regulations. [Order 94, § 332-18-015, filed 4/6/71.]

WAC 332-18-020 Provisional permit. A provisional permit shall not be issued if, on the basis of information set forth in the application or from information available to the department and the applicant, the department considers the proposed site to be unsuitable for surface mining. A site shall be considered unsuitable for surface mining if the materials to be disturbed are such that experience with conditions similar to those in the proposed site area has shown that reclamation cannot be accomplished in accordance with the purposes of the Act. [Order 86, § 332-18-020, filed 10/27/70, effective 11/28/70.]

WAC 332-18-030 Combined operating permits. An operator conducting more than one surface-mining operation in any one twelve (12) month period may, subject to the approval of the department, submit a single application for a combined operating permit covering all his surface-mining operations.

Any public agency desiring a combined operating permit shall furnish to the department, prior to or with the application, evidence of established policies and procedures within the agency's organization that would show ability and means to comply with the Act.

Any operator receiving approval for a combined operating permit shall submit a list of all operating sites subject to the Act and shall maintain pertinent data, available for review, inspection, and approval by the department, for all sites operated under such combined operating permit. Such data and evidence shall include, but not be limited to, records supporting annual report requirements of the Act and operator's reclamation plans for sites.

The operator may submit a consolidated reclamation program covering all his operations. However, a specific reclamation plan may be required for individual operations as designated by the department. [Order 86, § 332-18-030, filed 10/27/70, effective 11/28/70.]

WAC 332-18-040 Multiple operations at one site. Any time an operator proposes to surface mine at a site on which an operating permit to another operator is in effect, the subsequent operator shall present to the department the agreement, subject to approval by the department, signed by the first operator and the subsequent operator, providing for:

(1) Accomplishment of the first operator's reclamation plan, or

(2) Modification of the first operator's reclamation plan, or

(3) An entirely new reclamation plan.

The owner or owners of a surface-mining site may request to be designated as an operator so as to provide for continuity of reclamation where multiple operations are to be conducted.

Approval shall be obtained from the department prior to the commencement of any operations by two or more operators on the same site. [Order 86, § 332-18-040, filed 10/27/70, effective 11/28/70.]

WAC 332-18-050 Inspections and cancellations of permits. The department shall have the right to make

inspections of any property at any reasonable time as deemed necessary to determine compliance with the act. Inspections shall be limited to those lands and such of the operator's records as pertain to surface mining and reclamation of such lands. The department shall notify, as deemed necessary, any operator of a proposed inspection. However, lack of such notification shall not be cause for denying the right to inspect. The operator shall have the option of accompanying the inspector.

Periodic inspections shall be made during the permit year by reclamation inspectors to insure compliance with the operating permit, reclamation plan, and the plan of surface mining. Any and all deficiencies shall be immediately brought to the attention of the operator, and written notice specifying deficiencies shall be given to the operator. The operator shall commence action within thirty (30) days to rectify these deficiencies and shall diligently proceed until the deficiencies are corrected: *Provided*, That deficiencies that also violate other laws that require earlier rectification shall be corrected in accordance with the applicable time provisions of such laws, or shall immediately commence action to rectify deficiencies that involve health, safety, and water pollution if those deficiencies are not regulated by such laws.

The department shall have grounds to terminate and cancel the operating permit if the operator does not commence action to rectify any and all deficiencies as specified above, or as specified in the Act. The operator and his surety shall be notified of such termination and cancellation, said notice to be mailed to the last known address of the operator and surety.

The department shall not issue another permit to a deficient operator until any and all deficiencies on a specific site are corrected to the satisfaction of the department: *Provided*, That if the department's determination is under appeal a provisional permit may be issued, but an additional cash bond may be required if the department determines it necessary to assure rectification of the deficiencies. [Order 86, § 332-18-050, filed 10/27/70, effective 11/28/70.]

WAC 332-18-060 Confidential material. Upon application, the department shall release information acquired through the administration of this Act to proper interested persons. For these purposes "proper interested persons" are defined as follows:

(1) As to information relating to specific mining and reclamation costs or to processes of mining unique to the operator or owner thereof, or information that may affect adversely the competitive position of such operator or owner if released to the public or to a competitor, "proper interested persons" are those persons so designated by the operator and his authorized agents.

(2) As to reclamation plans, operator's reports, and all other information (except information specified in Section 1 of this rule on confidential material) required through the administration of this Act, all members of the public are "proper interested persons." [Order 86, § 332-18-060, filed 10/27/70, effective 11/28/70.]

WAC 332-18-070 Time extensions. An operator unable to comply with the reclamation requirements of

the operating permit due to circumstances, such as inclement weather or unusual conditions, clearly beyond the operator's control, may be granted a reasonable time extension in which to complete the required reclamation, but only when the operator is, in the opinion of the department, making every reasonable effort to comply.

No time extension shall be granted unless requested in writing by the operator and approved in writing by the department.

When a time extension has been granted by the department, a report of activities during the period of the extension in addition to those reports required in Section 14 of the Act shall be filed with the department within thirty (30) days after completion of reclamation activities. [Order 86, § 332-18-070, filed 10/27/70, effective 11/28/70.]

WAC 332-18-080 Preplanning. The department recognizes that it is desirable that reclamation be preplanned for surface mining that may extend beyond the area that will be surface mined within any twelve (12) months consecutive period.

Operators may submit plans for the method of operation, for grading and backfilling (including water impoundment) and for reclamation of contiguous areas to be mined. The requirements for such plans (herein called continuing reclamation programs) shall be as specified in Section 4(11) and Section 10 of the Act.

If the department approves a continuing reclamation program and the approved plan remains consistent with the requirements and purposes of this Act and regulations adopted pursuant thereto, the operator, without annually submitting additional plans for the method of operation, backfilling and grading, and reclamation, may have his permit amended to include areas that were not included in the original permit.

If the department approves a continuing reclamation program, the operator shall be obligated to conduct all operations in accordance with said continuing reclamation program.

Upon application of the operator, a continuing reclamation program may be modified in accordance with Section 11 of the Act. All modifications shall require written approval by the department.

Approval of a continuing reclamation program by the department shall not be construed as waiving or altering the payment of annual fees as required by the Act. [Order 86, § 332-18-080, filed 10/27/70, effective 11/28/70.]

WAC 332-18-090 Revegetation. Revegetation shall be required only where it is appropriate to the intended subsequent use of the surface-mined site, or where, on a temporary basis, it is needed to provide soil stability, to prevent erosion, or to provide screening.

For the purposes of this Act, "revegetation" shall mean the re-establishment of a vegetative cover on land disturbed by surface-mining operations, and may include natural reseeding.

Objectives. The objectives in revegetation are to stabilize the soil cover to minimize erosion, to reclaim, and

to screen the areas as quickly as possible after the soil cover has been disturbed.

Procedures. Where erosion and siltation will be a problem, grasses, trees, and plants that will produce a quick protective cover and enrich the soil shall be given priority.

Revegetation shall be accomplished as specified in the reclamation plan and as approved by the department. Modification of the revegetation part of the plan may be approved by the department, providing such modification is practical and within the intent of the Act. Revegetation proposals must be compatible with soil conditions and with the objectives of this revegetation rule and be appropriate to the intended subsequent use of the site. All revegetation shall be accomplished within two (2) years after completion or abandonment of surface mining on each segment of the permit area on which mining has been completed or at such other later date as may be authorized by the department.

Planting Report. The operator shall file a planting report within the department ten (10) days after planting or seeding has been completed, on a form to be furnished by the department. [Order 86, § 332-18-090, filed 10/27/70, effective 11/28/70.]

WAC 332-18-100 Water control. Water diversion ditches or channels shall be constructed in surface mining areas to control surface water runoff, erosion, and siltation and to remove surface water runoff to a safe outlet, and shall be maintained until surface mining and reclamation have been completed. Diversion ditches or channels shall be designed to carry the peak flow having the probable recurrence frequency of once in ten (10) years or as approved by the department. The grade of such ditches and channels shall be constructed to limit erosion and siltation to currently accepted standards.

Natural drainage channels or drainways in the area of land affected by the operation shall be kept free of overburden and debris or may be diverted as approved by the department. Such drainways shall be designated on maps or aerial photos submitted with the application. If, in the operation, it is necessary to cross such a drainway, proper drainage structures shall be provided. Such structures shall require the approval of the department and shall be designed to carry the peak flow having a probable recurrence frequency as determined by the department.

Overburden shall be deposited and graded so that surface water runoff does not create erosion problems of the operating permit area or on adjoining lands. [Order 86, § 332-18-100, filed 10/27/70, effective 11/28/70.]

WAC 332-18-110 Water impoundment. The impoundment of water is desirable, providing:

(1) Adequate sources of water are available to maintain the water level of the impoundment. Such sources of water supply for impoundments may be from springs, drainage areas of sufficient size, ground water percolation, a flowing stream, or any combination of these sources.

(2) Proper measures are taken to prevent undesirable seepage.

(3) Adequate spillways or other measures necessary to control overflow are provided.

(4) Stagnant water, as herein defined, is not permitted to develop. [Order 86, § 332-18-110, filed 10/27/70, effective 11/28/70.]

WAC 332-18-120 Bonds. Performance bonds required by Section 13 of the Act shall be substantially in the following form, provided however that the department may, in considering any permit require a different form when in their opinion such is desirable or required.

SURFACE MINING RECLAMATION BOND

Permit No.

KNOW ALL MEN BY THESE PRESENTS, That we,

.....,
as Principal, and
a corporation organized and existing under the laws of the State of
and duly authorized to transact business in the State of Washington, as Surety, are held and firmly bound unto the State of Washington, acting through the Board of Natural Resources, in the sum of
..... (\$.....) DOLLARS, for the payment of which sum, well and truly to be made, we bind ourselves, and each of our legal representatives, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, The Principal has received from the Board of Natural Resources, State of Washington, a permit to conduct surface mining on the following described premises, to-wit:

NOW, THEREFORE, The conditions of this obligation are such that if the above bounden Principal shall, in conducting such surface mining operations faithfully perform the requirements of the permit and chapter 64, Laws of 1970 ex. sess., relating to mining and the Rules and Regulations adopted pursuant thereto, then this obligation shall be exonerated and discharged and become null and void; otherwise to remain in full force and effect.

PROVIDED, However, the Surety shall not be liable under this bond for an amount greater in the aggregate than the sum designated in the first paragraph hereof, and shall not be liable as respects any obligations related to surface mining operations performed after the expiration of thirty (30) days from the date of the mailing by the Surety of a cancellation notice directed to the Principal and the Board of Natural Resources, Olympia, Washington. The bond

shall remain in full force and effect as respects obligations related to surface mining operations performed prior to the effective date of such cancellation unless the Principal files a substitute bond, approved by the Board of Natural Resources, or unless the Board of Natural Resources shall otherwise release the Surety.

Signed, sealed and dated this ----- day
of -----, 197---

[Order 86, § 332-18-120, filed 10/27/70, effective 11/28/70.]

Chapter 332-20 WAC GRAZING LANDS

WAC

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332-20-040	Regulations for grazing leases and permits.
332-20-050	Grazing leases—Legal age of lessee.
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WAC 332-20-010 Range management objectives.

The general objectives of the department in its management of state-owned range lands is to provide for the maximum utilization of the range resource consistent with the principles of multiple use and proper land conservation measures applicable thereto. Coincident with this general objective, the department shall seek to:

- (1) Secure the highest return to the state under good management practices;
- (2) Perpetuate the organic resources on both state and related lands through wise use, protection, and development;
- (3) Provide the best practical, social, and economic correlation of the use of state lands with adjacent lands;
- (4) Stabilize that part of the livestock industry which makes use of state land through administrative policy and management practices which conform to the requirements of practical operation;
- (5) Cooperate with land users on a district level through a decentralized administration organized and authorized to settle local problems in accordance with local conditions. [Rules (part), filed 12/3/63; Permit Range Regulations (part), effective 6/1/59.]

WAC 332-20-020 Grazing management. Management of state lands for grazing purposes will be based upon that grazing capacity which permits maximum forage utilization. Grazing capacity will be established after consideration of historical stocking rates, forage utilization, range condition, and trend. [Rules (part), filed 12/3/63; Permit Range Regulations (part), effective 6/1/59.]

WAC 332-20-030 Definitions. The following definitions are applicable to this resolution and shall be used in applications, reports, and grazing leases and permits issued in connection therewith:

- (1) Carrying capacity is the acreage required to adequately provide forage for an animal unit (AU) for a specified period without inducing deterioration of vegetation or soil;
- (2) Stocking rate is the number of livestock allowed to graze on a given area for a prescribed period of time;
- (3) Forage utilization is the degree of use made of the range plants for foraging animals;
- (4) Current production is the total annual growth of the range plants;
- (5) Usable forage is forage that is within reach of animals and would be consumed under proper grazing;
- (6) Range condition is the relation between current and potential condition of the range site;
- (7) A cattle unit is equal to one cow and calf;
- (8) A sheep unit is equal to one ewe and one lamb;
- (9) A free use permit is a permit given in exchange for the use of land within a permit range;
- (10) An on and off permit is a permit issued by an owner of range land which authorizes the use of an entire range area that is owned by more than one owner, but is subject to joint operation and management; and
- (11) A bonus bid is a sum of money offered for a lease of state land in addition to regular annual rental

and is to be paid once at the time of the execution of the lease contract. [Rules (part), filed 12/3/63.]

WAC 332-20-040 Regulations for grazing leases and permits. WAC 332-20-050 through 332-20-150 shall apply to lands leased through the department for grazing purposes. WAC 332-20-160 through 332-20-330 shall apply to lands used for grazing purposes under permits issued by the department. All other sections are applicable to land subject either to grazing leases or grazing permits. [Rules (part), filed 12/3/63.]

WAC 332-20-050 Grazing leases—Legal age of lessee. No person shall hold a lease on state land until he or she has attained his or her legal age or unless his or her signature is countersigned by his or her parent or legal guardian. [Rules (part), filed 12/3/63.]

WAC 332-20-060 Grazing leases—Limitation of leased area. Not more than one section of state land may be leased to any one person, partnership, company, or corporation except that:

(1) Indemnity lieu lands selected and clear listed since March 7, 1957, may be leased without regard to this limitation provided that the person, partnership, company, or corporation held the last valid lease for the specified area from the bureau of land management at the time of transfer of title to the state of Washington, or

(2) More than one section may be leased where the inclusion of additional land best serves the interest of the state by permitting a single unit of management. [Rules (part), filed 12/3/63.]

WAC 332-20-070 Grazing leases—Assignment of. Grazing leases may not be assigned, sublet, or used by any person other than the lessee except by prior written consent of the commissioner. [Rules (part), filed 12/3/63.]

WAC 332-20-080 Grazing leases—Improvements become property of state upon cancellation of lease. All improvements upon state lands shall become the property of the state upon cancellation of any lease. [Rules (part), filed 12/3/63.]

WAC 332-20-090 Grazing leases—Ownership of improvements to be designated. All leases shall clearly designate all authorized improvements upon the state land and shall fix a maximum improvement value beyond which such improvements may never be appraised. [Rules (part), filed 12/3/63.]

WAC 332-20-100 Grazing leases—Re-lease—Application—Application for lease by a third party. In the event a person other than the prior lessee files an application to lease state land within thirty days after expiration of a prior lease, such application shall be accompanied by a cash deposit equal in amount to any sum offered by such applicant as a bonus bid for the issuance of the lease. Such cash deposit shall be returned to the applicant in the event the lands are not thereafter offered for public auction leasing, or is so offered, a higher and better bid shall then be made. In all other

cases, said deposit may be forfeited to the state as liquidated damages. [Rules (part), filed 12/3/63.]

WAC 332-20-110 Grazing leases—Prior lessee informed of third party application. Where a prior lessee has made an application for a renewal lease under RCW 79.01.276, he shall promptly be notified of any third party application for public auction leasing. [Rules (part), filed 12/3/63.]

WAC 332-20-120 Grazing leases—Preference to prior lessee. No lease shall be offered at public auction under any third party application filed within thirty days after expiration of a prior lease unless the department shall have first offered to re-lease such lands to the prior lessee who shall have made an application for a renewal lease under the provisions of RCW 79.01.276. It is the intention of the department to accord a preference to the prior lessee who is willing to meet the offer of a third party applicant. [Rules (part), filed 12/3/63.]

WAC 332-20-130 Grazing leases—Cooperation. The commissioner and any lessee of state land shall cooperate with soil conservation districts and county extension services to improve lands under lease. [Rules (part), filed 12/3/63.]

WAC 332-20-140 Grazing leases—Rental. In normal use the rental value of state grazing lands shall be computed on grazing capacity. Special grazing areas may be appraised according to use rather than grazing capacity. [Rules (part), filed 12/3/63.]

WAC 332-20-150 Grazing leases—Terms of leases and rental adjustments. Ordinarily grazing leases will be written for an eight year period. Four years after the lease has been issued, the commissioner of public lands and the lessee may review the rental and make adjustments if they are in the best interest of the state. A letter of validation will be prepared stating the adjusted rental. [Rules (part), filed 12/3/63.]

WAC 332-20-160 Permit range allotments. State lands will be divided into permit range allotments as may be deemed practical by the commissioner. Allotments may include nonstate lands under special arrangements with the owner. For each allotment the commissioner shall:

- (1) Establish the kind and number of livestock to be permitted thereon;
- (2) Establish the period of grazing;
- (3) Regulate the entry of livestock;
- (4) Allocate the range among permittees;
- (5) Develop and establish the most practical and efficient methods of stock management, forage utilization, and range improvements;
- (6) Prescribe any special conditions and requirements under which grazing permits may be issued or terminated. [Rules (part), filed 12/3/63; Permit Range Regulations § I, effective 6/1/59.]

WAC 332-20-170 Grazing permits—When authorized. The commissioner may issue grazing permits

on range allotments under the following conditions and such other special requirements that may be prescribed in the best interests of the state;

(1) Every person must submit an application in writing to the department to obtain a grazing permit on state lands or other lands administered in connection therewith;

(2) The regulations set forth in this resolution and those regulations adopted by the commissioner in accordance with this resolution shall be considered a part of every permit;

(3) The commissioner may require that the owners of transient livestock or nonresidents of the state or persons who have violated the regulations of the department to give good and sufficient bond to insure payment of all damages sustained by the state through violation or regulations or terms of the permit;

(4) The commissioner may authorize the issuance of permits for the grazing of livestock for a period not exceeding five years;

(5) Permits may be renewed as authorized by law;

(6) Permits shall be validated each year by letter from the department to the permittee;

(7) Free use permits will be given in exchange for lands used within a permit range;

(8) On and off permits may be issued to persons as the circumstances appear to justify;

(9) Persons granted on and off permits shall be required to herd or handle the livestock to prevent trespassing on range that is not subject to the permit;

(10) Crossing permits may be issued to those persons wishing to drive livestock across any portion of state lands or range allotments;

(11) Operational permits may be issued to persons conducting permitted or commercial operations on state lands or range allotments for livestock actually needed in connection with such operations;

(12) All existing permits for grazing on state lands and other lands administered in connection therewith, which are continued in force following the adoption of this resolution, shall be treated as having been issued under authority and subject to the conditions and restrictions of this resolution; and

(13) Permits may not be assigned or used by any person other than the permittee except by prior written consent of the commissioner. [Rules (part), filed 12/3/63; Permit Range Regulations § II et seq., effective 6/1/59.]

WAC 332-20-180 Grazing permits—Preferences. A preference is a method of establishing eligible individuals for grazing permits on state range allotments. The terms preference and permit are not synonymous. A permit authorizes the grazing of livestock under specific conditions and expires on a specified date. A preference continues until cancelled or revoked. Preferences are granted under the following general conditions:

(1) A preference permit for use of state lands may be acquired by authorized prior use, grant, or by transfer through purchase or inheritance of ranch property or livestock;

(2) The ownership or control of base ranch property and improvements is required to secure or hold a preference permit;

(3) A permittee must be the owner of the livestock placed on state ranges under his permit;

(4) A preference may be cancelled, revoked, or suspended by the commissioner, when, in the best judgment of the commissioner, the interests of the state would thereby be served;

(5) No person, company, corporation, partnership, marital community, or combination thereof shall hold a preference permit authorizing grazing in excess of 600 animal units; and

(6) New and additional preferences will be drafted to the holders of temporary permits only after such temporary permits have been held for a minimum period of two years. [Rules (part), filed 12/3/63; Permit Range Regulations § III (part), effective 6/1/59.]

WAC 332-20-190 Grazing permits—Special conditions of preference. The commissioner will prescribe the special conditions under which grazing preference and use of state lands may be established. He shall recognize the following factors:

(1) Uniformity in base property and livestock ownership;

(2) Transferability and assignability of preference permits in connection with the change of ownership of base property or permitted livestock;

(3) Nonuse of preference permits for specified periods not in excess of three years for any seven year period, provided approval of the commissioner is first obtained and prescribed nonuse fees are paid; and

(4) Establishment of upper limits for each administrative district governing the number of preferences, provided that local conditions, economic units, and range users' recommendations must be fully considered. [Rules (part), filed 12/3/63; Permit Range Regulations § III (part), effective 6/1/59.]

WAC 332-20-200 Grazing permits—Preference on established ranges. The commissioner may grant preference permits for use of established livestock ranges upon consideration of the following factors:

(1) Authorized prior use;

(2) Commensurability;

(3) Capacity of the range; and

(4) Increased capacity of the range resulting from range improvement work performed at the permittee's expense and with the commissioner's written approval, in which event preference will be granted to the permittee responsible for the range improvement work. [Rules (part), filed 12/3/63; Permit Range Regulations § III (part), effective 6/1/59.]

WAC 332-20-210 Grazing permits—Temporary permits. (1) Where either the permittee or the range does not qualify for a preference permit under WAC 332-20-180, 332-20-190, and 332-20-200, a temporary permit will be issued for a maximum of five years.

(2) In those instances where new permit range allotments are established or where additional area is added to existing allotments a temporary permit may be issued.

(3) A temporary permit will be issued on the basis of the highest cash bonus offer received by sealed bid from qualified applicants. An applicant must qualify in commensurability and ownership of livestock.

(4) Before a temporary permit is offered for sealed bidding the carrying capacity and annual grazing fee for the range will be determined and advertised. The bidding will be on a cash bonus over and above the established annual grazing fee. Temporary permits will be issued on an annual basis under subsections (2), (3), and (4), subject to range condition and carrying capacity. [Rules (part), filed 12/3/63; Permit Range Regulations § III (part), effective 6/1/59.]

WAC 332-20-220 Grazing fees—Authorized—Periodic adjustments. A fee will be charged for the grazing of all livestock on state lands. The grazing fee will be determined by use of a formula indicated below. The fees so established shall be adjusted annually by relation to market prices of livestock for the previous year. Further periodic adjustments shall be made by the commissioner as more accurate information or changing conditions require.

$$\text{Grazing fee formula: } \frac{L \times S \times G \times P}{M} - \text{AUM Fee}$$

Symbol explanation:

L - Proportion of average stockman's investment assigned to land.

S - Landlord's fair share of land income.

G - Average pound gain in livestock weight for permitted grazing season, cattle and sheep to be separately computed.

P - Average past year selling price of livestock per pound from the reports of the Agricultural Marketing Service of the U. S. Department of Agriculture.

M - Number of months in permitted grazing season.

AUM Fee - Fee to be charged per animal unit month of grazing.

For purposes of unit equivalent per animal, the following ratios will apply:

Cattle:	Cow and calf	1.0	Animal Unit
	Bull	1.0	
	Yearling	.66	
	Two year old	1.0	
Sheep:	Ewe and one lamb	1.0	
	Ram	1.0	
	Ewe	1.0	
Horses:		1.5	

[Rules (part), filed 12/3/63; Permit Range Regulations § IV (part), effective 6/1/59.]

WAC 332-20-230 Grazing fees—Payment of fees in advance. All grazing fees will be paid in advance of the opening date of grazing periods unless otherwise authorized by the commissioner. [Rules (part), filed 12/3/63; Permit Range Regulations § IV (part), effective 6/1/59.]

WAC 332-20-240 Grazing fees—Exceptions to usual fees. The commissioner may make exceptions to WAC 332-20-220 and 332-20-230 in the following cases:

(1) Pack and saddle animals used for commercial purposes;

(2) Animals under six months of age which are the natural increase of livestock on which fees are paid. [Rules (part), filed 12/3/63; Permit Range Regulations § IV (part), effective 6/1/59.]

WAC 332-20-250 Violation. The commissioner of public lands may revoke grazing permits or preferences, in whole or in part, for a clearly established violation of the terms of the permit, the regulations upon which it is based, or the written instructions of the department issued thereunder. [Rules (part), filed 12/3/63; Permit Range Regulations § V, effective 6/1/59.]

WAC 332-20-260 Appeal. Appeal from any action by the department on range matters shall be made to the district administrator of the respective district. In case the district administrator cannot settle the matter, the complaint will be forwarded by him to the field supervisor. If satisfactory results are not accomplished thereby, the complaint may be referred in turn to the commissioner for decision after notice and opportunity for a hearing in accordance with the contested case provisions of the Administrative Procedure Act, chapter 34.04 RCW. [Rules (part), filed 12/3/63; Permit Range Regulations § VI, effective 6/1/59.]

WAC 332-20-270 Associations and boards. In order to obtain a collective expression of views and recommendations of the state grazing permittees concerning the management and administration of state lands and to encourage maximum participation by permittees in actual management of the range where not provided for by other regulations, the commissioner shall provide for recognition of and cooperation with the various groups of permittees as follows:

(1) Livestock associations with advisory boards representing the range users of state lands; and

(2) Advisory boards without associations representing the range users of state land. [Rules (part), filed 12/3/63; Permit Range Regulations § VII (part), effective 6/1/59.]

WAC 332-20-280 Organization and composition of advisory boards. Advisory boards shall consist of not less than three members. Where the board represents state lands in an entire county, the state game commission may appoint a wildlife representative to advise on wildlife problems. The board must represent the majority of the grazing permittees of the area represented and the members must be elected by a majority of the voting grazing permittees. Advisory boards will meet upon call of their chairman or upon call of the local district administrator for the department. The department shall obtain and carefully consider the suggestions and recommendations submitted by these boards regarding current grazing programs and proposed policy changes. [Rules (part), filed 12/3/63; Permit Range Regulation § VII (part), effective 6/1/59.]

WAC 332-20-290 Informal recommendations. The department recognizes the public interest in ownership of state lands and in the problems that may arise over multiple use of these lands. The commissioner is directed to give full consideration to the expressions of the views of any interested persons, industry, or organization for the equitable solution of competing public interest. [Rules (part), filed 12/3/63; Permit Range Regulation § VII (part), effective 6/1/59.]

WAC 332-20-300 Laws and regulations relating to livestock. The department will cooperate with the state, county, and federal officers in the enforcement of all the laws and regulations relating to livestock including:

(1) Compliance with livestock quarantine regulations and such other sanitary measures as may appear necessary to prevent nuisances and insure proper sanitary conditions on state range lands; and

(2) Requiring owners of all livestock which are allowed to cross any state range lands to comply with local livestock laws of the state of Washington and the county where the state land is located. [Rules (part), filed 12/3/63; Permit Range Regulation § VII (part), effective 6/1/59.]

WAC 332-20-310 Range management. As rapidly as circumstances and facilities allow, the commissioner will prepare written plans for management of state range resources. Such plans will include specific procedures and programs to provide for the following:

(1) An inventory of range lands to determine existing conditions and to provide guidelines for improvement of range lands;

(2) General range plans and policies to set forth departmental policy and programs of range management activity in relation to other departmental activity and to integrate and coordinate range use with other multiple uses of state land and to standardize procedures on a district and statewide bases; and

(3) Range allotment plans consisting of a detailed plan of action on individual range allotments after adequate consideration of grass and forage management practices, livestock control practices, and range improvement practices. [Rules (part), filed 12/3/63; Permit Range Regulation § VIII, effective 6/1/59.]

WAC 332-20-320 Range improvement. Special use permits must be obtained or cooperative agreements made with the department in connection with the construction of range improvements on state range lands by individuals or agencies other than the department itself. In each case a clause in the permit will clearly state whether the title to the improvements will vest in the state or be retained by the permittee. Title to structural improvements, water tanks, troughs, cattle guards, fences, etc., built under special use permits may be retained by the permittee; however, where such improvements are constructed under a cooperative arrangement in which the state bears a part of the cost, title thereto will vest in the state. The construction of nonstructural improvements — such as driveways, trails, roads, etc., — for performance of range improvement practices, reseeding,

eradication of poisonous plants, etc., on state lands, shall not confer on the permittee the exclusive right to use the improvement or the land on which such practices are carried on. Grazing fees shall be adjusted to compensate permittees for the construction of range improvements or performance of range conservation practices where prior written approval has been given by the commissioner. [Rules (part), filed 12/3/63; Permit Range Regulation § IX, effective 6/1/59.]

WAC 332-20-330 Management agreement. The commissioner is authorized to enter into agreements with individuals, companies, corporations, partnerships, federal agencies, or state agencies and legal subdivisions for the protection, preservation, and use of range units made up of multiple ownership. [Rules (part), filed 12/3/63.]

WAC 332-20-340 Sale of grazing and other low priority lands—Objective. It is the objective of the department of natural resources in the management of public lands used primarily for grazing and similar low priority purposes to:

(1) Obtain the greatest possible monetary return for the trust to which such land is assigned, consistent with good management practices.

(2) Encourage the development of such lands for their highest and best use. [Resolution 79, § 1, filed 10/5/67.]

WAC 332-20-350 Sale of grazing and other low priority lands—Definitions. The following definitions are applicable to RCW 79.01.301 and these rules shall be used in connection with applications, reports, leases, and other documents issued in connection therewith:

(1) "Department" shall mean the department of natural resources.

(2) "Commissioner" shall mean the commissioner of public lands.

(3) "Board" shall mean the board of natural resources as established by chapter 38, Laws of 1957 (chapter 43-30 RCW).

(4) "Proper office" shall mean the authorized office of the department of natural resources in Olympia, Washington.

(5) "Grazing land" shall mean those granted trust lands which at the present are used primarily for grazing.

(6) "Irrigated agricultural lands" shall mean any lands under irrigation which are used for the production of any agricultural commodities.

(7) "Public land" shall mean those lands conveyed to the state of Washington by the federal government and managed in trust by the department for the support of common schools, university purposes, agricultural college purposes, scientific school purposes, state normal school purposes, the erecting of public buildings at the state capitol, and for state charitable, educational, penal and reformatory institution purposes.

(8) "Low priority land" shall mean that grazing or nonirrigated land which may appear to have its highest

potential for maximizing returns when used as irrigated agricultural land.

(9) "Public interest" shall mean the interest of the public in obtaining the greatest possible monetary return from granted lands for the purposes set forth in the Enabling Act of the state Constitution. [Resolution 79, § 2, filed 10/5/67.]

WAC 332-20-360 Sale of grazing and other low priority lands—Applications to purchase. All applications to purchase low priority land for the purpose of development as irrigated agricultural land shall be reviewed by the board.

Applications for the purchase of land for development as irrigated agricultural lands will be received during business hours in the proper office of the department. A deposit of not less than ten dollars per acre must be submitted with the application. Each application shall be accompanied by a complete and general plan of development of the area considered for purchase, including the following:

- (1) Anticipated date of commencement of development.
- (2) Anticipated date of completion of development.
- (3) Type of development.
- (4) Source of water and the total estimated cost of water, including the cost of wells or water diversion.
- (5) Access or right of way available to the area.
- (6) Type of proposed cropping.
- (7) Anticipated production.
- (8) Market for production.
- (9) Anticipated gross return.
- (10) Anticipated value per acre when irrigation development is completed and anticipated tax payment per acre based on present millage levies.
- (11) A plat showing the area or areas to be developed for irrigation on the lands under application to purchase.
- (12) Method of financing development.
- (13) Plans for drainage.
- (14) Any further information the board may require. [Resolution 79, § 3, filed 10/5/67.]

WAC 332-20-370 Sale of grazing and other low priority lands—Protection. The board shall protect the public interest in the trust in considering applications to purchase. In considering the management of individual tracts of state land, the board shall include in its consideration of the financial benefits that may accrue to the particular beneficiary of such trust land any increased financial benefits that the beneficiary may receive from direct and indirect state and local taxes, including improvement in values resulting from private development and the local taxation benefits therefrom, if the property were to be sold into private ownership. [Resolution 79, § 4, filed 10/5/67.]

WAC 332-20-380 Sale of grazing and other low priority lands—Information furnished the board. The department, in addition to the information provided by the applicant, shall also prepare for the board the following information:

(1) Department plans for development of the tract if retained in state ownership.

(2) A comparison of anticipated rental returns and appreciation in value and rental income to the trust in comparison with the anticipated economic benefits to the locality in classifying such properties for sale.

(3) A written recommendation to the board. [Resolution 79, § 5, filed 10/5/67.]

WAC 332-20-390 Sale of grazing and other low priority lands—Written notice. Written notice shall be given to the applicant at least thirty days prior to the meeting of the board at which consideration will be given to his application. The applicant may appear at the board meeting in support of his application, but is not required to do so. [Resolution 79, § 6, filed 10/5/67.]

WAC 332-20-400 Sale of grazing and other low priority lands—Contracts. When the board determines that a parcel of low priority lands shall be sold into private ownership for conversion to irrigated agricultural lands, the department shall enter into a contract with the purchaser for the conveyance of the lands to him upon such conditions as the board shall determine to be proper in each case. The conditions fixed by the board shall include the following:

- (1) Payment to the department by the purchaser of the full purchase price, plus interest if sold on an installment basis, together with applicable fees.
- (2) Completion by the purchaser of an irrigation system in conformity with the plan as set forth with the contract posted with notice of sales. The system must be completed within the time period fixed by the board which shall in no event be longer than five years.
- (3) Such other conditions as the board may determine to be appropriate.

In the event the purchaser fails to satisfy any of the conditions fixed by the board, the contract for the conveyance of the lands to him shall be forfeited. The value of any improvements, less damages, made by the defaulting purchaser in partial completion of his irrigation system shall be appraised and fixed by the department. The lands shall be offered at public auction and, if leased or sold within three years to other than the defaulting purchaser, the successful bidder shall pay to the department the value of such improvements for disbursement to the defaulting purchaser. [Resolution 79, § 7, filed 10/5/67.]

Chapter 332-24 WAC FOREST PROTECTION

WAC

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- 332-24-160 Exemptions from burning permit requirements—Parts of Asotin County.
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- 332-24-250 Permanent closure of extra fire hazard regions—Parts of Clark and Skamania Counties.
- 332-24-260 Permanent closure of extra fire hazard regions—Gates, display of signs.
- 332-24-270 Permanent closure of extra fire hazard regions—Delegation of authority to issue notices.
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- 332-24-290 Permanent closure of extra fire hazard regions—Description of closed region.
- 332-24-300 Permanent closure of extra fire hazard regions—Closed region—Gifford Pinchot national forest.
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- 332-24-380 Extreme fire hazard requiring abatement.
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- 332-24-420 Creation of fire hazard—Dumping.
- 332-24-430 Fire hazard dumping permits.
- 332-24-440 Illegal dumping—Enforcement penalties.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 332-24-010 Forest patrol rates—1960—Western counties—Notice to assessors. [1960 Notice, filed 3/24/60.] Repealed by Order 128, filed 11/24/71 and by adoption of House Bill 1034 enacted by the 1971 Legislature (chapter 207, Laws of 1971 ex. sess.)
- 332-24-030 Forest patrol rates—1960—Eastern counties—Notice to assessors. [1960 Notice, filed 3/24/60.] Repealed by Order 128, filed 11/24/71 and by adoption of House Bill 1034 enacted by the 1971 Legislature (chapter 207, Laws of 1971 ex. sess.)
- 332-24-400 Approved abatement. [Order 126, § 332-24-400, filed 12/19/72.] Repealed by Order 274, filed 4/8/77.

WAC 332-24-001 Invalidity of part of chapter not to affect remainder. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [Order 16, § 332-24-001, filed 2/25/69.]

WAC 332-24-050 Snags—County average per acre. In 1953 pursuant to RCW 76.04.223, the supervisor of forestry determined the average number of non-merchantable snags per acre standing in green timber in the counties of Western Washington. Standard forestry statistical methods were used in establishing the averages as follows:

County	No. per acre Average Mean	County	No. per acre Average Mean
Clallam	3	Mason	6
Clark	4	Pacific	6
Cowlitz	8	Pierce	5
Grays Harbor	4	San Juan	3
Island	1	Skagit	6
Jefferson	4	Skamania	7
King	4	Snohomish	5
Kitsap	3	Thurston	3
Lewis	4	Wahkiakum	4
		Whatcom	6

This survey and the results thereof was accepted and approved by the state forest board on January 15, 1954. [Rule of 1/15/54.]

WAC 332-24-055 Definitions. Items defined herein have reference to RCW 76.04.251 and all other provisions relating to fire equipment. (1) "An operation" shall mean the use of equipment tools and supporting activities which are involved in the process of the management of forest land that may cause a forest fire to start. Such activities may include, but are not limited to, any phase of logging, landclearing, road and utility right-of-way clearing. The operating period shall be that time period when the activity is taking place.

(2) "Currently with the logging" and "current with the felling of live timber or with the current logging operation" shall mean during the logging operation on any landing, setting or similar part of the operation unless modified by the department in writing for special requests not to exceed thirty days after completion of the operation pursuant to RCW 76.08.030 and applying to RCW 76.04.222 and RCW 76.04.223.

(3) "Fire extinguisher" shall mean, unless otherwise stated, a chemical fire extinguisher rated by Underwriters' Laboratories or Factory Mutual, appropriately mounted and located so as to be readily accessible to the operator. When two fire extinguishers are required, they are to be appropriately mounted and located so that one is readily accessible to the operator and the other is separate from the operator and readily accessible to other personnel.

(4) "Any tractor or other mobile machine" shall mean any machine that moves under its own power when performing any portion of a logging, landclearing, right-of-way clearing, road construction or road maintenance function, and includes any machine, whether crawler or wheel type, whether such machine be engaged in yarding or loading or in some other function at the time of its inspection by the department.

(5) "Any fixed position machine" shall mean any machine used for any portion of a logging, earth moving, right-of-way clearing, milling, road maintenance and construction, land clearing operation or other operation that performs its primary function from a fixed position even though said machine is capable of moving under its own power to a different fixed position.

(6) "An approved exhaust system" shall mean a well-mounted exhaust system free from leaks and equipped with spark arrester(s) rated and accepted under U.S.D.A., Forest Service current Standard.

(a) An exhaust-driven supercharger, such as a turbocharger, is acceptable in lieu of a spark arrester. The entire exhaust must pass through the turbine.

(b) Passenger vehicles and trucks may be equipped with an adequately baffled muffler of a type approved by the department in lieu of a spark arrester.

(c) Portable power saws purchased after June 30, 1977, and used on forest land must meet the performance levels set forth in the Society of Automotive Engineers "multi-positioned small engine exhaust fire ignition standard, SAE recommended practice J 335B." Requirements to obtain the SAE J 335B specifications are as follows:

(i) The spark arrester shall be designed to retain or destroy 90% of the carbon particles having a major diameter greater than 0.023 inches (0.584 mm).

(ii) The exhaust system shall be designed so that the exposed surface temperature shall not exceed 550°F (288°C) where it may come in direct contact with forest fuels.

(iii) The exhaust system shall be designed so that the exhaust gas temperature shall not exceed 475°F (246°C) where the exhaust flow may strike forest fuels.

(iv) The exhaust system shall be designed in such a manner that there are no pockets or corners where flammable material might accumulate. Pockets are permissible only if it can be substantiated by suitable test that material can be prevented from accumulating in the pockets.

(v) The exhaust system must be constructed of durable material and so designed that it will, with normal use and maintenance, provide a reasonable service life. Parts designed for easy replacement as a part of routine maintenance shall have a service life of not less than fifty

hours. Cleaning of parts shall not be required more frequently than once for each eight hours of operation. The spark arrester shall be so designed that it may be readily inspected and cleaned.

(vi) Portable power saws will be deemed to be in compliance with the Society of Automotive Engineers J 335 B requirements if they are certified by the United States Department of Agriculture, Forest Service, San Dimas Equipment Development Center.

(d) Portable power saws, which were purchased prior to June 30, 1977, which do not meet the Society of Automotive Engineers Standards must meet the following requirements:

(i) The escape outlet of the spark arrester shall be at an angle of at least 45° from a line parallel to the bar.

(ii) The configuration of the spark arrester shall be such that it will not collect sawdust, no matter in what position the saw is operated.

(iii) Spark arresters shall be designed and made of material that will not allow shell or exhaust temperature to exceed 850°F.

(iv) The arrester shall have a screen with a maximum opening size of 0.023 inch.

(v) The arrester shall be capable of operating, under normal conditions, a minimum of eight hours before cleaning is needed.

(vi) The screen shall carry a manufacturer's warranty of a minimum 50-hour life when installed and maintained in accordance with the manufacturer's recommendation.

(vii) The arrester shall be of good manufacture and made so that the arrester housing and screen are close fitting.

(viii) The arrester shall be at least 90% efficient in the destruction, retention or attrition of carbon particles over 0.023 inch.

(ix) Efficiency to be measured as described in Power Saw Manufacturers Association Standard number S3-65.

(x) Construction of the arrester shall permit easy removal and replacement of the screen for field inspection and cleaning.

(7) "Shovel" shall mean a serviceable long handled or "D" handled round point shovel of at least "0" size with a sharpened, solid and smooth blade, and the handle shall be hung solid, smooth and straight.

(8) "Axe" shall mean a serviceable double bitted swamping axe of single bitted axe of at least a three pound head and thirty-two inch handle. The blades shall be sharpened, solid and smooth and the handle shall be hung solid, smooth and straight.

(9) "Pulaski" shall mean a serviceable axe and hoe combination tool with not less than 3-1/2 pound head and thirty-two inch handle. The blades shall be sharpened, solid and smooth and the handle shall be hung solid, smooth and straight.

(10) "Adze eye hoe" shall mean a serviceable forest fire fighting hoe with a blade width of at least 5-3/4 inches and a rectangular eye. The blade shall be sharpened, solid and smooth, and the handle shall be hung solid with no more than 3/4 inch nor less than 1/8 inch

extending beyond the head, smooth, aligned, and at least thirty-two inches long.

(11) "Fire tool box" shall mean a box or compartment of sound construction, with a waterproof lid, provided with hinges and hasps, and so arranged that the box can be properly sealed. It shall be red in color and marked "FIRE TOOLS" in letters at least one inch high. It shall contain a minimum of:

- (a) Two axes or Pulaskis.
- (b) Three adze eye hoes. One Pulaski may be substituted for one adze eye hoe.
- (c) Three shovels.

(12) "Pump truck or pump trailer" shall mean a serviceable truck or trailer which must be able to perform its functions efficiently, equipped with a water tank of not less than three hundred gallon capacity, filled with water. The complete pump truck or pump trailer shall be kept ready for instant use for suppressing forest fires. If a trailer is used, it shall be equipped with a hitch to facilitate prompt moving, and a serviceable tow vehicle shall be immediately available for attachment to the trailer. The pump truck or pump trailer with its tow vehicle must be available throughout the operating and watchman periods.

The pump may be a portable power pump or a suitable power take-off pump. It shall be plumbed with a bypass or pressure relief valve. The pump shall develop, at pump level, pressure sufficient to discharge a minimum of twenty gallons per minute, using a 1/4 inch nozzle tip, through a fifty foot length of one inch or 1-1/2 inch rubber-lined hose.

The pump truck or trailer shall be equipped with the following:

- (a) A minimum of five hundred feet of one or 1-1/2 inch cotton or synthetic jacket hose.
- (b) A fire tool box.

The tank shall be plumbed so that water may be withdrawn by one man by gravity feed. This outlet shall be adapted to accept the hose used and located for easy filling of pump cans.

The pump truck or trailer must be equipped with appropriate tools, fuel, accessories, and fittings to perform its functions for a continuous period of four hours. A recommended list of tools, fittings, and accessories may be obtained from any department office.

(13) "Watchman" shall mean one competent person to be at the site(s) for one hour following the operation of spark emitting equipment on fire action Class III Low Days and above as defined by the Department of Natural Resources in the use of the National Fire Danger Rating system, in burning permit zones C and D. The watchman shall be vigilant and so located or positioned to be able to detect within five minutes fires which may originate at the site(s) of the equipment operation and to report a fire to the responsible protection agency within fifteen minutes of detection. [Order 261, § 332-24-055, filed 6/10/76; Order 181, § 332-24-055, filed 3/21/74; Order 16, § 332-24-055, filed 2/25/69.]

WAC 332-24-056 Purpose of rules. This regulation recognizes the many instances of need of a small fire and the general prudence of the people in the safety and

use of fire to the extent that no written permit is required if certain rules are followed. [Order 169, § 332-24-056, filed 8/7/73.]

WAC 332-24-057 Spark emitting equipment regulated. It shall be unlawful for anyone to operate during the closed season as defined in RCW 76.04.252, any steam, internal combustion or electric engines or any other spark emitting equipment or devices on any forest land or in any place, where in the opinion of the department, within reason, fire could be communicated to the forest land, without first complying with the requirements for each situation and type of equipment listed as follows:

(1) Any fixed position machine unless equipped with the following:

- (a) Two fire extinguishers each of at least a 5 B.C. rating.
- (b) An approved exhaust system.
- (c) An appropriately mounted shovel.

(2) Any tractor or mobile machine unless equipped with the following:

- (a) One fire extinguisher of at least a 5 B.C. rating.
- (b) An approved exhaust system.
- (c) An appropriately mounted shovel.

(3) Any truck or vehicle used for hauling unless equipped with the following:

- (a) One fire extinguisher of at least a 5 B.C. rating.
- (b) An approved exhaust system.
- (c) An appropriately mounted shovel.
- (4) Any portable power saw unless equipped with the following:

(a) A chemical fire extinguisher of at least 8 ounce capacity, fully charged, and in good working order, to be kept in the immediate possession of the operator.

- (b) An approved exhaust system.
- (c) A shovel, which shall be kept within two minutes round trip of the operator.

Provided, a watchman shall be required on all operations identified in Items (1), (2), and (4) when located in burning permit zones C and D on the west side of the Cascade Mountains or in other areas of the state as may be designated by the department in writing.

(5) Any passenger vehicle used for industrial or commercial operations unless equipped with the following:

- (a) A fire extinguisher of at least a 5 B.C. rating.
- (b) An approved exhaust system.

(6) During yarding, loading, milling, land clearing, and right of way clearing there must be kept at each landing, yarding tree, mill or more suitable place designated by the department, two five gallon back pack pump cans filled with water: *Provided*, That such operations in burning permit zones C and D on the west side of the Cascade Mountains, or in other areas of the state as may be designated by the department in writing, must comply with the following additional requirements:

(a) A pump truck or pump trailer to be kept on the landing or within five minutes round trip of the operation.

- (b) A watchman.
- (c) Adequate facilities to report a fire to the responsible protection agency within fifteen minutes of detection.

(7) Each helicopter used for yarding, loading or land clearing unless first complying with the following additional requirements:

(a) VHF radio, maintained in operational use, at frequency 122.9.

(b) A portable water bucket of the appropriate following capacities, with necessary cargo hooks and tripping mechanism for dropping water on a fire, will be located at the heliport serving the operation.

External Payload of Helicopter	Minimum Required Bucket Size
780 pounds - & below	50 gallons
781 pounds - 1600 pounds	100 gallons
1601 pounds - 3900 pounds	200 gallons
3901 pounds - & larger	300 gallons

(c) A water source of sufficient capacity readily accessible to allow the bucket to be filled three times without refilling the source. The water source must be located within five minutes round trip flying time of every part of the operation.

(d) The following sized fire tool kit packaged for ready attachment to the cargo hook and located at the heliport serving the operation:

- (i) Three axes or Pulaskis.
- (ii) Six shovels.
- (iii) Six adze eye hoes.

(e) Two fire extinguishers with a total UL or FM rating of at least 20 B.C. rating shall be kept with refueling equipment. They shall be appropriately mounted, suitably marked, and available for immediate use.

(8) Balloon, sky line and other similar long line or aerial logging systems with greater than 1,200 feet maximum distance between the yarder and the tailblock unless first complying with the following additional requirements:

(a) A pump truck(s) or trailer(s) shall be available and equipped in order to supply water to the furthest extremity of the operation in a maximum of 10 minutes from the time of detection. A portable water supply may be substituted provided it contains a minimum of three hundred gallons of water, and the complement of accessories and equipment identified in the definition of the pump truck or pump trailer, and a pump capable of delivering twenty gallons per minutes at the end of fifty feet of one inch hose and a nozzle with 1/4 inch aperture. The pump shall be plumbed with a bypass or pressure relief valve. The water supply shall be located and outfitted for immediate use at the landing and so that it may also be readily lifted and transported by using the rigging system or cargo hook. Logging systems which are not capable of lifting the portable water supply in one lift may substitute up to three separate packages to transport it.

(b) The following sized fire tool kit packaged and located for ready attachment to the rigging for delivery to the portable water supply while it is in operation:

- (i) Three axes or Pulaskis.
- (ii) Six shovels.
- (iii) Six adze eye hoes.

(9) Any railroad logging locomotive or common carrier locomotive unless:

(a) Followed by a speeder patrol at such times and in such locations as designated by the department. The speeder patrol shall be equipped with:

- (i) Two shovels.
- (ii) One Pulaski.
- (iii) One adze eye hoe.
- (iv) Two five gallon back pack pump cans filled with water.
- (v) An approved exhaust system.
- (vi) Communications between the speeder and the dispatcher for reporting fires to the responsible protection agency.

(vii) One fire extinguisher of at least 5 B.C. rating.

(b) Equipped with an approved exhaust system.

(c) Equipped with communications between the train and dispatcher for reporting fires to the responsible protection agency.

(10)(a) Prior to beginning operations, all snags, stubs and dead trees over fifteen feet in height shall be cut within fifty feet of each fixed position machine which will operate for two consecutive days or more in one position.

(b) The ground shall be initially cleared of all flammable debris under four inches in diameter beneath and within ten feet of each fixed position machine which will operate for two consecutive days or more in one position.

(11) The area around the tail, corner, and haul back blocks, must be kept clear of all flammable debris under four inches in diameter for a distance of six feet in all directions. Suitable flame resistant blanket devices may be substituted for the clearing requirements. Each block must be equipped with one five gallon back pump can filled with water, one shovel and one Pulaski. Operations with multiple blocks must have this complement of tools and water within one hundred feet of each block.

(12) Any spark emitting engine used for purposes not specifically mentioned herein, which in the opinion of the department may cause a forest fire to start unless equipped with:

(a) An approved exhaust system.

(b) One fire extinguisher of at least a 5 B.C. rating.

(13) The department may designate certain areas which are known to have rapid fluctuations of extreme fire weather and/or concentrations of additional hazards. Operators in such areas may be required to monitor the humidity and/or the wind speed and maintain a daily log of such readings. Relative humidity readings and wind speed must be determined and recorded by instruments and methods approved by the department.

The department may further request operators in such areas to restrict operations when, in the opinion of the department, the recorded readings or current conditions are such that if a fire starts in that area it would probably spread to conflagration proportions regardless of men and equipment available for initial fire suppression purposes. [Order 272, § 332-24-057, filed 1/24/77; Order 255, § 332-24-057, filed 5/13/76; Order 181, § 332-24-057, filed 3/21/74.]

WAC 332-24-058 Substitutions and reduction of requirements. The department may accept serviceable

equivalents to any of the requirements in these regulations. Such substitutions must be made in writing by the supervisor or his agent.

The department may by written permission reduce the requirements set forth herein whenever in its judgment the operation is of such type or location and/or weather is such that all the requirements herein are not needed for the protection of life and property. [Order 181, § 332-24-058, filed 3/21/74.]

WAC 332-24-059 Penalties for violation—Work stoppage notice. Any person, firm or corporation who willfully violates these regulations shall by authority of RCW 76.04.120 be guilty of a misdemeanor, and by authority of RCW 76.04.270 shall cease operations upon written notification until the provisions have been complied with and be subject to, upon conviction, a fine of not less than twenty-five dollars and more than five hundred dollars. [Order 181, § 332-24-059, filed 3/21/74.]

WAC 332-24-060 Definitions. The following definitions are applicable to this Resolution:

(1) "Outdoor Fire" shall mean the combustion of material in the open or in a container with no provisions for the control of such combustion or the control of the emissions from the combustion products.

(2) "Yard Debris Disposal Fire" shall mean an outdoor fire for the prevention of a fire hazard and/or for the purpose of cleanup of natural vegetation, such as yard and garden refuse and residue of a natural character such as leaves, clippings, prunings, trees, stumps, shrubbery and wood so long as it has not been treated by an application of prohibited material or substances.

(3) "Recreational Fire" shall mean an outdoor fire for the purpose of sport, pastime, or refreshment, such as camp fires, bonfires, cooking fires, etc.

(4) "Fire Hazard" shall mean the accumulation of combustible materials in such a condition as to be readily ignited and in such a quantity as to create a hazard from fire to nearby structures, forest areas, life and property; or the operation of poorly maintained or faulty equipment or an improper or imprudent logging practice which may cause said ignition. [Order 169, § 332-24-060, filed 8/7/73; Order 126, § 332-24-060, filed 11/17/71; Order 59, § 332-24-060, filed 7/29/70; Order 16, § 332-24-060, filed 2/25/69.]

WAC 332-24-061 U.S. Forest Service entry rules. The following rules will be in effect and enforced on all lands within the boundaries of the Gifford-Pinchot, Mt. Baker-Snoqualmie, Okanogan, Olympic, Umatilla, Wentachee and Colville National Forests in this state.

(1) Smoking is prohibited while traveling in timber, brush or grass areas except in vehicles on roads.

(2) Going or being upon any of the lands within said national forests, except at designated and posted forest camps, with automobiles, other vehicles or pack horses, with the intention of camping thereon, is prohibited unless each vehicle or pack train is equipped with the following fire fighting tools:

(a) One axe not less than 26 inches in length overall, with head weighing 2 pounds or over.

(b) One shovel not less than 36 inches in length overall, with blade not less than 8 inches wide.

(c) One water container, capacity one gallon or more.

(3) These rules and regulations shall be in effect during the period of July 1 to October 31 of this and each succeeding year. [Order 256, § 332-24-061, filed 5/13/76. Formerly WAC 332-48-050.]

WAC 332-24-063 Burning permit requirements. Under authority granted in RCW 76.04.020 and RCW 76.04.150, the following regulation is hereby promulgated:

The Commissioner of Public Lands and the Department of Natural Resources are responsible by law for the granting of burning permits for certain types of burning, and

The Department of Natural Resources aids in the protection of air quality under its smoke management plan,

Pursuant to its authority and responsibility, the Department of Natural Resources has studied and determined the effects of such burning on life, property and air quality to be of year-round effect,

IT IS THEREFORE DETERMINED that throughout the year, all outdoor burning of inflammable material is prohibited within any county of this state in which there is a warden or ranger unless prior written permission is obtained from the Department of Natural Resources, any authorized employee thereof, or a warden or a ranger and afterwards complying with the terms of such permit.

EXCEPT in certain areas designated by the Department of Natural Resources or otherwise exempted by promulgated rules and regulations. Anyone meeting the conditions of WAC 332-24-065, WAC 332-24-070, and WAC 332-24-090 may burn inflammable material without first obtaining permission in writing from the Department of Natural Resources. [Order 181, § 332-24-063, filed 3/21/74.]

WAC 332-24-065 No burning permit required—Small outdoor fires. Persons may have a small outdoor fire as specified in WAC 332-24-090 for recreational purposes or yard debris disposal without a written burning permit on state lands and other lands under the protective jurisdiction of the Department of Natural Resources, provided the rules and regulations duly promulgated for fire control by the Department of Natural Resources are observed. A land owner's written permission must be obtained before building a fire on the property of another. [Order 169, § 332-24-065, filed 8/7/73.]

WAC 332-24-070 General rules. (1) The Department of Natural Resources reserves the right to restrict and/or regulate burning under RCW 76.04.150, 76.04.170, 76.04.180, and chapter 70.94 RCW due to extreme fire weather or to prevent restriction of visibility and excessive air pollution.

(2) The Yacolt Burn area (Zone D), located in portions of Clark and Skamania Counties, is exempt from these rules, and that area requires a written burning permit throughout the year.

(3) These rules do not apply within incorporated city limits or where the Department of Natural Resources has contracted protection areas to the fire district except where such fire districts have incorporated these rules into their regulations, or in fire districts which have their own fire permit requirements on improved land, or where air pollution authorities have prohibited fires that fall under these regulations.

(4) Persons burning under these rules are responsible for any claims arising out of activities performed, including claims resulting from fire, smoke or water.

(5) In Eastern Washington these rules apply October 16 through June 30, inclusive, and in Western Washington, year round, unless other dates are promulgated by the supervisor of the Department of Natural Resources. Written burning permits are required in Eastern Washington for all outdoor fires, including recreation and yard debris disposal fires from July 1 through October 15, inclusive. No written permit is required for fires contained in approved camp stoves and burning barrels in safe locations.

(6) No fire is permitted in or within 500 feet of logging slash without a written permit. [Order 169, § 332-24-070, filed 8/7/73; Order 126, § 332-24-070, filed 11/17/71; Order 16, § 332-24-070, filed 2/25/69.]

WAC 332-24-080 Burning permits—Recreation and debris fires on state and other lands under the jurisdiction of the Department of Natural Resources. Persons may have an outdoor fire for recreation purposes or household and yard debris disposal without a written fire permit on state and other lands under the jurisdiction of the Department of Natural Resources, provided the rules and regulations duly promulgated by the Department of Natural Resources under RCW 76.04.150, are observed. The landowner's written permission must be obtained before building a fire on the land of another. [Order 16, § 332-24-080, filed 2/25/69.]

WAC 332-24-090 Small outdoor fires for recreation and yard debris disposal—Requirements—Failure to comply. (1) The fire must not include rubber products, plastics, asphalt, garbage, dead animals, petroleum products, paints or any similar materials that emit dense smoke or create offensive odors when burned.

(2) A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

(3) A serviceable shovel and, at least, five gallons of water must be within the immediate vicinity of the fire during the period March 15 through October 15 in Western Washington and April 15 through June 30 in Eastern Washington.

(4) No fires are to be within fifty (50) feet of structures.

(5) For the period March 15 through October 15 in Western Washington and April 15 through June 30 in Eastern Washington, the material to be burned shall be

in hand built piles no more than four (4) feet in diameter and three (3) feet in height.

(6) For the period October 16 through March 14 in Western Washington and October 16 through April 14 in Eastern Washington, the material to be burned shall be in piles no more than ten (10) feet in diameter.

(7) Only one pile at a time may be burned and each pile must be extinguished before lighting another.

(8) The material to be burned must be placed on bare soil, gravel, bars, beaches, green fields, or other similar areas free of flammable material for a sufficient distance adequate to prevent the escape of the fire.

(9) Burning must be done during periods of calm to very light winds. Burning when the wind will scatter loose flammable materials, such as dry leaves and clippings, is prohibited.

(10) If the fire creates a nuisance from smoke or fly ash, it must be extinguished.

(11) Persons not able to meet the requirements (1-10) must apply for a written burning permit through the area office of the State of Washington, Department of Natural Resources.

A bucket may be substituted for the water requirement, if the burning is adjacent to an accessible body of water. A charged garden hose line or other adequate water supply capable of extinguishment of the fire may be substituted for the five gallon water requirement.

Failure to comply with these rules voids permission to burn and the person burning is in violation of RCW 76.04.150 and subject to the penalties therein. [Order 169, § 332-24-090, filed 8/7/73; Order 126, § 332-24-090, filed 11/17/71 and 3/8/72; Order 16, § 332-24-090, filed 2/25/69.]

WAC 332-24-100 Burning permits—Portions of Clark and Skamania counties. Under authority granted in RCW 76.04.150 and 76.04.020, the following regulation is hereby promulgated. Past experience has indicated that even during the period of October 15 to March 15 weather conditions periodically occur of such nature and duration that unregulated burning within the portions of Clark and Skamania counties lying within and immediately adjacent to the area known as the Yacolt Burn presents a very real and serious threat of forest fire within the Yacolt Burn. Therefore, the supervisor of forestry will require any individual, person, firm, or corporation wishing to burn inflammable material within this area specifically designated below, to first obtain permission in writing from the supervisor or a warden or ranger and thereafter comply with the terms of said permit unless said fire is contained in a suitable device sufficient in the opinion of the supervisor to prevent the fire from spreading. All of the rules and regulations applicable to the issuance of burning permits during the regular permit season of March 15 to October 15 shall be applicable. This promulgation shall be in effect for each year hereafter until such time as the supervisor deems it is no longer necessary.

The area encompassed within the boundaries of the Yacolt Burn for purposes of this promulgation are as follows:

Starting at the East quarter corner of Section 12, Twp. 5 North, Range 4 East, that point lying on the boundary of the Gifford Pinchot National Forest; thence West 1 mile; north 1/2 mile; west 2 miles, south 2 miles; west 1 mile; north 1 mile; west 1 mile; south 1 mile, west 2 miles to the southwest corner of Section 13, Twp. 5 North, Range 3 East; thence south 3 miles; east approximately 1/4 mile to the north quarter corner of Section 1, Twp. 4 North, Rge. 3 East; thence south 2 1/4 miles; westerly along the county road 1 1/2 miles; south 1/4 mile; to the east quarter corner of Section 15, Twp. 4 North, Range 3 East. Thence West 1 mile; south 2 1/2 miles; east 1 1/2 miles; south 6 miles; to the south quarter corner of Section 26, Twp. 3 North, Range 3 East, that point lying on the north boundary of the Camp Bonneville - U.S. Military Reservation. Thence East 1/2 mile; south 1 mile; east 1 mile; south 2 miles; east approximately 1 1/2 miles to the Little Washougal River; thence southwesterly approximately 2 1/4 miles along the Little Washougal River thence east along the Bonneville Power Line 5 miles; thence northeasterly along the county road to the northeast corner of Section 24, Twp. 2 North, Range 4 East. Thence north 1/2 mile to a Bonneville Power Line; thence east 1 mile to the West Fork of the Washougal River; thence southeasterly along said river to the East-West center line of Section 20, Twp. 2 North, Range 5 East and east along said center line to the East Quarter corner of said Section 20; thence south 1/2 mile to a Bonneville Power Line; east 9 1/2 miles; thence south to the Evergreen Highway in the approximate center of Section 25, Twp. 2 North, Range 6 East and along said highway in a northeasterly direction approximately 3 miles to the northwest city limits of North Bonneville; thence north to the Bonneville Power Line and northeasterly along it approximately 4 miles to where it intersects the north-south center line of Section 35, Twp. 3 North, Range 7 East; thence north approximately 2 3/4 miles to the center of Section 23, Twp. 3 North, Range 7 East; East 1 1/2 miles; south approximately 1/3 mile to the southwest corner of Section 24, Twp. 3 North, Range 7 1/2 East; thence East 1 mile; south 1 mile to the Bonneville Power Line; northeasterly along said power line to the east section line of Section 30, Twp. 3 North, Range 8 East, thence northerly to the northeast corner of Section 18, Twp. 3 North, Range 8 East; thence west 2 1/4 miles to the road running up from Carson Creek and westerly along said road through Section 12 along the south side of Sections 2 and 3, Twp. 3 North, Range 7 East. Thence southwesterly across Section 9 to the southwest corner of Section 9, Twp. 3 North, Range 7 East; thence west approximately 10 miles to the northwest corner of Section 14, Twp. 3 North, Range 5 East; south 1 mile; west 4 miles; north 13 1/2 miles to the point of beginning.

[Burning Permit Rule, effective 10/16/53.]

WAC 332-24-105 Exemptions from burning permit requirements—Parts of Clark and Wahkiakum Counties. (1) Pursuant to the authority of RCW 76.04.150 as amended by section 1, chapter 82, Laws of 1965, the parts of Clark and Wahkiakum Counties described in subsections 2 and 3 below are exempted from the requirements of RCW 76.04.150, as amended, and permits for the burning of inflammable material will not, from the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall affect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

(2) The following described parts of Clark County, Washington, are exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1) above:

All lands lying within the following described line:

(a) All lands west of Fire District No. 6 and the Vancouver city limits, and

(b) All lands west of the Burlington Northern Railroad main line from its intersection with N.W. 179th Street north to the Lewis River.

(3) The following described part of Wahkiakum County, Washington, is exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1) above:

Puget Island, which lies south and west of the town of Cathlamet.

[Order 169, § 332-24-105, filed 8/7/73.]

WAC 332-24-10501 Exemptions from burning permit requirements—Parts of Wahkiakum County. (1) Pursuant to the authority of RCW 76.04.150 as amended by section 1, chapter 82, Laws of 1965, the parts of Wahkiakum County described below are exempted from the requirements of RCW 76.04.150, as amended, and permits for the burning of inflammable material will not, from the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall effect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

(2) The following described parts of Wahkiakum County, Washington, are exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1) above:

The area between the cities of Skamokawa and Cathlamet south and west of State Highway No. 4 to the Columbia River, including Price and Hunting Islands.

[Order 234, § 332-24-10501, filed 8/12/75.]

WAC 332-24-10502 Exemptions from burning permit requirements—Parts of Okanogan County. (1) Pursuant to the authority of RCW 76.04.150 as amended by section 1, chapter 82, Laws of 1965, the parts of Okanogan County described below are exempted from the requirements of inflammable material will not, from

the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall effect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

(2) The following described parts of Okanogan County, Washington, are exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1) above:

All lands lying within the following described line:

Highlands (North Okanogan Valley)

Starting at the junction of the Canada-United States boundary and the north end of the Boundary Point Road thence southerly along the Boundary Point Road to U.S. Highway 97, southerly along U.S. 97 to the Tom Dull Road, southerly along the Tom Dull Road to 23rd Avenue, then West approximately 500 feet to the Oroville Tonasket reclamation district irrigation ditch, southerly along the ditch to the siphon across the Similkameen River, thence southerly along the siphon and/or ditch to the Gunsolley Road (Ellemehan Mt. Road), thence northeasterly along the Gunsolley Road to the Golden Road, then southerly along the Golden Road to the Janis Oroville westside road, then southerly along the Janis Oroville westside road to a point west of the south end of the Janis bridge on U.S. 97, then northerly along U.S. 97 to the McLoughlin Canyon Road, easterly along the McLoughlin Canyon Road to the State Frontage Road, then northerly along the State Frontage Road to the Clarkston Mill Road, then northerly along the Clarkston Mill Road to the Longnecker Road, thence northwesterly along the Longnecker Road to U.S. 97, then northerly along U.S. 97 to the city limits of Tonasket, then along the south, east and north boundary of the town of Tonasket to U.S. 97, then northerly along U.S. 97 to the O'Neil Road, then northerly along the O'Neil Road to U.S. 97, then northerly along U.S. 97 to the Eastside Oroville Road, then northerly along the Eastside Oroville Road to the northeast end of the Thorndike Loop Road, then west to the east shore of Osoyoos Lake, then northerly along the east shore of Osoyoos Lake to the Canadian-United States boundary, then west along the Canadian-United States boundary to the point of origin.

South Okanogan County

Beginning at the intersection of U.S. Highway 97 and State Highway 16, in the town of Peteros, thence proceeding Northerly along U.S. Highway 97 to the junction of Paradise Hill Road, within the town of Brewster, thence northerly along the Paradise Hill Road to the junction of the Paradise Hill Road and North Star-Paradise Hill Cutoff Road, located within the S-1/2 Section 35, T 31 N, R 24 East; thence northeast along the North Star-Paradise Hill Cutoff Road to the intersection at the North Star Road, thence South and East along the

North Star Road until it intersects with Old Highway 97; thence northerly along Old Highway 97 to the junction with the Malott Road within the town of Malott; thence North and East along the Malott Road to the junction of State Highway 20; thence Southeasterly along State Highway 20 to the junction of the Old Loop Loop Highway, thence east along the Old Loop Loop Highway into the town of Okanogan to the Junction of the Conconully Highway; thence north along Conconully Highway to the junction of Ross Canyon Road, thence east along Ross Canyon Road to the Junction of Johnson Creek Road, thence North along Johnson Creek Road to the junction of BIDE-A-WEE Road; thence east along BIDE-A-WEE Road to the junction of Old Highway 97; thence North along Old Highway 97 to the junction with the Pharr Road, within the town of Riverside, thence Northerly along the Pharr Road to a point on the North Line of Section 6, Township 35 North, Range 27 East; thence east along that Section line, across the Okanogan River to the Keystone Road, thence southerly along the Keystone Road to the Tunk Valley Road, thence Southerly along the Tunk Valley Road into the town of Riverside at a point where the Tunk Valley Road and the West bank of the Okanogan River intersect; thence South along the west bank of the Okanogan River to the Columbia River, thence southwesterly along the west bank of the Columbia River to the point of origin.

[Order 235, § 332-24-10502, filed 8/12/75.]

WAC 332-24-150 Exemptions from burning permit requirements. Pursuant to the authority of RCW 76.04.150, as amended by section 1, chapter 82, Laws of 1965, the parts of Asotin, Garfield, Columbia, and Walla Walla Counties described in sections 2, 3, 4, and 5, below, are exempted from the requirements of the said RCW 76.04.150, as amended, and permits for the burning of inflammable material will not, from the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall affect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

[Order 157, § 332-24-150, filed 4/2/73; Rule of 4/29/66.]

WAC 332-24-160 Exemptions from burning permit requirements—Parts of Asotin County. All parts of Asotin county, lying north of Township 9 North, or east of the following described line are exempt from the burning permit requirements of RCW 76.04.150, as amended, in accordance with WAC 332-24-150:

Beginning at a point on the border between the states of Washington and Oregon where the Grande Ronde River crosses said border in Section 13, Township 6 North, Range 43 East, W.M.; thence northeasterly along said river to the west line of Section 36, Township 7 North, Range 44 East,

W.M.; thence north to the southwest corner of Section 25, Township 7 North, Range 44 East, W.M.; thence east 1 mile, north 1 mile, east 3 miles, north 1 1/2 miles to the east quarter corner of Section 16, Township 7 North, Range 45 East, W.M., at Fields Spring State Park; thence east 2 miles, north 1/2 mile, west 1/2 mile, north 2 1/2 miles, to the center of Section 35, Township 8 North, Range 45 East, W.M.; thence west 1/2 mile, north 1/2 mile, west 1 mile, north 1/2 mile, west 1 mile, north 2 1/2 miles, west 4 miles to the southeast corner of Section 10, Township 8 North, Range 44 East, W.M.; thence north 1 mile, west 2 miles, north 7 miles, west 5 miles, to the northwest corner of Section 3, Township 9 North, Range 43 East, W.M. which is a point on the Garfield-Asotin county line.

[Rule of 4/29/66.]

WAC 332-24-170 Exemptions from burning permit requirements—Parts of Garfield County. All parts of Garfield county lying north of the following described line are exempt from the burning permit requirements of RCW 76.04.150, as amended, in accordance with WAC 332-24-150:

Beginning at the northeast corner of Section 4, Township 9 North, Range 43 East, W.M., which is a point on the Garfield-Asotin county line, thence west 2 miles, north 3 1/2 miles, west 4 miles, south 1/2 mile, west 2 miles, north 1/2 mile, west 1 mile, south 1/2 mile, to the northwest corner of Section 19, Township 10 North, Range 42 East, W.M., which is a point on the Garfield-Columbia county line.

[Rule of 4/29/66.]

WAC 332-24-180 Exemptions from burning permit requirements—Parts of Columbia County. All parts of Columbia county lying north of the following described line are exempt from the burning permit requirements of RCW 76.04.150, as amended, in accordance with WAC 332-24-150:

Beginning at the northeast corner of Section 24, Township 10 North, Range 41 East, W.M., which is a point on the Columbia-Garfield county line; thence west 1 mile, south 1/2 mile, west 1/2 mile, north 1 mile, west 3 miles, south 1 1/2 miles, to the

north quarter corner of Section 29, Township 10 North, Range 41 East, W.M.; thence west 6 1/2 miles, south 1 mile, east 1/2 mile, south 1/2 mile, east 1/2 mile, south 1 mile, west 2 miles, to the west quarter corner of Section 6, Township 9 North, Range 40 East, W.M.; thence south 3 1/2 miles, west 4 miles, south 1 mile, west 1 mile, south 1 mile, west 1 mile, to the northeast corner of Township 8 North, Range 38 East, W.M., which is a point on the Walla Walla-Columbia county line.

[Rule of 4/29/66.]

WAC 332-24-185 Exemptions from burning permit requirements—Parts of Cowlitz County. (1) Pursuant to the authority of RCW 76.04.150, as amended by section 1, chapter 82, Laws of 1965, the parts of Cowlitz County described in section 2 are exempted from the requirements of RCW 76.04.150, as amended, and permits for the burning of inflammable material will not, from the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall affect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

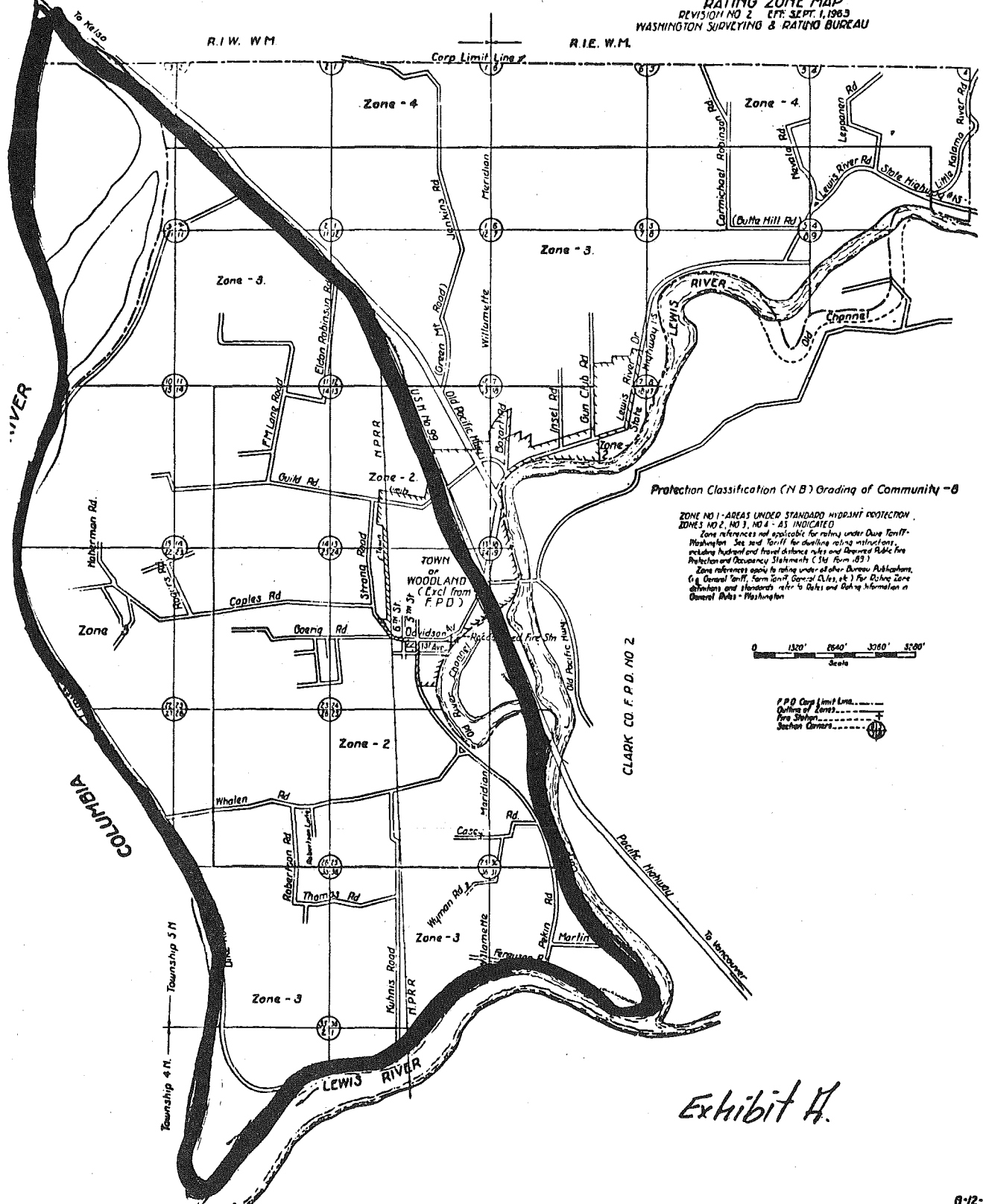
(2) The following described parts of Cowlitz County are exempt from the burning permit requirements of RCW 76.04.150, as amended, in accordance with WAC 332-24-200 Sec (1) [Codified WAC 332-24-185]:

An area consisting of all shorelands and uplands lying within the following described boundaries: Beginning at a point where interstate highway 5 intersects with the west line of section 34, township 6 north, range 1 west, W.M.; thence southeasterly along the west boundary of said interstate highway 5 to its junction with the Lewis River; thence southwesterly along the north bank of the Lewis River to its confluence with the Columbia River; thence northerly along the east bank of the Columbia River to the south tip of Burke Island; thence northerly along the west boundary of Burke Island to the southern tip of Martins Island; thence northerly along the west boundary of Martins Island to the north end thereof; thence northerly to the point of beginning.

[Order 157, § 332-24-185, filed 4/2/73; Order 16, § 332-24-200 (codified as WAC 332-24-185), filed 2/25/69.]

WAC 332-24-185001 Exhibit A—Map.

Sept. 30, 1963 (C.C. No. 21) Cowlitz Co. F.P.D. No. 1, Wash.
COWLITZ CO. FIRE PROTECTION DISTRICT NO. 1
RATING ZONE MAP
 REVISION NO. 2 EFF. SEPT. 1, 1963
 WASHINGTON SURVEYING & RATING BUREAU



Protection Classification (N.B.) Grading of Community - B

ZONE NO. 1 - AREAS UNDER STANDARD MIDNIGHT PROTECTION.
ZONES NO. 2, NO. 3, NO. 4 - AS INDICATED.
 Zone references not applicable for rating under Dune Tariff - Washington. See and Tariff for dwelling rating instructions, including hydrant and travel distance rules and Required Public Fire Protection and Occupancy Statements (SFD Form 103).
 Zone references apply to rating under other Bureau Publications, (e.g. General Tariff, Form 1001, General Rules, etc.) For Rating Zone distinctions and standards refer to Rules and Rating Information in General Rules - Washington.

Exhibit A.

[Order 16, § 332-24-185 (part), (codified as § 332-24-185001), Exhibit A—Map, filed 2/25/69.]

WAC 332-24-190 Exemptions from burning permit requirements—Parts of Walla Walla County. All parts [Title 332 WAC—p 40]

of Walla Walla County lying north and west of the following described line are exempt from the burning per-

mit requirements of RCW 76.04.150, as amended, in accordance with WAC 332-24-150:

Beginning at the northeast corner of Township 8 North, Range 38 East, W.M., which is a point on the Columbia-Walla Walla county line; thence west 1 mile, south 2 miles, west 2 miles, south 3 miles, west 1 mile, south 1 mile, to the southwest corner of Section 33, Township 8 North, Range 38 East, W.M.; thence south 1 1/2 miles, west 1 mile, south 2 1/2 miles, west 1/2 mile, south 1/4 mile, west 1/2 mile, south 1 3/4 miles, west 1 mile, south 1/4 mile, west 1 mile, south 3/4 miles, west 1 mile, south 1 1/2 miles to a point on the Washington-Oregon state boundary.

[Rule of 4/29/66.]

WAC 332-24-192 Exemptions from burning permit requirements—Parts of Snohomish County. (1) Pursuant to the authority of RCW 76.04.150, as amended by section 1, chapter 82, Laws of 1965, the parts of Snohomish County described in subsection (2), below, are exempted from the requirements of said RCW 76.04.150, as amended, and permits for the burning of inflammable material will not, from the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall affect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

(2) All parts of Snohomish County lying within the following described line are exempt from the burning permit requirements of RCW 76.04.150, as amended, in accordance with subsection (1), above:

Beginning at the point on the east boundary of the City of Everett, Snohomish County, Washington, at which the Hewitt Avenue Bridge intersects the east boundary, thence southerly along said east boundary to Lowell-Larimer's Corner Road (Bluff Road); thence southeasterly along said road to its point of intersection with the north line of section 36, township 28 north, range 5 east, W.M.; thence easterly along the said north line and along the north line of sections 31 and 32, township 28 north, range 6 east, W.M., to the point said north line intersects 127th Avenue (Lord's Hill Road), thence northerly one-half mile along said avenue to the Snohomish-Monroe Road; thence southeasterly along said road to 164th Street; thence easterly along said street to Primary State Highway No. 202; thence southeasterly along said highway to the Snoqualmie-King County Road; thence southeasterly along said road to the point of its intersection with the Snohomish-King County Line; thence easterly along said county line to the point of its intersection with Secondary State Highway No. 203 (Monroe-Duvall Highway); thence northerly along said highway to the boundary of the City of Monroe; thence northerly along said boundary to United States Highway No. 2; thence northwesterly along said highway to Roosevelt Road; thence northerly along said road to

159th Avenue (Zuber Road); thence northerly along said avenue to 99th Street (Westwick Road); thence westerly along said street to the southwest corner of section 15, township 28 north, range 6 east, W.M., and 147th Avenue (Jauntz and Nelson Road); thence northerly along said avenue to 68th Street (Three Lakes Road); thence easterly along said street to the east bank of the Pilchuck River; thence northerly along said east bank to a point due east of 52nd Street (Foss Road); thence westerly across said river and continuing westerly along said street to 87th Avenue (Fobes Cutoff Road); thence northerly along said avenue to its point of intersection with the north line of section 36, township 29 north, range 5 east, W.M.; thence westerly along the said north line and continuing along the north line of section 35, township 29 north, range 5 east, W.M., to its point of intersection with United States Highway No. 2; thence northwesterly along said highway to Hewitt Avenue East (Calaveros Corner); thence westerly along said avenue to the point of beginning.

[Order 157, § 332-24-192, filed 4/2/73; Docket 236, filed 7/20/66.]

WAC 332-24-194 Exemptions from burning permit requirements—Parts of Snohomish and Skagit Counties. (1) Pursuant to the authority of RCW 76.04.150 the parts of Snohomish and Skagit Counties, Washington, described in subsections (2) and (3) below, are exempted from the requirements of the said RCW 76.04.150, and permits, issued by the state Department of Natural Resources, for the burning of flammable material will not, from the effective date of this rule be required in such exempt parts: *Provided*, That nothing herein shall affect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

(2) The following described parts of Snohomish County, Washington, are exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1), above:

All lands lying within the following described line:

Beginning at the intersection of Secondary State Highway 1-E (Sign Route 530) with the Snohomish-Skagit County line, thence southerly along said Secondary State Highway 1-E to the point of intersection with 102nd Avenue Northwest, thence southerly along 102nd Avenue Northwest to the point of intersection with Lund Road, thence southeasterly along Lund Road to the Point of intersection with said Secondary State Highway 1-E, thence southeasterly on said Secondary State Highway 1-E to the point of its intersection with the Stillaguamish River, thence westerly along the south bank of the Stillaguamish River to the point of its intersection with Hat Slough and continuing westerly along the south bank of Hat Slough to the point of its intersection with the Stanwood Road, thence southerly along the Stanwood Road to the

south line of Section 6, Township 31 North, Range 4 East, W.M., thence west along the south line of said Section 6 and of Section 1, same township and range, to its intersection with the line of ordinary high tide in Port Susan Bay, thence northerly along the line of ordinary high tide of Port Susan Bay, Davis Slough, and Skagit Bay, to the Skagit-Snohomish line, thence east along the county line to the point of beginning.

(3) The following described parts of Skagit County, Washington, are exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1), above:

All lands enclosed within the following described line:

Beginning at a point on the Skagit-Snohomish County line, at its intersection with the Conway-Stanwood Highway (old U.S. Highway Alternate 99) thence northerly along the said Conway-Stanwood Highway to the old English Lumber Company railroad grade, thence east along said old railroad grade to the Hill Slough, thence northeasterly along the Hill Slough to the Hill Ditch, thence northerly along the Hill Ditch to Carpenter Creek, thence northerly along Carpenter Creek to the intersection of Hickox Road and Bacon Road, thence west along Hickox Road to the Blodgett Road, thence northerly along Blodgett Road to the Anderson Road, thence northeasterly through the Anderson Gully to the southeastern city limits of the City of Mount Vernon, thence easterly and northerly along the said city limits to the intersection of Francis Road, thence north along the west line of Section 9 and Section 4, Township 34 North, Range 4 East, W.M., to the north bank of the Skagit River, thence easterly along the north bank of the Skagit River to Township Street, thence north along Township Street to the city limits of the City of Sedro-Woolley, thence west and north along the said city limits of the City of Sedro-Woolley to the F and S Grade Road, thence northwesterly along the Grade Road to the Kelleher Road, thence westerly along the Kelleher Road to the Burlington-Alger Road (old U.S. Highway 99) thence due west to the Samish River, thence southwesterly along the south bank of the Samish River to the Great Northern Railroad right of way, thence northwesterly along the west boundary of the right of way of the Great Northern Railway to Samish Bay, thence southerly and westerly along the line of ordinary high tide of Samish Bay (excluding Samish Island) and Padilla Bay to the juncture of Padilla Bay and the north bank of the Joe Leary Slough, thence easterly up the north bank of the Joe Leary Slough to the Avon-Allen Road, thence southerly along the Avon-Allen Road to the Anacortes Branch Line of the Great Northern Railway, thence southwesterly along the northerly border of the Great Northern Railway right of way to Fredonia, thence northwesterly to the west quarter corner of Section 9, Township 34 North,

Range 3 East, W.M., thence north one-quarter mile, thence west one-half mile to the North Fork of Indian Slough, thence northwesterly along the northerly bank of Indian Slough to Padilla Bay, thence southwesterly along the line of ordinary high tide of Padilla Bay to the juncture of Swinomish Slough, thence southerly along the east bank of the Swinomish Slough to Skagit Bay, thence southeasterly along the line of ordinary high tide of Skagit Bay to the Skagit-Snohomish County line, thence east along the county line to the point of beginning at the Conway-Stanwood Road: EXCEPT, the following described parcel of lands within the foregoing described parcel of lands is not exempt from the burning permit requirements of the said RCW 76.04.150:

Beginning at a point on the north bank of the North Fork of the Skagit River where said bank is intersected by the west line of Section 8, Township 33 North, Range 3 East, W.M., thence easterly along the north bank of the said North Fork of the Skagit River to the point of intersection with the east line of Section 9, Township 33 North, Range 3 East, W.M., thence northwesterly along the westerly edge of the county road to the west quarter corner of Section 33, Township 34 North, Range 3 East, W.M., thence west one-quarter mile, thence south one and one-half miles, thence west three-quarter mile, thence south along the west line of Section 8, Township 33 North, Range 3 East, W.M., to the point of beginning.

[Order 157, § 332-24-194, filed 4/2/73; Docket 275, filed 5/29/67.]

WAC 332-24-196 Exemptions from burning permit requirements—Parts of Pacific and Grays Harbor Counties. (1) Pursuant to the authority of RCW 76.04.150 the parts of Pacific and Grays Harbor Counties, Washington, described in subsections (2) and (3) below, are exempted from the requirements of the said RCW 76.04.150, and permits, issued by the state Department of Natural Resources, for the burning of flammable material will not, from the effective date of this rule, be required in such exempt parts: *Provided*, That nothing herein shall affect the operation and effectiveness of the rules of the rural fire protection district and/or local air pollution control authority in which said lands are situated.

(2) The following described parts of Grays Harbor County, Washington, are exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1) above:

(a) A coastal strip of tidelands lying below and twenty feet seaward of the line of ordinary high tide as marked on the ground by the driftwood accumulation beginning at the south boundary of the Quinault Indian Reservation and running southerly to the south bank of the Copalis River.

(b) A coastal strip of uplands and tidelands lying to the west of Secondary State Highway 9C (Sign Route 109) as said public road is now located

and constructed beginning at the south bank of the Copalis River and running southerly to the junction of the said highway with the Grays Harbor County road to Oyhut.

(c) A coastal strip of uplands and tidelands lying to the west of the Grays Harbor County road to Oyhut as said public road is now located and constructed beginning at the junction of the said road with Secondary State Highway 9C (Sign Route 109) and running southerly to the north boundary of Grays Harbor County rural fire protection district No. 13, as said boundary is now located.

(d) All uplands and tidelands of the Oyhut Peninsula lying to the south of the said north boundary to Grays Harbor County rural fire protection district No. 13.

(e) All uplands and tidelands of the Westport Peninsula lying north of the south boundary of Grays Harbor County rural fire protection district No. 3, as said boundary is now located.

(f) A coastal strip of uplands and tidelands lying to the west of Secondary State Highway 13A (Sign Route 105) as said public road is now located and constructed beginning at the said south boundary of Grays Harbor County rural fire protection district No. 3 and running southerly to Grays Harbor-Pacific County line.

(3) The following described part of Pacific County, Washington, is exempt from the burning permit requirements of RCW 76.04.150 in accordance with subsection (1), above:

A coastal strip of tidelands lying below and seaward of the line of ordinary high tide as marked on the ground by the line of vegetation or the line of driftwood accumulation, whichever is at any point the lower, beginning at the Grays Harbor County-Pacific County line and running southerly and easterly to the west boundary of the Showwalter Indian Reservation.

[Order 157, § 332-24-196, filed 4/2/73; Docket 256, filed 10/28/66, 3/30/67.]

WAC 332-24-197 Burning permits—Extension of burning permit season. (1) Written burning permits will be required for the period 15 October to 15 April in Eastern Washington and the period 15 October to 15 March in Western Washington for fires set under any of the following conditions:

- (a) Broadcast burning of logged areas, or
- (b) Burning of logging landings, or
- (c) Burning of debris resulting from the scarification of forest lands, or
- (d) Burning of waste forest material resulting from the clearing of utility or public road rights-of-way that run through or adjacent to forested land, or
- (e) Burning of mill waste from forest products or any other material which has been transported to and dumped in concentrations on forested land.

(2) All outdoor fires within the Department of Natural Resources protection areas which are not herewith required to have a written burning permit shall not:

(a) Include rubber products, plastics, asphalt, garbage, dead animals, or any similar materials that emit dense smoke or create offensive odors when burned, or

(b) Cause visibility to be obscured on public roads and highways by the smoke from such fires, or

(c) Endanger life or property. [Order 130, § 332-24-197, filed 1/19/72, effective 2/23/72.]

WAC 332-24-200 Satisfactory clearance of slash. Unless a Certificate of Clearance evidencing satisfactory abatement of slash and forest debris resulting from logging or clearing operations has been issued at an earlier date by the Department of Natural Resources in accordance with RCW 76.04.230, the Department will, after January 1, 1967, consider slash and forest debris to have been satisfactorily abated under the conditions described in the following three sections. When such conditions have been met, the records of the Department will so reflect and no Certificate of Clearance will be issued. [Order 4, § 332-24-200, filed 3/1/68.]

WAC 332-24-210 Slash abatement west of the summit of the Cascade Mountains. In that portion of the state of Washington lying west of the summit of the Cascade Mountains and in that portion of Klickitat County lying west of the line between ranges 11 and 12 east of the Willamette Meridian, slash and forest debris will be considered to have been satisfactorily abated on October 1 of the 12th year following completion of the operation creating the slash and forest debris on any particular parcel of land unless the Department has prior to that October 1, as to any particular parcel, issued a notice to the responsible parties that the provisions of this rule do not apply to this particular parcel and setting a new date for termination of slash responsibility, or unless the slash and forest debris was generated from a stand of trees consisting of fifty per cent, or more, cedar by number of trees harvested or destroyed. [Order 4, § 332-24-210, filed 3/1/68.]

WAC 332-24-220 Slash clearance east of the summit of the Cascade Mountains. In that portion of the state of Washington lying east of the summit of the Cascade Mountains, excepting therefrom that portion of Klickitat County lying west of the line between ranges 11 and 12 east of the Willamette Meridian, slash and forest debris will be considered to have been satisfactorily abated on October 1 of the 7th year following completion of the operation creating the slash and forest debris on any particular parcel of land unless the Department has, prior to that October 1, as to any particular parcel, issued a notice to the responsible parties that the provisions of this rule do not apply to this particular parcel and setting a new date for termination of slash responsibility, or unless the slash and forest debris was generated from a stand of trees consisting of fifty per cent, or more, cedar by number of trees harvested or destroyed. [Order 4, § 332-24-220, filed 3/1/68.]

WAC 332-24-230 Payment to Certificate of Clearance Fund. Payment by owners or operators into the Certificate of Clearance Fund shall be calculated on the

basis of satisfactory abatement as appropriate for the area in which the slash and forest debris was generated. [Order 4, § 332-24-230, filed 3/1/68.]

WAC 332-24-250 Permanent closure of extra fire hazard regions—Portions of Clark and Skamania counties. The lands described in WAC 332-24-290 and 332-24-300, below, are particularly exposed to fire danger, constitute regions of extra fire hazard and are, except as provided herein, permanently closed to public access: *Provided*, That nothing herein shall prohibit industrial operations, public work, or access of permanent residents to their own property: *Provided further*, That no one so entering these closed regions of extra fire hazard shall use the area for such recreational purposes as are denied to the general public. [Docket 242, § 1, filed 9/9/66.]

WAC 332-24-260 Permanent closure of extra fire hazard regions—Gates, display of signs. Gates on roads and trails leading into these closed regions of extra fire hazard will, except as provided herein, be closed and the following sign will be displayed on each such road and trail:

Region of Extra Fire Hazard
CLOSED TO ENTRY

Except as provided by RCW 76.04.140

[Docket 242, § 2, filed 9/9/66.]

WAC 332-24-270 Permanent closure of extra fire hazard regions—Delegation of authority to issue notices. Authority to issue notices governing access by the public to these closed areas of extra fire hazard is delegated, with respect to lands under the management and control of the state of Washington, department of natural resources, to the department's district administrator, Vancouver district; and with respect to lands under the management and control of the United States of America, United States forest service, Gifford Pinchot national forest, to the forest supervisor. [Docket 242, § 3, filed 9/9/66.]

WAC 332-24-280 Permanent closure of extra fire hazard regions—Procedure for giving notice. When, in the opinion of the district administrator or of the forest supervisor of the Gifford Pinchot national forest, the fire hazard is sufficiently low on all, or part, of the lands under his jurisdiction to permit public access thereto, he will give public notice to that effect, specifying which lands are being opened and the date and time of opening, by issuing a news release to the newspapers of general circulation in the area and to radio and television stations serving the area. He will also cause the gates on roads and trails leading into the lands being made available to public access to be opened.

When conditions of fire hazard on the lands concerned are no longer sufficiently low to permit public access thereto, the district administrator or the Gifford Pinchot forest supervisor, as the case may be, will again give notice to the public to that effect, specifying which lands are being closed to public access and the date and

time of closing, by issuing a news release to newspapers of general circulation in the area and to radio and television stations serving the area. He will also cause the gates on roads and trails leading into the lands being closed to public access to be closed. [Docket 242, § 4, filed 9/9/66.]

WAC 332-24-290 Permanent closure of extra fire hazard regions—Description of closed region. Except as provided herein, all lands lying within the following described boundary are under the management and control of the state of Washington, department of natural resources, constitute a region of extra fire hazard, and, as provided in WAC 332-24-250, above, are permanently closed to public access:

Beginning at a point on the east boundary of Section 24, Township 4 North, Range 4 East, W.M., which is one-quarter mile south of the northeast corner thereof, thence west one-quarter mile thence south one-sixteenth mile, thence west one-quarter mile, thence north one-sixteenth mile, thence west one-half mile, thence south one-eighth mile, thence west one-quarter mile, thence south one-eighth mile, thence west one-half mile, thence south one-sixteenth mile, thence west one-eighth mile, thence south one-sixteenth mile, thence west one-eighth mile, thence south one-sixteenth mile, thence west one-half mile, thence south one-sixteenth mile, thence west three-quarters mile, thence north one-sixteenth mile, thence west one-quarter mile, thence north one-sixteenth mile, thence west one-half mile, thence north one-sixteenth mile, thence west one-quarter mile, thence north one-sixteenth mile, thence west one and three-quarters miles to the west quarter corner of Section 19, Township 4 North, Range 4 East, W.M.; thence north one-quarter mile, thence west one-quarter mile, thence north one-eighth mile, thence west one-eighth mile, thence north one-eighth mile, thence west one-sixteenth mile, thence north one-quarter mile, thence west one-sixteenth mile, thence north one-eighth mile, thence west one-eighth mile, thence north one-eighth mile, thence west three-sixteenths mile, thence south one-eighth mile, thence west three-sixteenths mile, thence south one-eighth mile, thence east three-sixteenths mile, thence south one-quarter mile, thence west two and three-sixteenths miles, thence south one-eighth mile, thence west one-eighth mile, thence south one-quarter mile, thence east one-eighth mile, thence south one-sixteenth mile, thence east one-quarter mile, thence south three-sixteenths mile, thence east three-eighths mile, thence south one-eighth mile, thence east one-eighth mile, thence south one-sixteenth mile, thence east three-sixteenths mile, thence south seven-sixteenths mile, thence west three-sixteenths mile, thence south one-quarter mile, thence west three-sixteenths mile, thence south one-quarter mile, thence east fifteen-sixteenths mile, thence south one-quarter mile, thence east one-quarter mile, thence south one-quarter mile, thence east one-quarter mile,

thence south three-quarters mile, to the southwest corner of Section 36, Township 4 North, Range 3 East, W.M. Thence west three-eighths mile, thence south one-eighths mile, thence east one-eighth mile, thence south one-half mile, thence west one-eighth mile, thence south three-eighths mile, thence west one-eighth mile, thence south one-quarter mile, thence west one-quarter mile, thence south one-half mile, thence west one-eighth mile, thence south one-quarter mile, thence east three-eighths mile, thence south seven-sixteenths mile, thence west one-quarter mile, thence south one-sixteenth mile, thence west one-quarter mile, thence south one-half mile, thence west one-eighth mile, thence south one-quarter mile, thence east one-eighth mile, thence south one-sixteenth mile, thence west one-quarter mile, thence south one-quarter mile, thence east one-half mile, thence south three-sixteenths mile, thence east one-quarter mile, thence south one-sixteenth mile, thence east seven-sixteenths mile, thence south three-sixteenths mile, thence east nine-sixteenths mile, thence south one-quarter mile, thence east one-sixteenth mile, thence south one-quarter mile, thence east one-sixteenth mile, thence south one-eighth mile, thence east one-eighth mile, thence south one-eighth mile, thence west one-sixteenth mile, thence south five-eighths mile, thence west three-sixteenths mile, thence south one-sixteenth mile, thence east one-quarter mile, thence south one-sixteenth mile, thence east one-quarter mile, thence east one-eighth mile, thence south three-sixteenths mile, thence west one-eighth mile, thence south one-sixteenth mile, thence west eleven-sixteenths mile, thence south three-sixteenths mile, thence east fifteen-sixteenths mile, to a point being one-sixteenth mile north of the southeast corner of Section 36, Township 3 North, Range 3 East, W.M. Thence east one mile, south one-sixteenth mile, thence west seven-eighths mile, thence south one-eighth mile, thence east one-quarter mile, thence south one-quarter mile, thence west one-eighth mile, thence south one-eighth mile, thence west three-sixteenths mile, thence south one-quarter mile, thence west seven-sixteenths mile, thence north one-eighth mile, thence west one-eighth mile, thence south one-eighth mile, thence west five-sixteenths mile, thence south one-quarter mile, thence west three-sixteenths mile, thence south one-sixteenth mile, thence east one-half mile, thence north one-sixteenth mile, thence east one-quarter mile, thence south one-eighth mile, thence east one-eighth mile, thence north one-eighth mile, thence east one-eighth mile, thence east one-eighth mile to the southeast corner of Section 1, Township 2 North, Range 3 East, W.M. Thence south one-quarter mile, thence east one-quarter mile, thence south one-sixteenth mile, thence east one-fourth mile, thence south one-sixteenth mile, thence east one-quarter mile, thence south one-eighth mile, thence east one-eighth mile, thence north one-eighth mile, thence east three-eighths mile, thence south one-eighth mile, thence east one-sixteenth mile, thence north one-quarter

mile, thence east seven-sixteenths mile, thence north one-eighth mile, thence east nine-sixteenths mile, thence south one-quarter mile, thence west one-sixteenth mile, thence south one-eighth mile, thence west one-eighth mile, thence south one-eighth mile, thence west one-eighth mile, thence south one-eighth mile, thence west one-eighth mile, thence south one-eighth mile, thence west one-sixteenth mile, thence south one-quarter mile, thence west one-sixteenth mile, thence south one-eighth mile, thence west one-eighth mile, thence south one-sixteenth mile, thence west one-quarter mile, thence south five-sixteenths mile, to the center of Section 17, Township 2 North, Range 4 East, W.M. Thence east one mile, thence south one-sixteenth mile, thence east two miles, thence north one-sixteenth mile, thence east one and one-half miles, to the east quarter corner of Section 13, Township 2 North, Range 4 East, W.M., thence easterly nine miles following the Bonneville Power Administration's power transmission line through Sections 18, 17, 16, 15, 14, and 13, Township 2 North, Range 5 East, W.M., and continuing easterly along said transmission line through Sections 18, 17, and 16, Township 2 North, Range 6 East, W.M. to the southeast corner of said Section 16. Thence easterly four miles to the southwest corner of Section 17, Township 2 North, Range 7 East, W.M., thence north two miles, east one mile, north two miles to the northeast corner of Section 32, Township 3 North, Range 7 East, W.M. Thence east one and one-half miles to the south quarter corner of Section 27, Township 3 North, Range 7 East, W.M. Thence north three-quarters mile, thence west one-half mile, thence north one-half mile, thence east one-half mile, thence south one-quarter mile, thence east one-half mile, thence north one mile, thence east two miles to the southeast corner of Section 13, Township 3 North, Range 7 East, W.M. Thence north approximately one and one-fourth miles to Stevenson Ridge Trail, and continuing northwesterly along said trail to its intersection with the line between Sections 2 and 3, Township 3 North, Range 7 East, W.M., thence north to the northeast corner of Section 3, Township 3 North, Range 7 East, W.M. Thence west twelve miles to the northeast corner of Section 3, Township 3 North, Range 5 East, W.M.; thence south three miles to the southeast corner of Section 15, Township 3 North, Range 5 East, W.M.; thence west four miles to the southeast corner of Section 13, Township 3 North, Range 4 East, W.M. Thence north along the boundary of the Gifford Pinchot national forest to the point of beginning.

The Camp Kwoneesum Area under the jurisdiction of the Portland Area Council, Camp Fire Girls of America, remains open to public access and for the conduct of activities authorized by the said council except that, in the event fire hazard becomes so severe as to require closure of the Camp Kwoneesum Area to public access and to Camp Fire Girl activities, the district administrator will give public notice of such closure in the same manner as provided in WAC 322-24-280, above. The Camp

Kwoneesum Area comprises land lying within the following described boundary:

Beginning at the northeast corner of Section 9, Township 2 North, Range 5 East, W.M., thence approximately two and one-fourth miles west to the northwest corner of the northeast quarter of the northeast quarter of Section 7, Township 2 North, Range 5 East, W.M.; thence south one-fourth mile, thence west one-fourth mile, thence south one-fourth mile, thence east one-fourth mile, thence south one-half mile to the east sixteenth corner of Sections 7 and 18, Township 2 North, Range 5 East, W.M.; thence east one-fourth mile to the southwest corner of Section 8, Township 2 North, Range 5 East, W.M.; thence south one-half mile to the west quarter corner of Section 17, Township 2 North, Range 5 East, W.M.; thence east one mile to the east quarter corner of Section 17, Township 2 North, Range 5 East, W.M.; thence north one mile to the west quarter corner of Section 9, Township 2 North, Range 5 East, W.M.; thence east one mile to the east quarter corner of Section 9, Township 2 North, Range 5 East, W.M.; thence north one-half mile to the northeast corner of Section 9, Township 2 North, Range 5 East, W.M., the point of beginning.

The following roads remain open to public use except that, in the event that fire hazard becomes so severe as to require closure to public use, the district administrator will give public notice of such closure in the same manner as provided in WAC 332-24-280 above:

Bear Prairie Entrance:

Beginning at that point where the road crosses the south line of the northwest quarter of Section 18, Township 2 North, Range 5 East, W.M., thence northerly on road VNW-1240 to its junction with road VNW-1200; thence along road VNW-1200 to the junction of road VNW-1200 F; thence southwesterly on road VNW-1200 F to the Camp Kwoneesum Camp Fire Girls Area.

Washougal River Entrance:

Beginning at a point where the road VNW-1000 crosses the south line of the northeast quarter, Section 15, Township 2 North, Range 5 East, W.M., thence along said road through its junctions with the road VNW-1200 and the road VNW-2000, and continuing on said road VNW-1000 to the Washougal Honor Camp in Skamania County, Washington.

Hockinson Entrance:

Beginning at a point where the road VNL-1400 crosses the boundary of the southwest quarter, Section 23, Township 3 North, Range 3 East, W.M., along said road to its junction with the road VNL-1000, thence northerly along said road to the Larch Mountain Honor Camp.

WAC 332-24-300 Permanent closure of extra fire hazard regions—Closed region—Gifford Pinchot national forest. All lands lying within the following described boundaries are under the management and control of the United States of America, United States forest service, Gifford Pinchot national forest, constitute regions of extra fire hazard, and, as provided in WAC 332-24-250 above, are permanently closed to public access:

Beginning at the southwest corner of Section 18, Township 3 North, Range 5 East, W.M.; thence north on the range line between Ranges 4 East and 5 East, approximately six miles to the Sunset Work Center; thence easterly along the south side of road N-420, to the crossing of Slide Creek; thence northerly approximately two and one-half miles along the west side of Slide Creek to the top of the divide between Slide Creek and Big Rock Creek; thence southeasterly along the divide to Gumboot Mountain; thence east approximately one mile along the ridgeline; thence south along the ridge to Tatoosh Saddle and the junction of roads N-449 and N-503; thence easterly along the south side of road N-503 to Road N-413; thence easterly along the south side of Road N-413 to Cougar Rock; thence southerly along the south side of road N-63 to the southwest corner of Section 16, Township 4 North, Range 6 East, W.M.; thence east approximately three-fourths mile to road N-417; thence easterly along the south side of road N-417 to the section line between Sections 23 and 24, Township 4 North, Range 6 East, W.M.; thence south along said section line to road N-412 A; thence west along the north side of road N-412 A to Mowich Butte; thence west, south and east around the rim of Mowich Butte back to road N-412 A; thence southeasterly along the south side of road N-412 A to the southwest corner of Section 25, Township 4 North, Range 6 East, W.M.; thence south one mile to the southwest corner of Section 36, Township 4 North, Range 6 East, W.M.; thence west seven miles to the southwest corner of Section 35, Township 4 North, Range 5 East, W.M.; thence south three miles to the southeast corner of Section 15, Township 3 North, Range 5 East, W.M.; thence west four miles to the southwest corner of Section 18, Township 3 North, Range 5 East, W.M., being the point of beginning; also

Beginning at the northwest corner of Section 18, Township 5 North, Range 5 East, W.M.; thence southeasterly along the east bank of Big Rock Creek, approximately two and one-half miles to its tributary in Section 29, Township 5 North, Range 5 East, W.M.; thence south approximately three-fourths mile along said tributary to the switchback on road N-503; thence southwesterly along the north side of road N-503 to the ridgetop between the forks of Fly Creek; thence southwesterly along the ridge to the range line between Ranges 4 and 5 east, W.M.; thence north along said range line to the northwest corner of Section 18, Township 5

[Docket 242, § 5, filed 9/9/66.]

North, Range 5 East, W.M., being the point of beginning.

[Docket 242, § 6, filed 9/9/66.]

WAC 332-24-310 Rules requiring use of approved spark arresters on railroad locomotives. Increasing incidents of fires on forest lands, many of which are ignited by particles from the exhaust systems of railroad locomotives, necessitates the promulgation of the following rules and regulations pertaining to the use of approved spark arresters on railroad locomotives. [Order 30, § 332-24-310, filed 8/7/70, 8/11/70, 8/19/70.]

WAC 332-24-320 Definitions. The following definitions are applicable to section 1, chapter 172, Laws of 1929, (RCW 9.40.040); section 6, chapter 125, Laws of 1911, (RCW 76.04.070); section 15, chapter 125, Laws of 1911, (RCW 76.04.280); and to these rules and regulations.

(1) "Railroad" shall mean any common carrier railroad or logging railroad.

(2) "Spark Arrester" shall mean a device constructed of nonflammable material specifically designed for the purpose of removing and retaining at least 80 percent of the carbon and other flammable particles greater than 0.0232 of an inch in diameter from the exhaust flow of an internal combustion railroad locomotive engine.

(3) "Forest Land" shall mean any land which has enough timber, standing or down, or inflammable material, to constitute a fire menace to life or property, including but not limited to grass and sagebrush when adjacent to or intermingled with areas supporting tree growth or other inflammable material.

(4) "Director" shall mean the Commissioner of Public Lands. [Order 30, § 332-24-320, filed 8/7/70, 8/11/70, 8/19/70.]

WAC 332-24-330 General rules. (1) Every company or corporation shall install and maintain, on all railroad equipment using internal combustion engines as a source of power, a spark arrester approved by the director, when such equipment is operating through forest land or lands over which fire may spread to forest lands from April 15 - October 15 of each year, unless the period is extended by the Supervisor.

(2) This rule does not apply to a locomotive with a properly functioning turbocharger.

(3) The Commissioner may allow substitutions or modifications by written permission whenever in his judgment such are warranted. [Order 30, § 332-24-330, filed 8/7/70, 8/11/70, 8/19/70.]

WAC 332-24-340 Penalties. Each violation of these rules and regulations shall constitute a misdemeanor. Where violations occur in more than one county, violations in each county shall constitute a separate offense. Further, each day of operation shall constitute a separate offense. [Order 30, § 332-24-340, filed 8/7/70, 8/11/70, 8/19/70.]

WAC 332-24-350 Extension of time for removal of distressed timber. The Commissioner of Public Lands

may grant an extension of time for removal of all timber, fallen timber, or other valuable material, for all existing timber sales where the applicant requires such extension because he is engaged in the removal of distressed timber or fallen timber in timber areas declared officially distressed because of the extensive area of damage by order of the Commissioner of Public Lands, whether such purchases or contracts to remove such distressed timber or fallen timber are on state, federal, or private lands, *Provided, however,* The Commissioner of Public Lands finds extension is necessary to preserve the value of and to protect state owned timber.

The Commissioner of Public Lands may on all timber purchases made prior to August 11, 1969, grant such an extension of time on payment of the amount of \$1.00 per acre per annum, not to be less than \$10.00 per annum for the extension.

The Commissioner of Public Lands may on all timber purchases or sales made after August 11, 1969, grant such extensions upon payment of the amount of \$50.00 per annum and may further dispense with the requirement of interest on the unpaid portion of the state contract if the commissioner determines it is necessary to protect and preserve the value of state owned timber. [Order 70, § 332-24-350, filed 10/21/70.]

WAC 332-24-360 Promulgation. Pursuant to chapter 207, Laws of 1971, RCW 76.04.370, the Department of Natural Resources promulgates the following rules and regulations, WAC 332-24-360 through 332-24-412, regulating and defining areas of extreme fire hazard requiring measures for abatement, isolation or reduction. [Order 274, § 332-24-360, filed 4/8/77; Order 126, § 332-24-360, filed 12/19/72.]

WAC 332-24-370 Definitions. The definitions contained in RCW 76.04.010 shall apply to WAC 332-24-360 through 332-24-412, except where stated to the contrary or where the context clearly requires a different meaning. The following additional definitions will also apply:

(1) **Contiguous area** shall mean those areas of additional fire hazard which are not (1) separated one from the other by a natural barrier or constructed barrier as provided in the definition of isolation, or (2) separated one from the other by areas not comprising an additional fire hazard of a width at the narrowest point of at least 300 feet.

(2) **Isolation** shall mean the division or separation of an additional fire hazard into compartments by natural barriers, such as streams or ridge tops and/or a constructed barrier, but in no instance shall the fire barrier be less than 100 feet in width at its narrowest point and must be free and clear of forest debris as defined in RCW 76.04.010. As an alternative, the owner(s) and/or person(s) responsible, may implement a plan of increased protection, which has received prior written approval of the Department for the specific location.

(3) **Reduction** shall mean the elimination of that amount of additional fire hazard necessary to produce a remaining average volume of forest debris no greater

than 9 tons per acre of material 3 inches in diameter and less.

(4) **Abatement** shall mean the elimination of additional fire hazard by burning, physical removal, or other means. [Order 274, § 332-24-370, filed 4/8/77; Order 126, § 332-24-370, filed 12/19/72.]

WAC 332-24-380 Extreme fire hazard requiring abatement. An extreme fire hazard requiring abatement shall exist under the following conditions:

(1) An additional fire hazard within a distance of 100 feet from the closest edge of the running surface of any State or Federal highway, county road or railroad.

(2) An additional fire hazard within a distance of 100 feet from the closest edge of the running surface of any other road, as hereinafter defined, that is generally open to and frequently used by the public during periods of fire danger. For the purpose of these rules and regulations, the term "other road" shall be defined as those roads owned or controlled by private individuals, partnerships, or corporations, or by public agencies, including without limitation the Department or the United States Forest Service, and which provide the principal access during periods of fire danger (Class 111 days or higher as measured by the National Fire Danger Rating System) where normal use is 75 vehicles or more per week to geographic features of significant public interest and use such as lakes, streams, established viewpoints, lava tubes, ice caves, features of unique geological interest, recreational parks and developments or other facilities intended for frequent public use.

(3) An additional fire hazard within a distance of 200 feet and up to a maximum of 500 feet, if required in writing by the Department, which is adjacent to public campgrounds, school grounds, other areas of frequent concentrated public use, buildings in use as residences (furnished and being occupied or available for immediate occupancy), and other buildings or structures valued at \$1,000.00 or more, which are not owned by the owner of the land upon which such additional fire hazard exists.

(4) The Department may identify other specific areas of additional fire hazard, of comparable high risk of ignition, and/or a threat to life and property, and upon written notification, require abatement. [Order 274, § 332-24-380, filed 4/8/77; Order 126, § 332-24-380, filed 12/19/72.]

WAC 332-24-385 Extreme fire hazard requiring isolation or reduction. Extreme fire hazard requiring isolation or reduction shall exist when there are contiguous areas of additional fire hazard having an origin of less than five years and so arranged that their unisolated compartments comprise 800 acres or more regardless of ownership or logging pattern and its composition comprises an average tonnage greater than nine (9) tons per acre of material three (3) inches or less in diameter with the following exceptions:

(1) When the material is 50% or more Douglas fir by volume, the time of origin considered shall be less than eight (8) years.

(2) When the material is 50% or more Cedar by volume, the time of origin considered shall be less than twenty (20) years.

The Department may identify areas comprising 800 acres or more of additional fire hazard extending beyond these limitations of time, with comparable high hazard and/or a threat to life or property and upon written notification, require isolation or reduction. [Order 274, § 332-24-385, filed 4/8/77.]

WAC 332-24-387 Responsibility. The owner(s) and/or person(s) responsible for the existence of an extreme fire hazard requiring abatement as defined in WAC 332-24-380, shall abate the extreme fire hazard. The owner(s) and/or person(s) responsible for the existence of an extreme fire hazard, as defined in WAC 332-24-385, shall isolate and/or reduce the extreme fire hazard, so that it no longer constitutes an extreme fire hazard. The obligation to abate, isolate and/or reduce extreme fire hazards defined in WAC 332-24-380 and 332-24-385 shall extend equally to all acreages of the extreme fire hazard regardless of the number of owner(s) and/or person(s) responsible for its existence. Isolation, when used, must be maintained for a period of 8 years from creation of the additional fire hazard unless the extreme fire hazard is otherwise eliminated prior to that time. At the option of the owner(s) and/or person(s) responsible, isolation and/or reduction may be performed in any manner consistent with existing statutes, these regulations, or as approved in writing by the Department. [Order 274, § 332-24-387, filed 4/8/77.]

WAC 332-24-390 Pre-existing hazards. For the purpose of these rules and regulations, the term "additional fire hazard" shall be limited to such hazards created subsequent to January 1, 1969: *Provided*, That pre-existing hazards, resulting from operations in stands which contained by gross volume, 50% or more of cedar shall have a 20-year limitation as to time. With respect to any such pre-existing hazards, the owner(s) and/or person(s) responsible may request, and the Department may approve of alternatives to abating, isolating or reducing such hazard in lieu of the requirements set forth in WAC 332-24-380, 332-24-387. The effective date of these rules will be July 1, 1977. [Order 274, § 332-24-390, filed 4/8/77; Order 126, § 332-24-390, filed 12/19/72.]

WAC 332-24-395 Compliance. When, in the opinion of the Department, the owner(s) and/or person(s) responsible have refused, neglected, or failed to abate the extreme fire hazard, as required in WAC 332-24-380, or to isolate or reduce an extreme fire hazard as required in WAC 332-24-385, the Department shall notify in writing the affected owner(s) and/or person(s) responsible that the condition exists. This notice will contain one or more suggested methods of abatement, isolation or reduction and the estimated cost thereof. The owner(s) and/or person(s) responsible, upon receipt of such notice, may arrange for a meeting with the Department to occur within 30 days to discuss conditions and procedures to abate, isolate or reduce the area of

additional fire hazard to a condition where it will no longer constitute an extreme fire hazard. [Order 274, § 332-24-395, filed 4/8/77.]

WAC 332-24-410 Recovery of costs. If the owner(s) and/or person(s) responsible for the extreme fire hazard fails, for any reason, to arrange for the meeting, or refuses, neglects, or fails to abate, isolate or reduce the extreme fire hazard within the time-frame recommended by the Department at the meeting, the Department may, following 10 days' notice to the owner(s) and/or person(s) responsible, summarily cause it to be abated, isolated or reduced, except that broadcast burning shall not be used by the Department as an abatement procedure without prior written consent of all the owner(s) and/or person(s) responsible. This summary action may be taken 10 days after notice as required by RCW 76.04.370. Obligations for recovery of costs incurred by the Department shall be in accordance with RCW 76.04.370 and shall be prorated by the Department to the owner(s) and/or person(s) responsible for the extreme fire hazard on the ratio of their acres of involvement to the total acres involved. [Order 274, § 332-24-410, filed 4/8/77; Order 126, § 332-24-410, filed 12/19/72.]

WAC 332-24-412 Approved isolation, reduction or abatement. The owner(s) and/or person(s) responsible for an extreme fire hazard may identify, in writing, the procedures, or the natural or other processes which were taken to abate, isolate, or reduce the extreme fire hazard, and request the Department to declare, in writing, whether the area does or does not constitute an extreme hazard. Absence of such a request on the part of the owner(s) and/or person(s) responsible for an extreme fire hazard will not prejudice his defense in the event of a fire. [Order 274, § 332-24-412, filed 4/8/77.]

WAC 332-24-415 Dumping mill waste, forest debris. Purpose. The purpose of these rules is to set forth when dumping of mill waste from forest products or forest debris of any kind in such amounts or locations will constitute a forest fire hazard requiring a permit under chapter 134, Laws of 1971, ex. sess., RCW 76.04.242; to promulgate a permit system and to provide for issuance of permits on certain terms and conditions protecting forest lands from fire. The permit system outlines terms and conditions for the purpose of eliminating a forest fire hazard caused by dumping. [Order 169, § 332-24-400, codified as § 332-24-415, filed 8/7/73.]

WAC 332-24-418 Definitions. The following definitions are applicable to this resolution:

- (1) "Person" shall mean any person, firm corporation, private or governmental agency or entity.
- (2) "Dump" shall include, without limitation, dumping, depositing or placing.
- (3) "Forest Lands" shall mean forest lands as defined in RCW 76.04.010.
- (4) "Forest Debris" shall mean forest slashings, choppings and any other vegetative residue from activities on forest lands.

(5) "Mill Waste" shall mean waste of all kinds from forest products, including, but not limited to, sawdust, bark, chips, slabs, and cuttings from lumber or timber. [Order 169, § 332-24-410, codified as § 332-24-418, filed 8/7/73.]

WAC 332-24-420 Creation of fire hazard—Dumping. Forest debris or mill waste when dumped in the following manner on or near forest lands shall constitute a forest fire hazard and require a dumping permit.

- (1) Piles of fifty cubic yards or more, or
- (2) Two or more piles totalling fifty cubic yards or more, less than three hundred feet apart, or
- (3) A pile less than three hundred feet from a pile placed by another where such piles would total fifty cubic yards or more, or
- (4) When dumped adjacent to piles of fifty cubic yards or more which were in existence before August 9, 1971, or
- (5) When dumped in smaller quantities or greater distances than above when such dumpings are likely to support, intensify or further the spread of fire, thereby threatening forest lands and endangering life or property:

Provided, That forest debris accumulated on forest lands from logging or silvicultural activities on the land on which such activities took place, or activities regulated by RCW 76.04.310, shall not be subject to the permit requirements of these rules except when forest debris accumulated on land clearing or right-of-way projects regulated by RCW 76.04.310 is taken from such areas and dumped. [Order 169, § 332-24-420, filed 8/7/73.]

WAC 332-24-430 Fire hazard dumping permits. No person shall dump or cause to be dumped a forest fire hazard on or threatening forest lands without first obtaining a written permit from the Department of Natural Resources, except that in the case of (5) above, the Department of Natural Resources may notify the appropriate persons, and such person or persons shall be required to obtain a permit for the continued existence of the dumping of such fire hazard. This permit is required to insure that such dumping does not create a forest fire hazard and outlines required terms and conditions to eliminate or abate any forest fire hazard that may be created by dumping.

Anyone desiring to dump mill waste from forest products or forest debris may make application to the Department of Natural Resources or authorized employees thereof for a permit to do so. The application shall state the location, approximate quantity and description of material to be dumped and a map illustrating the proposed dump site and by whom the dumping is to be done.

Upon receipt of an application, the Department of Natural Resources will inspect the area described in the application. The Department in issuing a permit may impose reasonable terms and conditions in such permits to prevent the creation of a forest fire hazard.

A permit shall be effective only under the conditions and for the period stated therein. Compliance with the

terms of the permit shall create a presumption of due care with respect to dumping. [Order 169, § 332-24-430, filed 8/7/73.]

WAC 332-24-440 Illegal dumping—Enforcement penalties. (a) "This permit valid only if permittee has legal authority to dump on described property. Dumping material requiring a permit under RCW 76.04.242 without a permit, or in violation of the permit, shall be a gross misdemeanor. Permittee must obtain any and all other permits required by law."

(b) The Department shall have the authority to rescind this permit upon failure to comply with any of its terms. [Order 169, § 332-24-440, filed 8/7/73.]

Chapter 332-26 WAC

EMERGENCY AND SHORT TERM RULES

Reviser's Note: The department of Natural Resources frequently promulgates regulations of a temporary or emergency nature relating to forest closures due to fire conditions, insect infestation control districts and other special matters concerning the industry. Such regulations are filed and may be inspected at the office of the Code Reviser, Legislative building, Olympia, but because of their transitory nature they are (on authority of RCW 34.04.050(3)) omitted from this code. Copies thereof may be procured from the director of Natural Resources, Public Lands building, Olympia.

Chapter 332-28 WAC

HARBOR LINE COMMISSION

WAC

332-28-010 Meydenbauer Bay—Harbor area—Line of navigability.

WAC 332-28-010 Meydenbauer Bay—Harbor area—Line of navigability. (1) This resolution has application to that portion of Meydenbauer Bay on Lake Washington lying southeasterly of a line formed by the extension southwesterly of the southeasterly line of S. E. Bellevue Place, Bellevue, Washington, and the extension northeasterly of the northwesterly line of Lot 39, Shorelands, according to plat recorded in volume 330 of plats at page 8, records of King County, Washington.

(2) That portion of Meydenbauer Bay above described lies within, in front of or within one mile of the corporate limits of the city of Bellevue, Washington, but the commission finds that there presently exists no necessity to reserve any part thereof for landings, wharves, streets and other conveniences of navigation and commerce, and for this reason declines to establish harbor area therein.

(3) The following described line lying within the above described portion of Meydenbauer Bay, to wit:

Commencing at the east quarter section corner of Section 31, Township 25 North, Range 5 East, W.M., whose "X" Coordinate is 1,661,520.58 and whose "Y" Coordinate is 225,661.29 referred to the Washington Coordinate System, North Zone, and running thence on an azimuth of 78°51'17" a distance of 963.76 feet to a point whose "X" Coordinate is 1,660,575.00 and whose "Y" Coordinate is 225,475.00 referred to said coordinate system; thence on an azimuth of 312°06'17" a distance

of 420.00 feet to a point hereinafter referred to as Point "A"; thence on an azimuth of 2°21'10" to an intersection with the Southwesterly extension of the Southeasterly margin of S. E. Bellevue Place, said intersection being the true point of beginning of this line description.

Thence continuing on an azimuth of 2°21'10" to a point 167.66 feet distance from said Point "A"; thence on an azimuth of 312°06'17" a distance of 415.00 feet, thence on an azimuth of 37°24'19" a distance of 125.00 feet and thence on an azimuth of 127°24'19" to an intersection with the Northeasterly extension of the Northwesterly line of Lot 39, Shorelands as recorded in vol. 33 of plats, page 8, records of King County, Washington, said point of intersection being the terminus of this line description, has been established by the superior court for King County in cause No. 513081, entitled *Grill v. Meydenbauer Bay Yacht Club*, to be the boundary line between privately owned shorelands and the publicly owned lake bed. The commission confirms, approves, ratifies and adopts the line so located and established, or as it may be changed and relocated by decree of the supreme court of this state in appeal of the above cause, as the line of navigability in said portion of Meydenbauer Bay. In the event said supreme court shall decree in said appeal that the courts of this state have no jurisdiction to locate and establish the line of navigability, then the above described line shall be and is hereby adopted as the line of navigability in said portion of Meydenbauer Bay.

(4) In the event that the establishment of harbor area within the above described portion of Meydenbauer Bay should become necessary at some time in the future, such harbor area shall be restricted exclusively to lands publicly owned and no part thereof shall be established upon privately owned shorelands. [Resolution 1, filed 8/16/60.]

Chapter 332-32 WAC

INSECT AND WORM CONTROL

WAC

332-32-010 Spruce budworm—Klickitat and Yakima counties.
332-32-020 Hemlock looper—Pacific and Wahkiakum counties.
332-32-030 European pine shoot moth—Walla Walla county.

WAC 332-32-010 Spruce budworm—Klickitat and Yakima counties. Be it resolved by the board of natural resources, department of natural resources, state of Washington: . . . (1) The board declares and certifies an infestation control district be established for the control, destruction, and eradication of said insect in Klickitat and Yakima counties, to be known as Simcoe Butte Infestation Control District No. 3, and shall include lands within the following boundary:

Those portions of Township 6 North, Range 14 East, W.M., Townships 5, 6, and 7 North, Range 15 East, W.M., and Townships 5 and 6 North, Ranges 16 and 17 East, W.M., included in a tract described as follows:

Beginning at the northeast corner of Section 25, Township 7 North, Range 15 East, W.M., and running thence westerly along the north lines of Sections 25, 26,

27, 28, and 29, Township 7 North, Range 15 East, W.M., to the northwest corner of said Section 29, thence southerly along the west lines of Sections 29 and 32, Township 7 North, Range 15 East, W.M., to the north line of Section 6, Township 6 North, Range 15 East, W.M., thence easterly along said north line to the northeast corner of said Section 6, thence southerly along the east line of said Section 6 to the southeast corner thereof, thence westerly along the south line of said Section 6 and the north line of Section 12, Township 6 North, Range 14 East, W.M., to the northwest corner of said Section 12, thence southerly along the west line of said Section 12 to the southwest corner thereof, thence westerly along the north lines of Sections 14 and 15, Township 6 North, Range 14 East, W.M., to the northwest corner of said Section 15, thence southerly along the west lines of Sections 15, 22, 27, and 34, Township 6 North, Range 14 East, W.M., to the southwest corner of said Section 34, thence easterly along the south lines of Sections 34, 35, and 36, Township 6 North, Range 14 East, W.M., to the southeast corner of said Section 36, thence continue easterly along the south lines of Sections 31 and 32, Township 6 North, Range 15 East, W.M., to the northwest corner of Section 4, Township 5 North, Range 15 East, W.M., thence southerly along the west lines of Sections 4 and 9, Township 5 North, Range 15 East, W.M., to the southwest corner of said Section 9, thence easterly along the south line of said Section 9 to the southeast corner thereof, thence southerly along the west lines of Sections 15 and 22, Township 5 North, Range 15 East, W.M., to the southwest corner of said Section 22, thence easterly along the south lines of Sections 22, 23, and 24, Township 5 North, Range 15 East, W.M., to the southeast corner of said Section 24, thence continue easterly along the south lines of Sections 19, 20, 21, 22, 23, and 24, Township 5 North, Range 16 East, W.M., to the southeast corner of said Section 24, thence continue easterly along the south line of Section 19, Township 5 North, Range 17 East, W.M., to the southeast corner of said Section 19, thence northerly along the east lines of Sections 19, 18, 7, and 6, to the northeast corner of said Section 6, thence continue northerly along the east lines of Sections 31, 30, and 19, Township 6 North, Range 17 East, W.M., to the northeast corner of said Section 19, thence westerly along the north line of said Section 19 to the northwest corner thereof, thence continue westerly along the north lines of Sections 24, 23, 22, 21, and 20, Township 6 North, Range 16 East, W.M., to the northwest corner of said Section 20, thence northerly along the east line of Section 18, Township 6 North, Range 16 East, W.M., to the northeast corner thereof, thence westerly along the north line of said Section 18 to the northwest corner thereof, thence along the east lines of Sections 12 and 1, Township 6 North, Range 15 East, W.M., to the northeast corner of said Section 1, and thence continue northerly along the east lines of Sections 36 and 25, Township 7 North, Range 15 East, W.M., to the northeast corner of said Section 25 and the point of beginning, containing an area of 81,272.49 acres according to the government surveys thereof.

(2) The administrator of the department of natural resources is directed to serve notice upon all owners of timber lands or their agents (in the manner prescribed by law) to proceed without delay to control, destroy and eradicate the spruce budworm (*choristoneura fumiferana*) by spraying DDT insecticide on the forests infested or threatened with infection by this insect pest.

(3) If within 30 days after notice has been given as prescribed in subsection 2 of this resolution, an owner or agent shall fail, refuse, neglect or is unable to comply with the terms thereof, the administrator of the department of natural resources shall proceed with the control, eradication, and destruction of the spruce budworm (*choristoneura fumiferana*), with or without the cooperation of the owner, by aerial spraying with DDT the forests infected or threatened with infection by this insect pest.

(4) The Simcoe Butte infestation control district shall remain in effect until the board of natural resources has determined that the insect control work within said district is no longer necessary or feasible, whereupon the board of natural resources may by resolution dissolve the district. [Resolution 29, filed 1/12/62.]

WAC 332-32-020 Hemlock looper—Pacific and Wahkiakum counties. Be it resolved by the board of natural resources, department of natural resources, state of Washington: . . . (1) The board declares and certifies an infestation control district be established for the control, destruction, and eradication of said insect in Pacific and Wahkiakum Counties, to be known as Willapa infestation control district No. 4, and shall include lands within the following boundary:

Those portions of Townships 9 North in Ranges 7, 8, 9, and 10 West, W.M., lying north of the Columbia River; All of Townships 10 North, in Ranges 7, 8, 9, and 10 West, W.M.; Sections 1, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36, Township 10 North, Range 11 West, W.M.; All of Townships 11 North in Ranges 7, 8, 9, and 10 West, W.M.; Those portions of Township 11 North, Range 11 West, W.M., located on Long Island In Willapa Bay; All of Townships 12 North in Ranges 8, 9, and 10 West, W.M.; Those portions of Township 12 North, Range 11 West, W.M., located on Long Island; and All of Townships 13 North in Ranges 8, 9, and 10 West, W.M.

(2) The administrator of the department of natural resources is directed to serve notice upon all owners of timber lands or their agents (in the manner prescribed by law) to proceed without delay to control, destroy, and eradicate the hemlock looper (*lambdina fiscellaria lugubrosa* hult) by spraying DDT or other insecticides approved by the administrator of the department of natural resources on the forests infested or threatened with infection by this insect pest.

(3) If within 30 days after notice has been given as prescribed in subsection 2 of this resolution, an owner or agent shall fail, refuse, neglect, or is unable to comply with the terms thereof, the administrator of the department of natural resources shall proceed, as prescribed, with the control, eradication, and destruction of the

hemlock looper (*lambda fiscellaria lugubrosa* hulst), with or without the cooperation of the owner.

(4) The Willapa infestation control district No. 4 shall remain in effect until the board of natural resources has determined that the insect control work within said district is no longer necessary or feasible, whereupon the board of natural resources may by resolution dissolve the district. [Resolution 37, filed 3/6/63.]

WAC 332-32-030 European pine shoot moth—Walla Walla county. (1) The Board declares and certifies an infestation control district be established for the control, destruction, and eradication of European Pine Shoot Moth (*Rhyacionia buoliana* (Schiff.)) in Walla Walla County, to be known as the Walla Walla Infestation Control District, and shall include all the lands within said county.

(2) The administrator of the Department of Natural Resources is directed to serve notice upon all owners of timber lands or their agents (in the manner prescribed by law) to proceed without delay to control, destroy, and eradicate the European Pine Shoot Moth by fumigating or by destroying each infested tree or shrub.

(3) If within thirty days after notice has been given as prescribed in subsection (2) of this section, an owner or agent shall fail, refuse, neglect, or is unable to comply with the terms thereof, the administrator of the Department of Natural Resources shall proceed, as prescribed, with the control, eradication, and destruction of the European Pine Shoot Moth, with or without the cooperation of the owner.

(4) The Walla Walla Infestation Control District shall remain in effect until the Board of Natural Resources has determined that the insect control work within said district is no longer necessary or feasible, whereupon the Board of Natural Resources may by resolution dissolve the district. [Order 5, § 332-32-030, filed 3/8/68.]

land management roads, under the jurisdiction and control of the department of natural resources.

(2) All roads now existing or hereinafter constructed on lands owned by the state of Washington under the jurisdiction of the department of natural resources, which roads are presently or hereinafter shall come under the jurisdiction or control of any individual, public or private corporation, the United States, or state or agency or subdivision thereof other than the department of natural resources, and which roads are thereafter conveyed to, abandoned, forfeited, or otherwise returned to the jurisdiction of or received by the department of natural resources, shall be designated and included as a part of state land management roads under the jurisdiction and control of the department of natural resources.

(3) All roads hereinafter constructed by the department of natural resources, or constructed in conjunction with the sale of timber or other valuable material located on the lands under the jurisdiction of the department of natural resources, shall be designated and included as a part of state land management roads under the jurisdiction and control of the department of natural resources.

(4) Whenever the department of natural resources finds that the use of any roads which make up a part of the said state land management roads by parties other than the department of natural resources will not unreasonably interfere with the department's needs, the department shall upon request by said parties authorize use of the roads described in subsections (1), (2), and (3) of this resolution. Said land management roads shall be under the jurisdiction and control of the department of natural resources, and any use thereof as hereinbefore authorized, shall be subject to the rules and regulations as prescribed by said agency.

(5) The department of natural resources is directed to accomplish all requirements necessary to carry out the policy contained in this resolution. [Resolution 35, filed 10/16/62.]

Chapter 332-36 WAC

ROAD RULES ON STATE OWNED LANDS

WAC

332-36-010 State land management roads.

WAC 332-36-010 State land management roads. Be it resolved (1) All roads now existing on lands owned by the state of Washington under the jurisdiction of the department of natural resources, which roads are not presently under the jurisdiction or control of any individual, public or private corporation, the United States, or the state or agency or subdivision thereof other than the department of natural resources, or which roads are not presently the subject of an application to the department of natural resources for a right of way under RCW 79.01.332 or 79.36.290, made prior in time to an application made by the department of natural resources, by an individual, public or private corporation, the United States, or the state or an agency or subdivision thereof other than the department of natural resources, are designated, and included, as a part of state

Chapter 332-40 WAC

GUIDELINES INTERPRETING AND IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

WAC

- 332-40-010 Authority.
- 332-40-020 Purpose.
- 332-40-025 Scope and coverage of this chapter.
- 332-40-030 Integration of SEPA procedures with other department operations.
- 332-40-035 Statute of limitations.
- 332-40-037 SEPA public information center.
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- 332-40-045 Responsible official.
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- 332-40-100 Summary of information which may be required of a private applicant.
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- 332-40-175 Exemptions and nonexemptions applicable to specific state agencies.
- 332-40-177 Environmentally sensitive areas.
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- 332-40-230 Lead agency designation—Specific proposals.
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- 332-40-580 Preparation of the final EIS—Contents—When critical comments received on the draft EIS.
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- 332-40-650 Effect of an adequate final EIS prepared pursuant to NEPA.
- 332-40-652 Supplementation by the department of an inadequate final NEPA EIS.
- 332-40-660 Use of previously prepared EIS for a different proposed action.
- 332-40-690 Use of another lead agency's EIS by the department for the same proposal.
- 332-40-695 Draft and final supplements to a revised EIS.
- 332-40-700 EIS combined with existing planning and review processes.
- 332-40-800 Amendments to this chapter.
- 332-40-830 SEPA public information center.
- 332-40-835 Regional SEPA public information centers.
- 332-40-840 Application of agency guidelines to ongoing actions.
- 332-40-910 Severability.

WAC 332-40-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 43.21C.110 and chapter 197-10 WAC. [Order 259, § 332-40-010, filed 6/10/76; Order 257, § 332-40-010, filed 5/21/76.]

WAC 332-40-020 Purpose. (1) The purpose of this chapter is to establish the Department of Natural Resources rules interpreting and implementing the state environmental policy act of 1971 (SEPA) and the SEPA guidelines chapter 197-10 WAC.

(2) These guidelines were developed to establish methods and means of implementing SEPA "in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act".

(3) These guidelines are not intended to govern department compliance with respect to the national environmental policy act of 1969 (NEPA). When the department is required to perform some element of compliance with NEPA, such compliance will be governed by the applicable federal statute and regulations and not by these guidelines. [Order 259, § 332-40-020, filed 6/10/76; Order 257, § 332-40-020, filed 5/21/76.]

WAC 332-40-025 Scope and coverage of this chapter. (1) It is the intent of the department that compliance with the guidelines of this chapter shall constitute complete procedural compliance with SEPA for any "action" as defined in WAC 332-40-040(2). [Order 259, § 332-40-025, filed 6/10/76; Order 257, § 332-40-025, filed 5/21/76.]

WAC 332-40-030 Integration of SEPA procedures with other department operations. (1) The department policy is to fully consider the potential environmental significance of proposed actions during the decision making process.

(2) To the fullest extent possible, the procedures required by these rules shall be integrated with existing planning and licensing procedures utilized by the department. The department will attempt to utilize these

procedures early in the decision-making process and will use these procedures in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication of effort. [Order 259, § 332-40-030, filed 6/10/76; Order 257, § 332-40-030, filed 5/21/76.]

WAC 332-40-035 Statute of limitations. The responsible official or the applicant may utilize the procedures of RCW 43.21C.080, 43.21C.085, 43.21C.087, for any governmental action, thus limiting the time period in which the department can be challenged for noncompliance with SEPA. [Order 259, § 332-40-035, filed 6/10/76; Order 257, § 332-40-035, filed 5/21/76.]

WAC 332-40-037 SEPA public information center. (1) The department's SEPA Public Information Center shall be located in the reception area, Room 201, Second Floor of the Public Lands Building in Olympia, Washington. [Order 259, § 332-40-037, filed 6/10/76; Order 257, § 332-40-037, filed 5/21/76.]

WAC 332-40-040 Definitions. The following words and terms have the following meanings for the purposes of this chapter, unless the context indicates otherwise:

(1) Acting Agency. Acting agency means an agency with jurisdiction which has received an application for a license, or which is the initiator of a proposed action.

(2) Action. Action means an activity potentially subject to the environmental impact statement requirements of RCW 43.21C.030(2)(c) and (2)(d). [See the provisions of WAC 332-40-170, 332-40-175 and 332-40-180 for activities that are exempted from the threshold determination and environmental impact statement requirements of SEPA and these guidelines, due to CEP's determination that such activities are minor, not "major", actions, even though such activities are within one of the subcategories below.] All actions fall within one of the following subcategories:

(a) Governmental licensing.

(b) Governmental action of a project nature. This includes and is limited to:

(i) the decision by an agency to undertake any activity which will directly modify the physical environment, whether such activity will be undertaken directly by the agency or through contract with another, and

(ii) the decision to purchase, sell, lease, transfer or exchange natural resources, including publicly owned land, whether or not it directly modifies the environment.

(c) Governmental action of a nonproject nature. This includes and is limited to:

(i) the adoption or amendment of legislation, ordinances, rules or regulations which contain standards controlling use or modification of the physical environment;

(ii) the adoption or amendment of comprehensive land use plans or zoning ordinances;

(iii) the adoption of any policy, plan or program which will govern the development of a series of functionally related major actions, but not including any

policy, plan or program for which approval must be obtained from any federal agency prior to implementation;

(iv) creation of, or annexations to, any city, town or district;

(v) adoptions or approvals of utility, transportation and solid waste disposal rates;

(vi) capital budgets; and

(vii) road, street and highway plans.

(3) Agencies with Expertise. Agencies with expertise means those agencies to which a draft environmental impact statement shall be sent pursuant to WAC 332-40-465, unless they are also agencies with jurisdiction.

(4) Agencies with Jurisdiction. Agencies with jurisdiction means those agencies from which a nonexempt license is required for a proposal or any part thereof, or which will act upon an application for a grant or loan for a proposal, or agencies which are proposing or initiating any governmental action of a project or nonproject nature. The term does not include those agencies authorized to adopt rules or standards of general applicability which govern the proposal in question, when no license or approval is required for specific proposals; nor does the term include agencies, involved in approving grants or loans, which serve only as conduits between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are instrumentalities of the federal government from which a license is required, or which will receive an application for a grant or loan for a proposal.

(5) Agency or Agencies. Agency or agencies mean all state agencies and local agencies as defined in this section. The term does not include any agency or division of the federal government. Whenever a specific agency has been named in these guidelines and the functions of that agency have been transferred to another agency, then the term shall mean such successor agency.

(6) Area Manager - Area Manager means the individual responsible for the administration of a geographical field unit, as designated by the organization plan of DNR.

(7) CEP. CEP means the council on environmental policy which is an independent body established by the legislature in 1974 and will cease to exist on July 1, 1976. After July 1, 1976 C.E.P. will mean the Department of Ecology.

(8) Chief Deputy Supervisor. Chief Deputy Supervisor means the principle assistant to the Supervisor of the Department.

(9) Commissioner - Commissioner means the Commissioner of Public Lands who is the Administrator of the Department of Natural Resources as established by chapter 43 RCW.

(10) Consulted Agency. Consulted agency means any agency with jurisdiction or with expertise which is consulted, or from which information is requested by a lead agency during the threshold determination, predraft consultation, or consultation on a draft environmental impact statement.

(11) County/City. County/city means a county, city or town. For the purposes of this chapter, duties and powers are assigned to a county, city or town as a unit, with the delegation of responsibilities among the various

departments of a county, city or town being left to the legislative or charter authority of the individual counties, cities or towns.

(12) Declaration of Nonsignificance. Declaration of nonsignificance means the written decision by the responsible official of the lead agency that a proposal will not have a significant adverse environmental impact and that therefore no environmental impact statement is required. A form substantially consistent with that in WAC 332-40-355 shall be used for this declaration.

(13) Declaration of Significance. Declaration of significance means the written decision by the responsible official of the lead agency that a proposal will or could have a significant adverse environmental impact and that therefore an environmental impact statement is required. A form substantially consistent with that in WAC 332-40-355 shall be used for this declaration.

(14) Department, department means the Department of Natural Resources.

(15) Deputy Supervisor. Deputy Supervisor means one of three individuals subordinate to the Supervisor and Chief Deputy Supervisor and responsible for a specific functional part of the department activities, i.e., governmental, proprietary and services.

(16) Division Supervisor. Division Supervisor means the supervisor responsible for a specific functional staff unit, located in Olympia.

(17) Draft EIS. Draft EIS means an environmental impact statement prepared prior to the final detailed statement.

(18) EIS. EIS means the detailed statement required by RCW 43.21C.030(2)(c). It may refer to either a draft or final environmental impact statement, or both, depending upon context.

(19) Environment. Environment means, and is limited to, those areas listed in WAC 332-40-444.

(20) Environmental Checklist. Environmental checklist means the department's form number RES 30-1802 (REV) (5-76).

(21) Environmental Coordinator. Environmental Coordinator means the department supervisor's designee responsible for coordinating the department's duties and functions under the State Environmental Policy Act and chapter 197-10 WAC.

(22) Environmental Document. Environmental document means every written public document prepared or utilized as a result of the requirements of this chapter.

(23) Environmentally Sensitive Area. Environmentally sensitive area means an area designated and mapped by a county/city pursuant to WAC 332-40-177, and within which certain categorical exemptions do not apply.

(24) Final EIS. Final EIS means an environmental impact statement prepared after review of draft EIS comments. It may consist of a new document, or of the draft EIS together with supplementary material prepared pursuant to WAC 332-40-570, 332-40-580 or 332-40-695.

(25) Lands Covered by Water. Lands covered by water means lands underlying the water areas of the state, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded

waters, marshes and swamps. Certain categorical exemptions do not apply to lands covered by water.

(26) Lead Agency. Lead agency means the agency designated by the provisions of WAC 332-40-200 through 332-40-270 or 332-40-345, which is responsible for making the threshold determination and preparing or supervising preparation of the draft and final environmental impact statements.

(27) License. License means any form of written permission given to any person, organization or agency to engage in any activity, as required by law or agency rule. A license thus includes the whole or part of any agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular project; a license required solely for revenue purposes is not included.

(28) Licensing. Licensing means the agency process in granting, renewing or modifying a license.

(29) List of Elements of the Environment. List of elements of the environment means the list contained in WAC 332-40-444 which must be attached to every environmental impact statement.

(30) Local Agency. Local agency means any political subdivision, regional governmental unit, district, municipal or public corporation including cities, towns and counties. The term does not include the departments of a city or county.

(31) Major Action. Major action means any "action" as defined in this section which is not exempted by WAC 332-40-170, 332-40-175 and 332-40-180.

(32) Nonexempt License. Nonexempt license means any license not exempt from the threshold determination requirements.

(33) Nonproject EIS. Nonproject EIS means an environmental impact statement prepared for a proposal for any governmental action of a nonproject nature as defined under "action" in this section.

(34) Physical Environment. Physical environment means and is limited to those elements of the environment listed under "physical environment" in WAC 332-40-444(2).

(35) Private Applicant. Private applicant means any person or entity, other than an agency as defined in this section, applying for a license from an agency.

(36) Private Project. Private project means any proposal for which the primary initiator or sponsor is an individual or entity other than an "agency" as defined in this section.

(37) Proposal. Proposal means a specific request to undertake any activity submitted to, and which is seriously considered by, an agency or a decision-maker within an agency, as well as any action or activity which may result from approval of any such request. Further definition of the scope of a proposal for the purposes of lead agency determination, the threshold determination, and impact statement preparation is contained in WAC 332-40-060.

(38) Responsible Official. Responsible official means that officer or officers, committee, department or section of the lead agency designated by the lead agency's guidelines to undertake its responsibilities as a lead agency (see WAC 332-40-045 and 332-40-305).

(39) SEPA. SEPA means the state environmental policy act of 1971 chapter 43.21C RCW, as amended.

(40) Supervisor – Supervisor means supervisor of the Department of Natural Resources as defined by RCW 43.30.060.

(41) State Agency. State Agency means any state board, commission or department except those in the legislative or judicial branches. The term includes the office of the governor and the various divisions thereof, state universities, colleges and community colleges.

(42) Threshold Determination. Threshold determination means the decision by a lead agency whether or not an environmental impact statement is required for a proposal. [Order 259, § 332-40-040, filed 6/10/76; Order 257, § 332-40-040, filed 5/21/76.]

WAC 332-40-045 Responsible official. The responsible official for the department shall be designated according to the procedures outlined in WAC 332-40-305; Provided, when the Natural Resources Board reviews the decisions of the Commissioner or Supervisor or their staff, the Natural Resources Board shall also review the applicable checklist and threshold determination prepared by the responsible official.

Moreover, the Natural Resources Board shall be considered the responsible official for any action taken by the Harbor Line Commission or for any other major action initiated by the Natural Resources Board. [Order 259, § 332-40-045, filed 6/10/76; Order 257, § 332-40-045, filed 5/21/76.]

WAC 332-40-050 Use of the environmental checklist form. The environmental checklist available at the department's SEPA information center will be completed for all major actions as a part of the threshold determination procedure and lead agency identification. However, where there is an agreement between the proponent of a nonexempt action (whether a private applicant or an agency which is not the lead agency) and the lead agency that an EIS is required, the completion of the environmental checklist is unnecessary. Where the action proponent and the lead agency are the same entity, and a decision to prepare an EIS has been made, then no checklist is required. Division Supervisors and Area Managers may require, at their discretion, a completion of the environmental checklist for actions which are not major actions in order to identify areas of possible environmental effect, for planning and decision making purposes, to identify possible alternatives and areas of public interest and concern. [Order 259, § 332-40-050, filed 6/10/76; Order 257, § 332-40-050, filed 5/21/76.]

WAC 332-40-055 Timing of the EIS process. (1) The department shall integrate SEPA into its normal processes in such a way that no undue delays are caused by SEPA compliance. The purposes of SEPA are best served by consideration of environmental factors early in the preplanning stages.

(2) The primary purpose of the EIS process is to provide environmental information to governmental decision makers to be considered prior to making their decision.

The process should thus be completed before the decisions of an agency commit it to a particular course of action. The actual decision to proceed with many actions may involve a series of individual approvals or decisions. The threshold determination and the EIS, if required, should ideally be completed at the beginning of this process. In many cases, however, preliminary decisions must be made upon a proposal before the proposal is sufficiently definite to permit meaningful environmental analysis. The department should require completion of the threshold determination and EIS, if required, at the earliest point in the planning and decision making process when the principal features of a proposal and its impacts upon the environment can be reliably identified.

(3) At a minimum, the threshold determination and any required EIS shall be completed prior to undertaking any proposed major action.

(4) When a proposed major action is a proposal for either a governmental action of a project nature or a governmental action of a nonproject nature, and the department is the proponent of the major action and is also the lead agency, then the maximum time limits contained in these guidelines for the threshold determination and EIS process need not apply to the proposal.

(5) The environmental checklist should normally be completed when an application is found to be nonexempt. In order to conserve time and avoid misunderstandings, the department's contact person should make the "action" and "exemption" determinations and assist the applicant in completing the checklist. If exempt status is questionable, a checklist should be completed and the environmental coordinator consulted.

(6) In most cases the time required to complete a threshold determination should not exceed fifteen days. The initial review of a completed environmental checklist can usually be completed in a matter of hours. If further information is required to make the threshold determination, the time required will vary, depending upon the nature of the proposal and the information required. When a threshold determination is expected to require more than fifteen days to complete and a private applicant requests notification of the date when a threshold determination will be made, the responsible official shall transmit to the private applicant a written statement as to the expected date of decision.

(7) The department, when it is a consulted agency, shall have a maximum of thirty-five days from the date of listing of the proposal in the "EIS Available Register" in which to review the draft and forward its comments and information with respect thereto to the lead agency. If the department is a consulted agency with jurisdiction and requires additional time to develop and complete new data on the proposal, a fifteen day extension may be granted by the lead agency. Extensions may not be granted for any other purpose.

(8) There shall be allowed a period of thirty-five days from the date of the listing of the proposal in the "EIS Available Register" for the public to forward to the department any comments upon or substantive information related to the proposal and the draft EIS.

(9) The department shall prepare a final EIS within seventy-five days of the listing of the proposal in the

"EIS Available Register." The department may extend the time period whenever the proposal is unusually large in scope, or the environmental impact associated with the proposal is unusually complex.

(10) The department shall not take any final action on a project for which an EIS has been required, prior to seven days from the issuance of the final EIS and its listing in the "EIS Available Register" maintained at the department's SEPA information center. When appropriate, the responsible official may actively attempt to solicit opinions on the final EIS from citizens and agencies prior to the first major decision. [Order 259, § 332-40-055, filed 6/10/76; Order 257, § 332-40-055, filed 5/21/76.]

WAC 332-40-060 Scope of a proposal and its impacts for the purposes of lead agency determination, threshold determination, and EIS preparation. (1) The proposal considered by the department during the lead agency determination procedure, and by the department during the threshold determination and EIS preparation, shall be the total proposal including its direct and indirect impacts. Whenever the word "proposal" or the term "proposed action" is used in this chapter, the discussion in subsection (2) hereof is applicable. In considering the environmental impacts of a proposal during the threshold determination and EIS preparation, the discussion in subsection (3) hereof is applicable.

(2) The total proposal is the proposed action, together with all proposed activity which is functionally related to it. Future activities are functionally related to the present proposal if:

(a) The future activity is an expansion of the present proposal, facilitates operation of the present proposal or is necessary thereto; or

(b) The present proposal facilitates or is a necessary prerequisite to future activities.

The scope of the proposal is not limited by the jurisdiction of the department. The fact that future impacts of a proposal will require future governmental approvals shall not be a bar to their present consideration, so long as the plans for those future elements are sufficiently specific to allow some evaluation of their potential environmental impacts. The department should be alert to the possibility that a proposal may involve other agencies with jurisdiction which may not be taking any action until sometime in the future.

(3) The impacts of a proposal include its direct impacts as well as its reasonably anticipated indirect impacts. Indirect impacts are those which result from any activity which is induced by a proposal. These include, but are not limited to, consideration of impacts resulting from growth induced by the proposal, or the likelihood that the present action will serve as a precedent for future actions. Contemporaneous or subsequent development of a similar nature, however, need not be considered in the threshold determination unless there will be some causal connection between such development and one or more of the governmental decisions necessary for the proposal in question.

(4) Proposals involving extensive future actions may be divided, at the option of the department, into segments with an EIS prepared for each segment. In such event, the earlier EIS shall describe the later segments of the proposal and note that future environmental analysis will be required for these future segments. The segmentation allowed by this subsection shall not be applied at the threshold determination to determine that any segment of a more extensive significant proposal is insignificant; nor shall segmentation be applied so as to require significant duplication of analysis contained in an earlier EIS.

(5) For proposed projects, such as highways, streets, pipelines or utility lines or systems where the proposed action is related to a large existing or planned network, the department may at its option treat the present proposal as the total proposal, or select only some of the future elements for present consideration in the threshold determination and EIS. These categorizations shall be logical with relation to the design of the total system or network itself, and shall not be made merely to divide a larger system into exempted fragments. [Order 259, § 332-40-060, filed 6/10/76; Order 257, § 332-40-060, filed 5/21/76.]

WAC 332-40-100 Summary of information which may be required of a private applicant. (1) There are three areas of these guidelines where the department may require information from a private applicant. These are:

- (a) Environmental checklist;
- (b) Threshold determination; and,
- (c) Draft and final EIS.

The responsible official may determine that any information supplied by a private applicant is insufficient and require further information, if in the judgment of the responsible official the information initially supplied was not reasonably adequate to fulfill the purpose for which it was required. An applicant may choose to voluntarily submit, at any time, information beyond that which may be required under these guidelines.

(2) **Environmental Checklist.** A private applicant is required to complete an environmental checklist, available at the department's SEPA information center either concurrently with or after filing the application. Explanations for each "yes" and "maybe" answer indicated thereon are required. The department will not require a complete assessment or "mini-EIS" at this stage. [See WAC 332-40-310].

(3) **Threshold Determination.** When the department is the lead agency, it shall make an initial review of a completed checklist without requiring more information from a private applicant. If, and only if, the department determines as a result of its initial review that the information available to it is not reasonably sufficient to determine the environmental impacts of the proposal, the department may require further information from the applicant, including explanation of "no" answers on the checklist. This information shall be limited to those elements on the environmental checklist for which, as determined by the department, information accessible to the department is not reasonably sufficient to evaluate

the environmental impacts of the proposal. Field investigations or research by the applicant reasonably related to determining the environmental impacts of the proposal may be required. [See WAC 332-40-330.]

(4) **Draft and Final EIS Preparation.** The responsible official may at his/her option, require a private applicant to prepare an EIS under the department's direction, at the applicant's expense. Alternatively, the responsible official may require a private applicant to provide data and information which is not in the possession of the lead agency relevant to any or all areas to be covered by an EIS. A private applicant shall not be required to provide information which is the subject of a predraft consultation request until the consulted agency has responded, or the forty-five days allowed for response by the consulted agency has expired, whichever is earlier. [Order 259, § 332-40-100, filed 6/10/76; Order 257, § 332-40-100, filed 5/21/76.]

WAC 332-40-160 No presumption of significance for nonexempt actions. No presumption as to the significance of the impacts upon the environment shall be given to any proposed action merely because it was not exempted. [Order 259, § 332-40-160, filed 6/10/76; Order 257, § 332-40-160, filed 5/21/76.]

WAC 332-40-170 Categorical exemptions. Governmental activities or approvals of activities of the types listed herein are not major actions, and proposals for such activities are exempted from the threshold determination and EIS requirements of SEPA and these guidelines:

(1) **Minor new construction.** The following types of construction shall be exempt except when undertaken wholly or in part on lands covered by water; the exemptions provided by this subsection apply to all governmental licenses required to undertake the construction in question, except rezones or any license governing emissions to the air or water:

(a) The construction of any residential structure of four dwelling units or less.

(b) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering less than 10,000 square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feedlots.

(c) The construction of an office, school, commercial, recreational, service or storage building with less than 4,000 square feet of floor area, and with associated parking facilities designed for twenty automobiles or less.

(d) The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles.

(e) The construction and/or installation of commercial on-premise signs, and public signs and signals.

(f) The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade separated crossings), grooving,

glare screen, safety barriers, energy attenuators, highway landscaping (including the application of Washington state department of agriculture approved herbicides by licensed personnel for right of way weed control), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights of way, channelization and elimination of sight restrictions at intersections, street lighting, guard-rail and barricade installation, installation of catch basins and culverts, and reconstruction of existing road bed (existing curb to curb in urban locations), including minor widening of shoulders, addition of bicycle lanes, but not including additional automobile lanes.

(g) The installation of hydrological measuring devices, regardless of whether or not on lands covered by water.

(h) The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

(i) The construction of a parking lot designed for twenty automobiles or less.

(j) Any landfill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, III and IV forest practice under chapter 200, Laws of 1975 ex. sess., or regulations promulgated thereunder, except those forest practices designated by the forest practices board as being subject to SEPA evaluation.

(k) The repair, maintenance or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing.

(l) Grading, excavating, filling, septic tank installation, and landscaping necessary for any building or facility exempted by this subsection, as well as fencing and the construction of small structures and minor facilities accessory thereto.

(m) Additions or modifications to or replacement of any building or facility exempted by this subsection when such addition, modification or replacement will not change the character of the building or facility in a way which would remove it from an exempt class.

(n) The demolition of any structure or facility, the construction of which would be exempted by this subsection, except for structures or facilities with recognized historical significance.

(2) **Water rights.** The following appropriations of water shall be exempt, the exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pump-house reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation:

(a) Appropriations of fifty cubic feet per second or less of surface water for irrigation purposes, when done without a government subsidy.

(b) Appropriations of one cubic foot per second or less of surface water, or of ten cubic feet per second or less of ground water, for any purpose.

(3) **Judicial activity.** The following shall be exempt:

(a) All adjudicatory actions of the judicial branch.

(b) Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal, or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

(4) **Enforcement and inspections.** The following enforcement and inspection activities shall be exempt:

(a) All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(b) All inspections conducted by an agency of either private or public property for any purpose.

(c) Fire department, police patrol and traffic law enforcement except where such involves any physical construction activity.

(d) Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety: *Provided*, That no open burning shall be exempted under this subsection, nor shall the application of any pesticide or chemical. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection.

(e) Any suspension or revocation of a license for any purpose.

(5) **Business and other regulatory licenses.** The following business and other regulatory licenses are exempt:

(a) All licenses to undertake an occupation, trade or profession.

(b) All licenses required under electrical, fire, plumbing, heating and safety codes, but not including building permits.

(c) Licenses to operate amusement devices and entertainment carnivals, circuses and other traveling shows, dances, music machines and theaters, including approval of use of public facilities for temporary civic celebrations, but not including licenses required for permanent construction of any of the above.

(d) Licenses for solicitation or door to door sales, private security and detective services, and taxicabs and other vehicles for hire: *Provided*, That regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection.

(e) Licenses for close-out sales.

(f) Licenses for food or drink services, sales and distribution.

(g) Licenses for the sale or display of fireworks.

(h) Animal control licenses.

(i) The renewal or reissuance of a license regulating any present activity or structure that was either exempted under this chapter, or the subject of a declaration of nonsignificance or an EIS, so long as no material changes have occurred since the determination of exemption, or completion of the prior declaration or EIS.

(6) **Activities of the legislature.** All actions of the state legislature are hereby exempted: *Provided*, That this subsection shall not be construed to exempt the proposing of legislation by any agency.

(7) **Activities of agencies.** The following administrative, fiscal and personnel activities of agencies shall be exempt:

(a) The procurement and distribution of general supplies, equipment and services previously authorized, or necessitated by previously approved functions or programs.

(b) The assessment and collection of taxes.

(c) The adoption of all budgets and agency requests for appropriation: *Provided*, That if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection.

(d) The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals.

(e) The review and payment of vouchers and claims.

(f) The establishment and collection of liens and service billings.

(g) All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force.

(h) All agency organization, reorganization, internal operational planning or coordination of plans or functions.

(i) Adoptions or approvals of utility, transportation and solid waste disposal rates.

(8) **Review and comment actions.** Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

(9) **Purchase or sale of real property.** The following real property transactions by an agency shall be exempt:

(a) The purchase or acquisition of any right to real property by an agency.

(b) The sale, transfer or exchange of any publicly owned real property by an agency to or with a private individual or governmental entity, but only if the property is not subject to an authorized public use.

(c) The lease of real property by an agency to a private individual or entity, or to an agency or federal agency, only when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

(10) **Minor land use decisions.** The following land use decisions shall be exempt:

(a) Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivision or short platting within a plat or subdivision previously exempted under this subsection.

(b) Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, slope, topography, location or surroundings and not resulting in any change in land use or density.

(c) Classification of land for current use taxation pursuant to chapter 84.34 RCW, and classification and grading of forest land under chapter 84.33 RCW, and classification and grading of forest land under chapter 84.33 RCW.

(11) **Procedural actions.** The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt.

(12) **Acceptance of filings.** The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

(13) **Variations under Clean Air Act.** The granting of variances pursuant to RCW 70.94.181 extending applicable air pollution control requirements for one year or less shall be exempt.

(14) **Burning permits.** The issuance, revocation or suspension of permits for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting the issuance of burning permits shall not be exempt.

(15) **Water quality certifications.** The granting or denial of water quality certifications pursuant to the Federal Water Pollution Control Act Amendments of 1972 (33 USC § 1341) shall be exempt.

(16) **Financial assistance grants.** The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project.

(17) **Information collection and research.** Proposals for basic data collection, research, resource evaluation and the conceptual planning of proposed actions shall be exempt. These may be for strictly information-gathering purposes, or as part of a study leading to a proposal which has not yet been approved, adopted or funded. This exemption does not include any agency action which commits the agency to proceed with the proposal.

(18) **Utilities.** The utility-related actions listed below shall be exempt: *Provided*, That installation, construction or alteration on lands covered by water shall not be exempt for actions listed below. The exemption includes installation and construction, relocation when required by other governmental bodies, together with repair, replacement, maintenance, operation or alteration by an agency or private entity which does not change the action from an exempt class.

(a) All communications lines, including cable TV, but not including microwave towers or relay stations.

(b) All storm water, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches or less in diameter.

(c) All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less; and the overbuilding of

existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electric facilities, lines, equipment or appurtenances.

(d) All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups.

(e) All developments within the confines of any existing electric substation, reservoir, pump station or well: *Provided*, That additional appropriations of water are not exempted by this subsection.

(f) Periodic use of chemical or mechanical means to maintain a utility or highway right of way in its design condition: *Provided*, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel.

(g) All grants of franchises by agencies to utilities.

(h) All disposals of rights of way by utilities.

(i) All grants of rights of way by agencies to utilities for use for distribution (as opposed to transmission) purposes.

(19) **Natural resources management.** In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

(a) All class I, II, III and IV forest practices as defined by chapter 200, Laws of 1975 ex. sess., or regulations promulgated thereunder, except those forest practices designated by the forest practices board as being subject to SEPA evaluation.

(b) Issuance of new grazing leases covering a section of land or less; and issuance of all grazing leases for land which had been subject to a grazing lease within the previous ten years.

(c) Licenses or approvals to remove firewood.

(d) Issuance of agricultural leases covering one hundred sixty contiguous acres or less.

(e) Issuance of leases for Christmas tree harvesting or brush picking.

(f) Issuance of leases for school sites.

(g) Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft.

(h) Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve campsites.

(i) Periodic use of chemical or mechanical means to maintain public park and recreational land: *Provided*, That chemicals used are approved by the Washington state department of agriculture and applied by licensed personnel.

(j) Issuance of rights of way, easements and use permits to use existing public roads in nonresidential areas.

(20) **Local improvement districts.** The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under WAC 332-40-170 and 332-40-180.

(21) **Nonactions.** Proposals for activities which are not "actions" as defined in WAC 332-40-040(2) are not subject to the threshold determination and EIS requirements of this chapter. [Order 259, § 332-40-170, filed 6/10/76; Order 257, § 332-40-170, filed 5/21/76.]

WAC 332-40-175 Exemptions and nonexemptions applicable to specific state agencies. (1) Exemptions are established in this section which relate only to the specific activities identified within the department. The exemptions of this section are in addition to the general exemptions of WAC 332-40-170 and 332-40-180 which apply to the department, unless the general exemptions are specifically made inapplicable by this section.

(2) **Department of Natural Resources.** The following actions and licenses of the Department of Natural Resources are hereby exempted:

(a) Forest closures, shutdowns and permit suspensions due to extreme or unusual fire hazards.

(b) Operating permits to use power equipment on forest land.

(c) Permits to use fuse on forest land.

(d) Log patrol licenses.

(e) Permits for drilling for which no public hearing is required pursuant to RCW 79.76.070 (geothermal test drilling).

(f) Issuance of permits for the dumping of forest debris and wood waste in forested areas.

(g) All timber sales.

(h) Issuance of leases for mineral prospecting pursuant to RCW 79.01.616 or 79.01.652, but not including issuance of subsequent contracts for mining. [Order 268, § 332-40-175, filed 7/21/76; Order 259, § 332-40-175, filed 6/10/76; Order 257, § 332-40-175, filed 5/21/76.]

WAC 332-40-177 Environmentally sensitive areas.

(1) The department shall adhere to established environmentally sensitive areas adopted and mapped by the counties and cities as required by WAC 197-10-177.

(2) In these environmentally sensitive areas, certain categorical exemptions may not apply. The selection of exemptions that will not apply may be made from the following list: WAC 332-40-170(1)(a) through (f) and (i) through (n); (5)(c), (9)(a) through (c); (10)(a); (18)(a) through (d) and (i); and, (19)(d), (f) and (h). All other categorical exemptions apply whether or not the proposal will be located within an environmentally sensitive area. Exemptions selected by an agency to not apply within the various environmentally sensitive areas must be listed within the SEPA guidelines of any county/city adopting such areas.

(3) Major actions which will be located within environmentally sensitive areas are to be treated no differently than other major actions under this chapter. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally sensitive area.

(4) Certain categorical exemptions do not apply on lands covered by water, and this remains true regardless of whether or not lands covered by water are mapped. [Order 259, § 332-40-177, filed 6/10/76; Order 257, § 332-40-177, filed 5/21/76.]

WAC 332-40-180 Exemption for emergency actions. Actions which must be undertaken immediately,

or within a time too short to allow full compliance with chapter 197-10 WAC, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this chapter. [Order 259, § 332-40-180, filed 6/10/76; Order 257, § 332-40-180, filed 5/21/76.]

WAC 332-40-190 Use and effect of categorical exemptions. (1) Those activities excluded from the definition of "action" in WAC 332-40-040(2), or categorically exempted by WAC 332-40-170, 332-40-175, and 332-40-180, are exempt from the threshold determination (including completion of the environmental checklist) and EIS requirements of these guidelines and RCW 43.21C.030(2)(c) and 43.21C.030(2)(d). No exemption is allowed for the sole reason that actions are considered to be of a "ministerial" nature or of an environmentally regulatory or beneficial nature.

(2) If a department proposal includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, the proposal is not exempt.

(3) For proposals in (2) above, exempt activities or actions may be undertaken prior to the threshold determination, subject to the timing considerations in WAC 332-40-055. For each such proposal a lead agency shall be determined, and a threshold determination shall be made prior to any major action with respect to the proposal, and prior to any decision by the lead agency irreversibly committing itself to adopt or approve the proposal.

(4) If the proposal includes a series of exempt actions which are physically or functionally related to each other, but which together may have a significant environmental impact, the proposal is not exempt. [Order 259, § 332-40-190, filed 6/10/76; Order 257, § 332-40-190, filed 5/21/76.]

WAC 332-40-200 Lead agency—Responsibilities.

When the department is the lead agency, it shall be the only agency responsible for complying with the threshold determination procedures of WAC 332-40-300 through 332-40-390; and the department shall be responsible for the supervision, or actual preparation, of draft EISs pursuant to WAC 332-40-400 through 332-40-495, including the circulation of such statements, and the conduct of any public hearings required by this chapter. The department shall also prepare or supervise preparation of any required final EIS pursuant to WAC 332-40-550 through 332-40-695. [Order 259, § 332-40-200, filed 6/10/76; Order 257, § 332-40-200, filed 5/21/76.]

WAC 332-40-203 Determination of lead agency—Procedures. (1) When the department is the first agency receiving or initiating a proposal for a major action, or for any part of a proposal when the total proposal involves a major action, the department shall determine the lead agency for that proposal. To ensure that the lead agency is determined early, the department

shall determine the lead agency for all proposals for a major action it receives, unless the lead agency has been previously determined or the department as the receiver of the proposal is aware that another agency is in the process of determining the lead agency. The lead agency shall be determined by using the criteria in WAC 332-40-205 through 332-40-245.

(2) If the department determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with its determination of lead agency and explanation thereof. If the agency receiving this determination agrees that it is the lead agency, it shall so notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 332-40-260.

(3) If the department determines that it is the lead agency, it shall immediately mail a copy of its determination and explanation thereof to all other agencies with jurisdiction over the proposal. The department shall then proceed, as the lead agency, to the threshold determination procedure of WAC 332-40-300 through 332-40-390. If another agency with jurisdiction objects to the lead agency determination, and the dispute cannot be resolved by agreement, the agencies shall immediately petition CEP for a lead agency determination pursuant to WAC 332-40-260.

(4) When the department receives a lead agency determination to which it objects it shall either resolve the dispute, withdraw its objection, or petition to CEP for a lead agency determination within fifteen days of receiving the determination.

(5) To make the lead agency determination, the department must determine to the best of its ability the other agencies with jurisdiction over the proposal. This can be done by requesting the information from a private applicant, or through consultation with the information centers established pursuant to RCW 90.62.120, within the Environmental Coordination Procedures Act of 1973 (ECPA). [Order 259, § 332-40-203, filed 6/10/76; Order 257, § 332-40-203, filed 5/21/76.]

WAC 332-40-205 Lead agency designation—Department proposals. For all proposals initiated by the department, the department shall be the lead agency. In the event that two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will assume the status of lead agency. For the purposes of this section, a proposal by the department does not include proposals to license private activity. [Order 259, § 332-40-205, filed 6/10/76; Order 257, § 332-40-205, filed 5/21/76.]

WAC 332-40-210 Lead agency designation—Proposals involving both private and public construction activity. When the total proposal will involve both private and public construction activity, it shall be characterized as either a private or a public project for the purposes of lead agency designation, depending upon whether the primary sponsor or initiator of the project is an agency or from the private sector. Any project in

which department and private interests are too intertwined to make this characterization shall be considered a public project. The lead agency for all public projects shall be determined pursuant to WAC 332-40-205. [Order 259, § 332-40-210, filed 6/10/76; Order 257, § 332-40-210, filed 5/21/76.]

WAC 332-40-215 Lead agency designation—Private projects for which the department is the only agency with jurisdiction. For proposed private projects for which the department is the only agency with jurisdiction, the lead agency shall be the department. [Order 259, § 332-40-215, filed 6/10/76; Order 257, § 332-40-215, filed 5/21/76.]

WAC 332-40-220 Lead agency designation—Private projects requiring licenses from more than one agency, when one of the agencies is a county/city. For proposals for private projects which require licenses from more than one agency when at least one of the agencies requiring a license is a county/city, the lead agency shall be the county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county. [Order 259, § 332-40-220, filed 6/10/76; Order 257, § 332-40-220, filed 5/21/76.]

WAC 332-40-225 Lead agency designation—Private projects requiring licenses from more than one state agency. (1) For private projects which require licenses from more than one state agency, but require no license from a county/city, the lead agency shall be one of the state agencies requiring a license, based upon the following order of priority:

- (a) Department of ecology.
- (b) Department of social and health services.
- (c) Department of natural resources.
- (d) Department of fisheries.
- (e) Department of game.
- (f) Utilities and transportation commission.
- (g) Department of motor vehicles.
- (h) Department of labor and industries.

(2) When, due to the provision of subsection (1) of this section, an agency would be the lead agency solely because of its involvement in a program jointly administered with another agency, the other agency shall be designated the lead agency for proposals for which it is primarily responsible under agreements previously made between the two agencies for joint operation of the program. [Order 259, § 332-40-225, filed 6/10/76; Order 257, § 332-40-225, filed 5/21/76.]

WAC 332-40-230 Lead agency designation—Specific proposals. (1) Notwithstanding the lead agency designation criteria contained in WAC 332-40-205 through 332-40-225, the department shall be the lead agency for governmental actions initiated by the department including but not limited to such actions as:

- (a) Timber sales.
- (b) Forest land management activities.

- (c) Granting of rights of way.
- (d) Capital projects.
- (e) Recreation site development.

(f) Sale or lease of state-owned lands except when the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters is incidental to a large project for which one or more licenses from other state or local agencies is required. If DNR shares in the implementation of a proposal with one or more agencies, the agencies shall by agreement determine which agency will be the lead agency.

(2) For all private projects relating to the utilization of geothermal resources subject to chapter 79.76 RCW, the lead agency shall be the department.

(3) For all private projects requiring a license or other approval from the oil and gas conservation committee pursuant to chapter 78.52 RCW, the lead agency shall be the department, except that for projects subject to RCW 78.52.125, the EIS shall be prepared in accordance with that section.

(4) For all private activity requiring a license or approval under the Forest Practices Act of 1974, chapter 76.04 RCW, the lead agency shall be the department: *Provided*, That for any proposal which will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the county/city requiring the license.

(5) For all private projects requiring a license or lease to use or affect state lands, managed by the department, the lead agency shall be the department: *Provided*, That this subsection shall not apply to the sale or lease of state-owned tidelands, harbor areas or beds of navigable waters, when such sale or lease is incidental to a larger project for which one or more licenses from other state or local agencies is required. [Order 259, § 332-40-230, filed 6/10/76; Order 257, § 332-40-230, filed 5/21/76.]

WAC 332-40-240 Agreements as to lead agency status. Nothing herein shall prohibit the department from assuming the role of lead agency as a result of an agreement among all agencies with jurisdiction. [Order 259, § 332-40-240, filed 6/10/76; Order 257, § 332-40-240, filed 5/21/76.]

WAC 332-40-245 Agreements between agencies as to division of lead agency duties. The department may by agreement share or divide the responsibilities of lead agency with one or more other agencies through any arrangement mutually agreed upon. In such event, however, the agencies involved shall designate one of them as the nominal lead agency, which shall be responsible for complying with the duties of the lead agency under these guidelines. Other agencies with jurisdiction shall be notified of the agreement and determination of the nominal lead agency. [Order 259, § 332-40-245, filed 6/10/76; Order 257, § 332-40-245, filed 5/21/76.]

WAC 332-40-260 Dispute as to lead agency determination—Resolution by CEP. In the event that the department is an agency with jurisdiction along with one or more other agencies and is unable to determine which

agency is the lead agency under these guidelines, any agency with jurisdiction may petition CEP for such determination. Such petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. Any such petition shall be filed with CEP within fifteen days after receipt by the petitioning agency of the determination to which it objects. Copies of the petition shall be mailed to any private applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction may file with CEP a written response to the petition within ten days of the date of the initial filing. The CEP shall make its determination in accordance with WAC 197-10-260. [Order 259, § 332-40-260, filed 6/10/76; Order 257, § 332-40-260, filed 5/21/76.]

WAC 332-40-300 Threshold determination requirement. (1) Except as provided in subsection (2) hereof, a threshold determination shall be made for every proposal for a major action. The responsible official designated by the department shall be responsible for making the threshold determination. Only the department shall make a threshold determination, except when department duties are shared pursuant to WAC 332-40-245.

(2) The threshold determination requirement of completion of an environmental checklist may be omitted, unless predraft consultation occurs, when:

(a) Both the responsible official and the sponsor (public or private) of a proposal agree that an EIS is required, or

(b) The sponsor of the proposal and the department are the same entity and decides that an EIS is required.

(3) When the provisions of subsection (2) above have been utilized, compliance with requirements for use of the environmental checklist contained in WAC 332-40-305 through 332-40-390 may be disregarded. [Order 259, § 332-40-300, filed 6/10/76; Order 257, § 332-40-300, filed 5/21/76.]

WAC 332-40-305 Designation of responsible official. (1) Each Division Supervisor or Division Supervisor's designee shall review the Environmental Checklists which cover the division's authority and determine if the department is the lead agency. For actions when the department is not the lead agency, the Environmental Checklist shall be forwarded to the Environmental Coordinator for processing according to procedures set forth in the SEPA Guidelines. When the department is the lead agency the responsible Division Supervisor or Division Supervisor's designee will review the Environmental Checklists and determine if each proposed action: (a) Has a nonsignificant effect on the environment, (b) may have a significant adverse effect, or (c) requires additional information before a threshold determination can be made.

(2) If the Division Supervisor's threshold determination reveals that a proposed action has a nonsignificant effect, a proposed or Final Declaration of Nonsignificance shall be prepared according to the procedures in WAC 332-40-340. The proposed or Final Declaration

of Nonsignificance is placed in the file jacket and a copy forwarded to the Environmental Coordinator.

(3) If the Division Supervisor determines that the proposed action may have a significant adverse environmental effect, the Checklist and determination together with any supporting data is forwarded to the respective Deputy Supervisor.

(4) The Deputy Supervisor examines the Checklist and determination and sends any comments and recommendations to the Chief Deputy Supervisor.

(5) The Chief Deputy Supervisor examines the Checklist, determination and recommendation and sends any comments and recommendations to the Supervisor.

(6) The Supervisor examines the Checklist, determination and recommendations and decides whether or not an Environmental Impact Statement is needed.

(7) If the decision by the Supervisor is affirmative, (a declaration of sig) the preparation of a draft Environmental Impact Statement begins and the Environmental Coordinator enters this in the Environmental Impact Statement Preparation register at the DNR-SEPA Public Information Center.

(8) If the decision by the Supervisor is negative, the process for a Declaration of Nonsignificance is initiated.

(9) When the Natural Resources Board reviews decisions of the Commissioner-Supervisor or department staff, the Natural Resources Board shall also review the respective environmental checklist and threshold determination. [Order 259, § 332-40-305, filed 6/10/76; Order 257, § 332-40-305, filed 5/21/76.]

WAC 332-40-310 Threshold determination procedures—Environmental checklist. (1) An environmental checklist substantially in the form provided by the department shall be completed for any proposed major action before making the threshold determination. Explanations of every "yes" and "maybe" answer on the checklist shall be provided, and persons completing the checklist may provide explanations of "no" answers. Persons filling out an environmental checklist may make reference to studies or reports which are available to the department. For department administered licenses, the applicant shall be required to complete the Environmental Checklist and the checklist attached to the application. For department initiated actions, the checklist will be completed by the Area Manager or the Area Manager's designee unless a division has retained the option of completing the Environmental Checklist at the division level.

(2) No environmental checklist or threshold determination is required for proposals that are exempted by WAC 332-40-170, 332-40-175 and 332-40-180. [Order 259, § 332-40-310, filed 6/10/76; Order 257, § 332-40-310, filed 5/21/76.]

WAC 332-40-315 Actions requiring a threshold determination. (1) The following list of actions, when not found exempt, requires the completion of an Environmental Checklist by the designated entity for compliance with the threshold determination requirements of the SEPA Guidelines chapter 197-10 WAC. Divisions of the department may require the completion of the

checklist for activities specifically exempted from the environmental impact statement requirements of chapter 197-10 WAC, for reasons outlined in WAC 332-40-050. These checklists will be used to identify possible environmental problems for corrective action.

(a) *Geology and Earth Resources*

Surface mining permits (by applicant).

Oil and gas drilling permits (by the applicant).

Geothermal drilling permits (by the applicant). Except when drilling a core hole for the purpose of gathering geothermal data.

(b) *Forest Land Management*

Class IV-Special forest practices on state lands (by the Area Manager).

All forest practices, on state lands, requiring a nonexempt license (by the Area Manager).

Forest insect and disease control (by the Division Supervisor).

(c) *Timber Sales*

Timber sales in excess of 100 acres (by the Area Manager).

Forest product sales in excess of 100 acres (by the Area Manager).

Road rights of way across state land requiring new construction when not associated with a forest practice (by the Area Manager).

Utility rights of way for transmission but not distribution (by the Area Manager).

Exchanges (by the Area Manager).

(d) *Lands*

Land sales.

New grazing leases covering more than one section (by the Area Manager).

New share crop leases covering more than 160 acres (by the Area Manager).

New agricultural leases covering more than 160 acres (by the Area Manager).

New commercial leases (by the Area Manager).

New communication site leases (by the Area Manager).

New leases for private recreation sites when designed specifically for ATV's or containing more than 12 campsites (by the Area Manager).

(e) *Marine Land Management*

New general purpose leases (by the Division Supervisor).

New sewer outfall leases (by the Division Supervisor).

New mining contracts (by the Division Supervisor).

New booming leases (by the Division Supervisor).

New dredge spoil disposal sites (by the Division Supervisor).

New oyster leases (by the Division Supervisor).

New clam leases (by the Division Supervisor).

New oil and gas leases (by the Division Supervisor).

New harbor area leases (by the Division Supervisor).

(f) *Recreation*

Recreation sites constructed specifically for ATV's (by the Area Manager).

All trail construction.

Snomobile site construction.

(g) *Forest Practices*

Class IV-Special forest practices approvals (by the applicant).

All forest practices requiring a nonexempt license (by the applicant. See WAC 197-10-230(4)).

(h) *Engineering*

Capital projects (by the Area Manager initiating the project).

Road construction when not associated with a forest practice (by the Area Manager).

(i) *Action by the Harbor Line Commission* [Order 259, § 332-40-315, filed 6/10/76; Order 257, § 332-40-315, filed 5/21/76.]

WAC 332-40-320 Threshold determination procedures—Initial review of environmental checklist.

(1) The department when it is the lead agency shall conduct an initial review of the environmental checklist for the proposal together with any supporting documentation. This initial review shall be made without requiring further information from the applicant. In making this initial review, the department shall independently evaluate each item on the checklist and indicate thereon the results of this evaluation.

(2) After completing the initial review of the environmental checklist, the department shall apply the criteria of WAC 332-40-060 and 332-40-360 to the checklist as evaluated by the department. This process will lead to one of three determinations:

(a) The proposal will not have a significant adverse impact upon the quality of the environment; in which case, the department shall initiate the negative threshold determination procedures of WAC 332-40-340; or,

(b) The proposal will have a significant adverse impact upon the quality of the environment; in which case the department shall initiate the EIS preparation procedures of WAC 332-40-350 and 332-40-400 through 332-40-695; or,

(c) There is not sufficient information available to the department to enable it to reasonably make a determination of the environmental significance of the proposal; in which case the department shall implement one or more of the information gathering mechanisms in WAC 332-40-330. [Order 259, § 332-40-320, filed 6/10/76; Order 257, § 332-40-320, filed 5/21/76.]

WAC 332-40-330 Threshold determination procedures—Information in addition to checklist.

(1) The threshold determination by the department must be based upon information reasonably sufficient to determine the environmental impact of a proposal. In the event that the department determines the information available to it is not reasonably sufficient to make this determination, one or more of the following may be initiated:

(a) For private projects, the applicant may be required to furnish further information. This additional information shall be limited to those categories on the environmental checklist. An applicant may be required to provide explanations of any "no" answers to questions on the checklist.

(b) The department may initiate an environmental analysis, using department specialists to conduct physical investigations on the subject property to provide additional information.

(i) When an Area Manager or Division Supervisor determines that the available information concerning a proposed action is not adequate to make a threshold determination, an Environmental Analysis may be requested.

(ii) Environmental Analysis is prepared by department staff environmental specialists. An analysis consists of an on site inspection for actions of a project nature and the preparation of a written report identifying possible adverse environmental impacts and the measures necessary for their mitigation or elimination.

(iii) The Division Supervisor or Area Manager must have approval, for the environmental analysis, from the Deputy Supervisor whose area of accountability covers the proposed action necessitating the Environmental Analysis.

(c) The department may consult with other agencies with jurisdiction over the proposal, requesting substantive information as to potential environmental impacts of the proposal which lie within the area of expertise of the particular agency so consulted. Agencies so consulted shall respond in accordance with the requirements of WAC 332-40-500 through 332-40-540.

(2) When, during the course of collecting further information on a proposal, the lead agency obtains information reasonably sufficient to assess the adverse environmental impacts of the proposal, it shall immediately make the threshold determination utilizing the criteria of WAC 332-40-360 and 332-40-365. In the event that the further investigations authorized by this section do not provide information reasonably sufficient to assess any potential adverse environmental impacts of the proposal, an EIS shall be prepared. [Order 259, § 332-40-330, filed 6/10/76; Order 257, § 332-40-330, filed 5/21/76.]

WAC 332-40-340 Threshold determination procedures—Negative declarations.

(1) In the event the department determines a proposal will not have a significant adverse impact on the quality of the environment, it shall prepare a proposed or final declaration of nonsignificance, as appropriate, substantially in the form provided in WAC 332-40-355.

(2) The department shall prepare a final declaration of nonsignificance for all proposals except for those listed in subsection (3) below.

(3) A department making a threshold determination of nonsignificance for any of the following proposals shall prepare a proposed declaration of nonsignificance, and comply with the requirements of subsection (4) through (6) below prior to taking any further action on the proposal:

(a) Proposals for which there is another agency with jurisdiction.

(b) Proposals involving demolition of any structure or facility not exempted by WAC 332-40-170(1)(n) or 332-40-180.

(c) Proposals involving issuance of clearing or grading permits not exempted by WAC 332-40-170, 332-40-175 or 332-40-180.

(4) The department shall list all proposed declarations of nonsignificance in the "Proposed Declaration of Nonsignificance Register" at the SEPA public information center. All such declarations will be attached to the environmental checklist as evaluated by the department and transmitted to any other agencies with jurisdiction and to the SEPA public information center of the department.

(5) Any person or agency may submit written comments on the proposed declaration of nonsignificance to the department within fifteen days from the date of its listing in the register. The department shall take no further action on the proposal which is the subject of the proposed declaration of nonsignificance for fifteen days from the date of its listing in the register. If comments are received, the department shall reconsider its proposed declaration in light thereof; however, the department is not required to modify its proposed declaration of nonsignificance to reflect the comments received thereon.

(6) After the fifteen day time period has elapsed, and after considering any comments, the department shall either adopt its proposed declaration as a "Final Declaration of Nonsignificance," or determine that the proposal is significant, or utilize the additional information gathering mechanisms of WAC 332-40-330(1).

(7) Issuance of proposed and final declarations of nonsignificance completes the procedural requirements of these guidelines unless another agency with jurisdiction assumes lead agency duties and responsibilities pursuant to WAC 332-40-345. [Order 259, § 332-40-340, filed 6/10/76; Order 257, § 332-40-340, filed 5/21/76.]

WAC 332-40-345 Assumption of lead agency status by the department when it is an agency with jurisdiction over a proposal—Prerequisites, effect and form of notice.

(1) When the Department is an agency with jurisdiction over a proposal, upon review of a proposed declaration of nonsignificance, it may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status." Such form of notice shall be substantially similar to that described in subsection (4) below. Assumption of lead agency status, if it is to occur, shall take place within fifteen days of the listing of the proposal in the "Proposed Declaration of Nonsignificance Register" as provided for in WAC 332-40-340.

(2) The department, as an agency with jurisdiction over a proposal, prior to transmittal of the notice described in subsection (4) below and an attached declaration of significance, shall make a finding that an EIS is required for the proposal. This finding shall be based only upon information contained in the environmental checklist attached to the proposed declaration of nonsignificance transmitted by the lead agency and any other information possessed by the department relative to the matters contained in the environmental checklist.

(3) As a result of the transmittal of a completed form of the notice contained in subsection (4) below and attached declaration of significance, the department with jurisdiction shall become the "new" lead agency and shall begin preparation of a draft EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the department.

(4) The form of "Notice of Assumption of Lead Agency Status" is as follows:

FORM OF NOTICE OF ASSUMPTION OF LEAD AGENCY STATUS

Description of Proposal -----
Proponent -----
Location of Proposal -----
Initial Lead Agency -----
New Lead Agency -----

This proposal was determined by the initial lead agency to have no significant adverse impact upon the environment, according to the proposed declaration of nonsignificance dated ----- A review of the information relative to the environmental checklist has been made by the Department of Natural Resources and in its opinion an EIS is required for the proposal. Consequently, notice is hereby given that the department assumes the responsibility of lead agency status from the initial lead agency, including, but not limited to, the duty to prepare a draft and final EIS on the proposal.

Responsible Official -----
Position/Title -----
Address/Phone -----
Date ----- Signature -----

(5) A completed form of notice, together with a declaration of significance, shall be transmitted to the initial lead agency, any other agencies with jurisdiction and the proponent of the proposal. A copy of the notice shall be retained in the new lead agency's SEPA public information center.

(6) The department may still comment critically upon a proposed declaration of nonsignificance without assuming lead agency status. The department has not assumed lead agency status pursuant to this section unless a notice substantially in the form of subsection (4) hereof is completed and transmitted by that agency. The decision of any agency with jurisdiction to not assume lead agency status pursuant to this section shall create no new legal obligation upon the department. [Order 259, § 332-40-345, filed 6/10/76; Order 257, § 332-40-345, filed 5/21/76.]

WAC 332-40-350 Affirmative threshold determination.

(1) In the event the department determines that the proposal will have a significant adverse effect upon the quality of the environment, it shall prepare a declaration of significance using the form in WAC 332-40-355 which shall be retained in the files of the department. The department shall then list the proposal in the "EIS in Preparation Register" maintained at the SEPA public

information center department, and then begin the EIS preparation procedures of WAC 332-40-400 through 332-40-695.

(2) After the additional information gathering mechanisms of WAC 332-40-330 have been utilized, and when there exists a reasonable belief by the department that the proposal could have a significant adverse impact, the procedure contained in subsection (1) above shall also be followed. [Order 259, § 332-40-350, filed 6/10/76; Order 257, § 332-40-350, filed 5/21/76.]

WAC 332-40-355 Form of declaration of significance/nonsignificance. (1) A declaration substantially in the form set forth in subsection (2) of this section shall be used for all declarations of significance and proposed and final declarations of nonsignificance. This form shall be attached to the environmental checklist together with any other information obtained pursuant to WAC 332-40-330, and maintained in the files of the department. The form without the attachments shall also be retained in the SEPA public information center of the department for one year after issuance.

(2) The form is as follows:

**FORM FOR [PROPOSED/FINAL]
DECLARATION
OF [SIGNIFICANCE/NONSIGNIFICANCE]**

Description of Proposal -----

Proponent -----

Location of Proposal -----

Lead Agency -----

This proposal has been determined to [have/not have] a significant adverse impact upon the environment. An EIS [is/is not] required under RCW 43.21C.030(2)(c). This decision was made after review by the Department of Natural Resources of a completed environmental checklist and other information on file with the department.

Responsible Official -----
Position/Title -----

Date ----- Signature -----

(3) If the form is for a declaration of environmental significance, the department may add to the information contained in subsection (2) of this section a listing of those environmental impacts which led to the declaration, together with a brief explanation of what measures, if any, could be taken to prevent or mitigate the environmental impacts of the proposal to such an extent that the department would withdraw its declaration and issue a [proposed/final] declaration of nonsignificance. [Order 259, § 332-40-355, filed 6/10/76; Order 257, § 332-40-355, filed 5/21/76.]

WAC 332-40-360 Threshold determination criteria—Application of environmental checklist. (1) The department shall apply the questions in the environmental checklist to the total proposal, including its indirect effects [See WAC 332-40-060], to determine whether the proposal will result in a significant adverse impact

upon the quality of the environment. The threshold decision shall be based solely upon this process. The questions contained in the environmental checklist are exclusive, and factors not listed therein shall not be considered in the threshold determination.

(2) The questions in the environmental checklist are not weighted. It is probable there will be affirmative answers to several of these questions while the proposal would still not necessarily have a significant adverse impact; however, a single affirmative answer could indicate a significant adverse impact, depending upon the nature of the impact and location of the proposal. The nature of the existing environment is an important factor. The same project may have a significant adverse impact in one location, but not in another location. The absolute quantitative effects of the proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment. The department shall also be alert to the possibility that several marginal impacts when taken together will result in a significant adverse environmental impact. For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted. If, after the department has utilized the additional information gathering mechanisms of WAC 332-40-330, the impacts of the proposal are still in doubt, and there exists a reasonable belief by the department that the proposal could have a significant adverse impact, an EIS is required.

(3) It should also be remembered that proposals designed to improve the environment (such as sewage treatment plants or pollution control requirements) may also have adverse environmental impacts. The question at the threshold determination level is not whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather if the proposal involves any significant adverse impacts upon the quality of the environment. If it does, an EIS is required. No test of balance shall be applied at the threshold determination level.

(4) Additional research or field investigations by either the department or by the private applicant is required when the information available to the department is not sufficient for it to make a determination of the potential adverse environmental impacts [See WAC 332-40-330]. It is expected, however, that many proposals can be evaluated entirely through an office review [See WAC 332-40-320] of the environmental checklist, and that for other proposals, the majority of the questions in the environmental checklist may be answered in the same manner. [Order 259, § 332-40-360, filed 6/10/76; Order 257, § 332-40-360, filed 5/21/76.]

WAC 332-40-365 Environmental checklist. The department shall use an environmental checklist, available at the SEPA Public Information Center, form number RES 30-1802 (REV) (5-76). The questions appearing in the environmental checklist are exclusive, and considerations which do not appear in it or in WAC 332-40-360 shall not be used in making a threshold determination. This checklist does not supersede or void application forms required under any other federal or state statute or local ordinance, but rather is supplementary

thereto. [Order 259, § 332-40-365, filed 6/10/76; Order 257, § 332-40-365, filed 5/21/76.]

WAC 332-40-370 Withdrawal of affirmative threshold determination. If at any time after the entry of a declaration of significance, the proponent modifies the proposal so that, in the judgment of the department, all significant adverse environmental impacts resulting therefrom are eliminated, the declaration of significance shall be withdrawn and a declaration of nonsignificance entered instead. The department shall also revise the registers at its SEPA public information center accordingly. If the proponent of a proposal is a private applicant, the proposal shall not be considered modified until all license applications for the proposal are revised to reflect the modification. [Order 259, § 332-40-370, filed 6/10/76; Order 257, § 332-40-370, filed 5/21/76.]

WAC 332-40-375 Withdrawal of negative threshold determination. (1) Except after a nonexempt license has been issued for a private project, the department may withdraw any proposed or final declaration of nonsignificance when new information becomes available to it indicating that the proposal may have significant adverse environmental impacts.

(2) The department may withdraw any proposed or final declaration of nonsignificance at any time when:

(a) The proposal has been modified after the threshold determination, and such modification may cause the proposed action to have significant adverse environmental impacts, or

(b) The negative threshold determination was procured by misrepresentation or lack of full disclosure by the proponent of the proposal.

(3) Whenever a negative threshold determination is withdrawn pursuant to this section, the department shall immediately reevaluate the proposal and make a revised threshold determination pursuant to WAC 332-40-300 through 332-40-360.

(4) Whenever a final declaration of nonsignificance has been withdrawn for one of the reasons in subsection (2) hereof, and the department upon reevaluation determines that the proposal will have significant adverse environmental impacts, the department will transmit a declaration of significance to the agencies with jurisdiction. [Order 259, § 332-40-375, filed 6/10/76; Order 257, § 332-40-375, filed 5/21/76.]

WAC 332-40-400 Duty to begin preparation of a draft EIS. After compliance with WAC 332-40-350, relating to preparation of a declaration of significance and the listing of the proposal in the "EIS in Preparation Register," the department shall prepare the draft and final EIS in compliance with WAC 332-40-410 through 332-40-695. [Order 259, § 332-40-400, filed 6/10/76; Order 257, § 332-40-400, filed 5/21/76.]

WAC 332-40-405 Purpose and function of a draft EIS. (1) The principal purpose of the draft EIS document is to transmit information concerning a proposed governmental action and the alternatives to that action

to public officials, project sponsors, and interested citizens. While the contents of a draft EIS may span a wide spectrum of issues, the focus of the document is upon the following:

(a) The assessment of the adverse impacts upon the environment which may result from the proposed action or its alternatives, and

(b) An analysis of measures which may be taken to mitigate or eliminate those adverse impacts.

(2) Another principal function to be served by the draft EIS process is to facilitate the transmittal to the department from other governmental agencies and interested citizens substantive information concerning the adverse impacts upon the environment discussed inadequately or erroneously in the draft EIS. The draft EIS process also provides an opportunity for reviewers of the document to bring to the attention of the department any issue of potential environmental concern which should be explored by the department prior to the issuance of a final EIS. [Order 259, § 332-40-405, filed 6/10/76; Order 257, § 332-40-405, filed 5/21/76.]

WAC 332-40-410 Predraft consultation procedures.

(1) Predraft consultation is consultation by the department with another agency with jurisdiction or expertise prior to completion of the draft EIS. Predraft consultation with another agency on proposals for private projects shall only be initiated by the department when requested by a private applicant participating in the preparation of the draft EIS. Predraft consultation with another agency on public proposals may be initiated at the option of the department.

(2) Predraft consultation is commenced when the department sends to the consulted agency a packet of the following material related to the proposal:

(a) Any application for licenses for the proposal in the possession of the department.

(b) A copy of the environmental checklist required by WAC 332-40-310, as reviewed pursuant to WAC 332-40-320.

(c) Any information in addition to the checklist resulting from application of WAC 332-40-330.

(d) Any other information deemed relevant to the proposal by the department such as:

(i) Prior EISs;

(ii) Portions of applicable plans or ordinances; or,

(iii) Prior scientific studies applicable to the site.

(3) Agencies so consulted will have forty-five days from receipt of the packet to respond in writing to the department. The required contents of the consulted agency response are governed by WAC 332-40-500 through 332-40-540.

(4) The department shall incorporate the relevant information received from other agencies during the predraft consultation stage into the draft EIS, by either summarizing the major findings which are contained in each of the consulted agency's responses or utilizing all of the data received. In the event the department disagrees with any conclusion expressed in the information received from the consulted agency, the conclusion shall be set forth together with the position of the department. The information required by this subsection may be

placed wherever in the draft EIS the department deems most appropriate. There is no requirement that either the draft or final EIS include responses to predraft consultation in a separate "response" section. [Order 259, § 332-40-410, filed 6/10/76; Order 257, § 332-40-410, filed 5/21/76.]

WAC 332-40-420 Preparation of EIS by persons outside the department. (1) Preparation of the EIS is the responsibility of the department, by or under the direction of its responsible official. No matter who participates in the preparation of the EIS, it is nevertheless the EIS of the responsible official of the department. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with the provisions of these guidelines and the guidelines of the department.

(2) An EIS may be prepared by a private applicant or agent thereof, or by an outside consultant retained by either a private applicant or the department. In such case, the responsible official within the department shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting document. The use of consultants must have advance approval of the Supervisor.

(3) If a person other than the department is preparing the EIS, the responsible official will coordinate any predraft consultation procedures so that the individual preparing the EIS immediately receives all substantive information submitted by consulted agencies. The responsible official shall also attempt to obtain any information needed by the person preparing the EIS which is on file with another agency or federal agency. The responsible official shall allow any private party preparing an EIS access to all public records of the department which are relevant to the subject matter of the EIS, pursuant to chapter 42.17 RCW [Public Disclosure and Public Records Law; Initiative 276, 1973].

(4) Unless funds are appropriated by the legislature specifically for EIS preparation, all EIS required for private projects shall be prepared at the applicant's expense.

(5) The provisions of this section apply to both the draft and final EIS. [Order 259, § 332-40-420, filed 6/10/76; Order 257, § 332-40-420, filed 5/21/76.]

WAC 332-40-425 Organization and style of a draft EIS. (1) The required contents of a draft EIS for proposals of both a project and nonproject nature are set forth in WAC 332-40-440. The contents of a draft EIS prepared pursuant to that section shall be organized as set forth in subsections (2) and (3) of this section.

(2) Each draft EIS shall begin with an introduction, table of contents, distribution list, summary, and a description of the proposed action. The information contained in each section shall conform to the applicable requirements set forth in WAC 332-40-440(1) through 332-40-440(6). Organization variation is not permitted for these portions of the draft EIS.

(3) The organization and style of the remaining content of the EIS may be varied, at the option of the department, from the format set forth in WAC 332-40-440(7) through 332-40-440(14): *Provided*, That all of the subject matters required by WAC 332-40-440 shall be contained somewhere within the draft EIS.

(4) When the department that prepares a draft EIS it should keep in mind that the purpose of a draft EIS is to aid decision-makers in considering the significant environmental impacts of their decisions. This purpose is not served by EISs which are excessively detailed and overly technical. Clarity and conciseness of presentation are of crucial importance in ensuring that EISs prepared under these guidelines are considered and actually utilized in decision-making processes. [Order 259, § 332-40-425, filed 6/10/76; Order 257, § 332-40-425, filed 5/21/76.]

WAC 332-40-440 Contents of a draft EIS. (1) The following subsections set forth the required contents of a draft EIS: *Provided*, That where the department is preparing a draft EIS in order to satisfy the requirements of NEPA, as well as SEPA, and the regulations of the applicable federal agency require items in addition to that set forth below, then the contents of the draft EIS may be expanded as necessary to meet the requirements of that federal agency.

(2) **Introduction.** The following information shall be succinctly set forth at the beginning of the draft EIS:

(a) Action sponsor, and a brief (one or two sentence) description of the nature of the proposal and its location (street address, or nearest crossroads or cross-streets).

(b) Lead agency, responsible official, and the name and address of a contact person to whom comments, information and questions may be sent.

(c) Authors and principal contributors to the draft EIS and the nature or subject area of their contribution.

(d) List of all licenses which the proposal is known to require.

(e) Location of EIS background data.

(f) Cost to the public for a copy of the EIS pursuant to chapter 42.17 RCW.

(g) Date of issue of the draft EIS.

(h) Dates by which consulted agency and public comments must be received to be incorporated into the final EIS.

(3) **Table of contents.**

(4) **Distribution list.** The draft EIS shall include a list of the names of all agencies, federal agencies, organizations and persons to whom the draft EIS will be sent upon publication [See WAC 332-40-460].

(5) **Summary of the contents of the draft EIS.** Each draft EIS shall contain a summary of its contents as an aid to the agency decision-makers. The lead agency is to bear in mind that agencies other than the lead agency may be utilizing the EIS as an aid in decision-making. Therefore, care should be taken to ensure that the scope of the summary and the EIS is sufficiently broad to be useful to those other agencies being requested to license or approve a proposal. The summary shall contain only a short restatement of the main points discussed in the EIS for each of the various subject areas. In the event

impacts cannot be predicted with certainty, the reason for uncertainty together with the more likely possibilities should be concisely stated. In most cases it is expected that the summary will run two to five pages, but it shall not be more than ten pages. The summary shall include a brief description of the following:

(a) The proposal, including the purpose or objectives which are sought to be achieved by the sponsor.

(b) The direct and indirect impacts upon the environment which may result from the proposal.

(c) The alternatives considered, together with any variation in impacts which may result from each alternative.

(d) Measures which may be effectuated by the applicant, lead agency, or other agency with jurisdiction to mitigate or eliminate adverse impacts which may result from the proposal.

(e) Any remaining adverse impacts which cannot or will not be mitigated.

(6) **Description of the proposal.** The draft EIS shall include a description of the total proposal, including, but not limited to, the following:

(a) The name of the proposal and sponsors.

(b) The location of the project, or area affected by a nonproject action, including an address, if any, and a legal description: *Provided*, That where the legal description is by metes and bounds, or is excessively lengthy, a map, in lieu of a legal description, shall be included which enables a lay person to precisely understand the location of the proposal.

(c) Reference to the file numbers, if known, of any other agencies involved so the proposal's location may be identified with precision by the consulted agency.

(d) If the proposal involves phased construction over a period of time, the timing of each construction phase should be identified; and if it is anticipated that later phases of the proposal will require future environmental analyses, these should be identified.

(e) A description of the major physical and engineering aspects of the proposal. This description should be tailored to the environmental impacts later discussed, with those physical aspects of the proposal causing the greater impacts being given the more detailed description. Inclusion of detailed engineering drawings and technical data should normally be avoided. Material of this nature should be retained in agency files and supplied to consulted agencies upon request.

(f) A brief description of existing comprehensive land use plans and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them.

(g) Within the general guidelines of this subsection, the lead agency has discretion to determine the content and level of detail appropriate to adequately describe the proposal.

(7) **Existing environmental conditions.** This section shall include the following:

(a) A general assessment of the existing environment, covering those areas of the environment listed in WAC 332-40-444.

(i) The level of detail used in presenting the existing environment should be proportionate to the impacts the proposal will have if approved.

(ii) Areas of the environment which are not relevant to the identified impacts need only be mentioned generally, or not at all.

(iii) Inventories of the species of flora and fauna present on the site should be avoided; rather, emphasis should be placed upon those species and habitats which may be significantly affected.

(iv) This subsection shall be brief, nontechnical, and easily understandable by lay persons, and provide the necessary background for understanding the proposal's impacts.

(b) Specific reference shall be made to those inventories and data studies which provided the informational source for part or all of the contents of this subsection.

(8) **The impact of the proposal on the environment.** The following items shall be included in this subsection:

(a) The known impacts resulting from the proposal within any element of the environment listed in WAC 332-40-444, the effects of which are either known to be, or which may be significant (whether beneficial or adverse), shall be discussed in detail; impacts which are potential, but not certain to occur, shall be discussed within reason.

(b) Elements of the environment which will not be significantly affected shall be marked "N/A" (not applicable) as set forth in WAC 332-40-444(1).

(c) Direct and indirect impacts of the total proposal, as described in WAC 332-40-440(8)(a) shall be examined and discussed (for example, cumulative and growth-inducing impacts).

(d) The possibility that effects upon different elements of the environment will interrelate to form significant impacts shall be considered.

(9) **The relationship between local short-term uses of man's environment and maintenance and enhancement of long-term productivity.** The following items shall be included in this subsection:

(a) An identification of the extent to which the proposal involves trade-offs between short-term gains at the expense of long-term environmental losses.

(i) The phrases "short-term" and "long-term" do not refer to any fixed time periods, but rather are to be viewed in terms of the significant environmental impacts of the proposal.

(ii) Impacts which will narrow the range and degree of beneficial uses of the environment or pose long-term risks to human health shall be given special attention.

(b) A discussion of the benefits and disadvantages of reserving for some future time the implementation of the proposal, as opposed to possible approval of the proposal at this time.

(i) The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations.

(ii) Particular attention should be given to the possibility of foreclosing future options or alternatives by implementation of the proposal.

(10) **Irreversible or irretrievable commitments of resources.** The following items shall be included in this subsection:

(a) An identification of all substantial quantities of natural resources, including sources of energy and non-renewable materials, which will be committed by the proposal on a permanent or long-term basis. Commitment of natural resources also includes the lost opportunities to make other uses of the resources in question.

(b) This subsection may be integrated with subsection (9) above in order to more usefully present the information required by both sections.

(11) **Adverse environmental impacts which may be mitigated.** The following items shall be included in this subsection:

(a) A description of reasonable alterations to the proposal which may result in avoiding, mitigating or reducing the risk of occurrence of any adverse impacts upon the environment.

(b) Energy conservation measures, including more efficient utilization of conventional techniques (e.g., insulation) as well as newer methods.

(c) Each alternative discussed in (a) and (b) above shall be evaluated in terms of its effect upon the environment, its technical feasibility, and its economic practicability.

(12) **Alternatives to the proposal.** This subsection shall include the following items:

(a) A description and objective evaluation of any reasonable alternative action which could feasibly attain the objective of the proposal.

(i) Reasonable alternatives shall include any action which might approximate the proposal's objective, but at a lower environmental cost or decreased level of environmental degradation.

(ii) Reasonable alternatives may be those which are capable of being effected by either the lead agency or other agency having jurisdiction.

(b) The "no-action" alternative shall be evaluated and compared to the other alternatives.

(c) The adverse environmental effects of each alternative shall be identified.

(d) The analysis of alternatives should be sufficiently detailed to permit a comparative evaluation of each alternative and the proposal as described in subsection (6) of this section.

(e) In those instances where the proposal is for a private project on a specific site, the alternatives considered shall be limited to the "no-action" alternative plus other reasonable alternative means of achieving the objective of the proposal on the same site or other sites owned or controlled by the same proponent (which may include only alterations for mitigation under subsection (11) of this section). This limitation shall not apply when the project proponent is applying for a rezone or contract rezone.

(f) Subsection (12) may be integrated with subsection (11) of this section in order to more usefully present the information required by both subsections.

(g) The use of the term "reasonable" is intended to limit both the number and range of alternatives that

shall be described and evaluated in this subsection, as well as the amount or level of detail which the EIS shall employ for each alternative that is discussed and evaluated.

(13) **Unavoidable adverse impacts.** This subsection shall include the following items:

(a) A listing of those impacts included in subsection (8) of this section which are adverse but cannot, or will not, be mitigated or avoided by modifications to the project.

(b) For any impact discussed in subsection (8) of this section which is determined to be nonadverse, the rationale for such determination shall be clearly stated.

(c) [Optional] A discussion of the relationship between the costs of the unavoidable adverse environmental impacts and the expected beneficial environmental impacts which will result from the implementation of the proposed action. [Order 259, § 332-40-440, filed 6/10/76; Order 257, § 332-40-440, filed 5/21/76.]

WAC 332-40-442 Special considerations regarding contents of an EIS on a nonproject action. (1) The requirements of WAC 332-40-440 apply to the contents of a draft EIS on a proposal for a nonproject action. The department, however, has greater flexibility in its approach to achieving compliance with the requirements of WAC 332-40-440 in writing an EIS for nonproject actions, because normally less specific details are known about the proposal and any implementing projects, as well as the anticipated impacts on the environment.

(2) The department should be alert to the fact that it is in the development and review of proposals for nonproject actions where the range of alternatives is typically more broad than that of a proposal for a project action (which is often narrowed to a specific location and design). The proposal should be described in a manner which encourages consideration of a number of alternative methods of accomplishing its objective. For example, an objective of an agency's proposal should be stated as "the facilitation of the movement of people from point A to point B" rather than "the widening of an urban arterial in order to accommodate additional privately-owned passenger vehicles." [Order 259, § 332-40-442, filed 6/10/76; Order 257, § 332-40-442, filed 5/21/76.]

WAC 332-40-444 List of elements of the environment. (1) Every EIS shall have appended to it a list of the elements of the environment in subsection (2), (3) and (4) of this section. The department shall place "N/A" ("not applicable") next to an item when the proposal, including its indirect impacts, will not significantly affect the area (or subarea) of the environment in question. Items marked "N/A" need not be mentioned in the body of the EIS. Subsections (2) and (3) of this section correspond in subject matter to the questions contained in the environmental checklist used for threshold determination, and the questions in the checklist may be used to interpret this outline listing.

(2) ELEMENTS OF THE PHYSICAL ENVIRONMENT.

(a) Earth.

- (i) Geology.
- (ii) Soils.
- (iii) Topography.
- (iv) Unique physical features.
- (v) Erosion.
- (vi) Accretion/avulsion.

(b) Air.

- (i) Air quality.
- (ii) Odor.
- (iii) Climate.

(c) Water.

- (i) Surface water movement.
- (ii) Runoff/absorption.
- (iii) Floods.
- (iv) Surface water quantity.
- (v) Surface water quality.
- (vi) Ground water movement.
- (vii) Ground water quantity.
- (viii) Ground water quality.
- (ix) Public water supplies.

(d) Flora.

- (i) Numbers or diversity of species.
- (ii) Unique species.
- (iii) Barriers and/or corridors.
- (iv) Agricultural crops.

(e) Fauna.

- (i) Numbers or diversity of species.
- (ii) Unique species.
- (iii) Barriers and/or corridors.
- (iv) Fish or wildlife habitat.

(f) Noise.

(g) Light and glare.

(h) Land use.

(i) Natural resources.

- (i) Rate of use.
- (ii) Nonrenewable resources.

(j) Risk of explosion or hazardous emissions.

(3) ELEMENTS OF THE HUMAN ENVIRONMENT

(a) Population.

(b) Housing.

(c) Transportation/circulation.

- (i) Vehicular transportation generated.
- (ii) Parking facilities.
- (iii) Transportation systems.
- (iv) Movement/circulation of people or goods.
- (v) Waterborne, rail and air traffic.
- (vi) Traffic hazards.

(d) Public services.

- (i) Fire.
- (ii) Police.
- (iii) Schools.
- (iv) Parks or other recreational facilities.
- (v) Maintenance.
- (vi) Other governmental services.

(e) Energy.

- (i) Amount required.
- (ii) Source/availability.

(f) Utilities.

- (i) Energy.
- (ii) Communications.
- (iii) Water.
- (iv) Sewer.
- (v) Storm water.
- (vi) Solid waste.

(g) Human health (including mental health).

(h) Aesthetics.

(i) Recreation.

(j) Archeological/historical.

(4) The following additional element shall be covered in all EISs, either by being discussed or marked "N/A," but shall not be considered part of the environment for other purposes:

(a) Additional population characteristics.

- (i) Distribution by age, sex and ethnic characteristics of the residents in the geographical area affected by the environmental impacts of the proposal.

[Order 259, § 332-40-444, filed 6/10/76; Order 257, § 332-40-444, filed 5/21/76.]

WAC 332-40-446 Draft EIS—Optional additional elements—Limitation. The guidelines of the department, as lead agency, shall control the content of the EIS, even though other agencies with jurisdiction are involved in the proposal. No agency shall prescribe additional material for an EIS beyond that which is required or optionally allowed by WAC 332-40-440 and 332-40-444. [Order 259, § 332-40-446, filed 6/10/76; Order 257, § 332-40-446, filed 5/21/76.]

WAC 332-40-450 Public awareness of availability of draft EIS. Upon publication of the draft EIS, the responsible official shall list the proposal in the lead agency's "EIS Available Register" maintained at the department's SEPA public information center. [Order 259, § 332-40-450, filed 6/10/76; Order 257, § 332-40-450, filed 5/21/76.]

WAC 332-40-460 Specific agencies to which draft EIS shall be sent. (1) A copy of each draft EIS shall be mailed no later than the day that it is listed in the "EIS Available Register" to the following:

(a) The department of ecology.

(b) Each federal agency having jurisdiction by law over a proposed action.

(c) Each agency having jurisdiction by law over, or environmental expertise pertaining to a proposed action, as defined by WAC 332-40-040 and 332-40-465 (required by RCW 43.21C.030(2)(d)).

(d) Each city/county in which adverse environmental effects identified in the draft EIS may occur if the proposed action is implemented. (This subsection does not apply to draft EISs for nonproject actions.)

(e) Each local agency or political subdivision which will be required to furnish additional public services as a result of implementation of the proposed action.

(f) The applicable regional planning commission, regional clearinghouse, state-wide clearinghouse, or area-wide council of government which has been designated to review and coordinate local governmental planning under the A-95 review process and other federal regulations and programs [See RCW 36.64.080, RCW 35.63-.070 and RCW 36.70.070].

(g) The department's SEPA public information center.

(h) [Optional] Any person, organization or governmental agency that has expressed an interest in the proposal, is known by the department to have an interest in the type of proposal being considered, or receives governmental documents (e.g., local and regional libraries) may be sent a copy of the draft EIS.

(2) An agency that receives a copy of the draft EIS does not become a "consulted agency" under these guidelines due to that factor alone. [See WAC 332-40-040, 332-40-465, 332-40-510 and 332-40-520 for those provisions that define a consulted agency.] [Order 259, § 332-40-460, filed 6/10/76; Order 257, § 332-40-460, filed 5/21/76.]

WAC 332-40-465 Agencies possessing environmental expertise. The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

(1) Air quality.

- (a) Department of ecology.
- (b) Department of natural resources (only for burning in forest areas).
- (c) Department of social and health services.
- (d) Regional air pollution control authority or agency.

(2) Water resources and water quality.

- (a) Department of game.
- (b) Department of ecology.
- (c) Department of natural resources (state-owned tidelands, harbor areas or beds of navigable waters).
- (d) Department of social and health services (public water supplies, sewer systems, shellfish habitats).
- (e) Department of fisheries.
- (f) Oceanographic commission (marine waters).

(3) Fish and wildlife.

- (a) Department of game.
- (b) Department of fisheries.
- (c) Oceanographic commission (marine waters).

(4) Solid waste.

- (a) Department of ecology.
- (b) Department of fisheries (dredge spoils).
- (c) Department of social and health services.

(5) Noise.

- (a) Department of ecology.
- (b) Department of social and health services.

(6) Hazardous substances (including radiation).

- (a) Department of ecology.
- (b) Department of social and health services.
- (c) Department of agriculture (foods or pesticides).
- (d) Department of fisheries (introduction into waters).
- (e) Oceanographic commission (introduction into marine waters).

(7) Natural resources development.

- (a) Department of commerce and economic development.
- (b) Department of ecology.
- (c) Department of natural resources.
- (d) Department of fisheries.
- (e) Department of game.
- (f) Oceanographic commission (related to marine waters).

(8) Energy production, transmission and consumption.

- (a) Department of commerce and economic development (office of nuclear energy development—nuclear).
- (b) Department of ecology.
- (c) Department of natural resources (geothermal, coal, uranium).
- (d) State energy office.
- (e) Thermal power plant site evaluation council (thermal power plants).
- (f) Utilities and transportation commission.

(9) Land use and management.

- (a) Department of commerce and economic development.
- (b) Department of ecology.
- (c) Department of fisheries (affecting surface or marine waters).
- (d) Department of natural resources (tidelands or state-owned or -managed lands).
- (e) Office of community development.

(10) Transportation.

- (a) Department of highways.
- (b) Utilities and transportation commission.
- (c) Oceanographic commission (water borne).

(11) Recreation.

- (a) Department of commerce and economic development.
- (b) Department of game.
- (c) Department of fisheries.
- (d) Parks and recreation commission.
- (e) Department of natural resources.

(12) **Archaeological/historical.**

- (a) Parks and recreation commission.
- (b) Washington state university at Pullman (Washington archaeological research council).

[Order 259, § 332-40-465, filed 6/10/76; Order 257, § 332-40-465, filed 5/21/76.]

WAC 332-40-470 Cost to the public for reproduction of environmental documents. The department shall make available a copy of any environmental document, in the manner provided by chapter 42.17 RCW, charging only those costs allowed therein and mailing costs: *Provided*, That no charge shall be levied for circulation of documents to other agencies which is required by these guidelines. [Order 259, § 332-40-470, filed 6/10/76; Order 257, § 332-40-470, filed 5/21/76.]

WAC 332-40-480 Public hearing on a proposal—When required. (1) If a public hearing on the proposal is held pursuant to some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any available environmental document.

(2) In all other cases a public hearing on the environmental impact of a proposal shall be held whenever one or more of the following situations occur:

(a) The department determines, in its sole discretion, that a public hearing would assist the department in meeting its responsibility to implement the purposes and goals of SEPA and these guidelines; or,

(b) When fifty or more persons residing within the jurisdiction of the department, or who would be adversely affected by the environmental impact of the proposal, make written request to the department within thirty-five days of the listing of the proposal in the "EIS Available Register"; or,

(c) When two or more agencies with jurisdiction over a proposal make written request to the department within thirty-five days of the listing of the proposal in the "EIS Available Register."

(3) Whenever a public hearing is held under subsection (2) of this section, it shall occur no later than fifty-one days from the listing of the proposal in the "EIS Available Register" and no earlier than fifteen days from such date of listing. [Order 259, § 332-40-480, filed 6/10/76; Order 257, § 332-40-480, filed 5/21/76.]

WAC 332-40-485 Notice of public hearing on environmental impact of the proposal. (1) Notice of all public hearings to be held pursuant to WAC 332-40-480(2) shall be published in a newspaper of general circulation in the area where the project will be implemented. For nonproject actions the notice shall be published in the general area where the department has its principal office. The notice shall be published no later than five days preceding the hearing. For nonproject proposals having regional or state-wide applicability, copies of the notice shall be transmitted to the Olympia bureaus of the associated press and united press international.

(2) A notation of the hearing date and location shall be entered in the "EIS Available Register" maintained at the department's SEPA public information center. [Order 259, § 332-40-485, filed 6/10/76; Order 257, § 332-40-485, filed 5/21/76.]

WAC 332-40-490 Public hearing on the proposal—Use of environmental documents. Whenever a public hearing is held on the environmental impact of a proposal, it shall be open to discussion of all environmental documents and any written comments which have been received by the department prior to the hearing. A copy of the draft EIS shall be made available for public inspection at the public hearing. [Order 259, § 332-40-490, filed 6/10/76; Order 257, § 332-40-490, filed 5/21/76.]

WAC 332-40-495 Preparation of amended or new draft EIS. (1) The department shall prepare an amended or new draft EIS whenever it determines:

(a) That substantial changes have been made in the proposal, or significant new information concerning anticipated environmental impacts has become available subsequent to circulation of the initial draft EIS, and

(b) That circulation of a new draft EIS is necessary to provide further input and review on the proposal.

(2) In such event, the department shall follow the provisions of WAC 332-40-450 through 332-40-490 for the amended or new draft EIS. [Order 259, § 332-40-495, filed 6/10/76; Order 257, § 332-40-495, filed 5/21/76.]

WAC 332-40-500 Department responsibilities when consulted as an agency with jurisdiction. The department, when responding to a consultation request prior to a threshold determination, participating in predraft consultation, or reviewing a draft EIS, shall immediately begin the research and, if necessary, field investigations which it would normally conduct in conjunction with whatever license it requires for a proposal; or, in the event no license is involved the department shall investigate the impacts of the activity it will undertake which gives it jurisdiction over a portion of the proposal. The end result of these investigations should be that the department will be able to transmit to the lead agency substantive information on those environmental impacts of the proposal which are within the scope of the license or activity of the department. The department, in its response to the lead agency, should also indicate which of the impacts it has discovered may be mitigated or avoided and how this might be accomplished, and describe those areas of environmental risks which remain after it has conducted the investigations that may have been required. [Order 259, § 332-40-500, filed 6/10/76; Order 257, § 332-40-500, filed 5/21/76.]

WAC 332-40-520 Department responsibilities when consulted as an agency with environmental expertise. (1) The department as an agency possessing environmental expertise pertaining to the impacts associated with a proposal [see WAC 332-40-465], when requested by the lead agency, shall provide to the lead agency that

substantive data, information, test results or other material relevant to the proposal which the consulted agency then possesses relating to its area of special expertise. [Order 259, § 332-40-520, filed 6/10/76; Order 257, § 332-40-520, filed 5/21/76.]

WAC 332-40-530 Responsibilities of the department—When predraft consultation has occurred. When the department has engaged in the predraft consultation procedures set forth in WAC 332-40-410, the scope and depth of its required review and comment upon the draft EIS is limited to those appropriate and relevant matters which were not contained in its previous response (such as when significant new information becomes available which was not available to the consulted agency during the predraft consultation stage). [Order 259, § 332-40-530, filed 6/10/76; Order 257, § 332-40-530, filed 5/21/76.]

WAC 332-40-535 Cost of performance of consulted agency responsibilities. The department shall not charge the lead agency for any costs incurred in complying with WAC 332-40-500 through 332-40-540, including, but not limited to, such functions as providing relevant data to the lead agency and the reproduction of various documents that are transmitted to the lead agency. This section shall not prohibit the department from charging those costs allowed by chapter 42.17 RCW, for the reproduction of any environmental document when the request for a copy of the document is from an agency other than the lead agency, or from an individual or private organization. [Order 259, § 332-40-535, filed 6/10/76; Order 257, § 332-40-535, filed 5/21/76.]

WAC 332-40-540 Limitations on responses to consultation. In those instances where part or all of the relevant data possessed by the department is either voluminous in nature, extremely bulky or otherwise incapable of ready transmittal to the lead agency, or consists of a report or document published by another agency, or represents a standard text or other work obtainable at a public library, such data or information may be clearly identified or cited by the department in its comments to the lead agency and the data itself need not be transmitted. When the department identifies relevant data, files or other material pursuant to this section, it shall describe briefly the nature of such information and clearly indicate its relevance to the environmental analysis of the proposed action in question. If the details of the proposal supplied with the consultation request are not sufficient to allow a complete response, the department shall be required to transmit only that information it is capable of developing from the material sent to it with the consultation request. [Order 259, § 332-40-540, filed 6/10/76; Order 257, § 332-40-540, filed 5/21/76.]

WAC 332-40-545 Effect of no written comment. If a consulted agency does not respond with written comments within thirty-five days of the date of listing of the draft EIS in the "EIS Available Register," or fails to respond within the fifteen-day extension period which

may have been granted by the lead agency, the department may assume that the consulted agency has no information relating to the potential impact of the proposal upon the subject area of the consulted agency's jurisdiction or special expertise. Any consulted agency which fails to submit substantive information to the department in response to a draft EIS is thereafter barred from alleging any defects in the department's compliance with WAC 332-40-400 through 332-40-495, or with the contents of the final EIS. [Order 259, § 332-40-545, filed 6/10/76; Order 257, § 332-40-545, filed 5/21/76.]

WAC 332-40-570 Preparation of the final EIS—Contents—When no critical comments received on the draft EIS. (1) If the department does not receive any comments critical of the scope or content of the draft EIS, the department may prepare a statement to the effect that no critical comments were received and circulate that statement in the manner prescribed in WAC 332-40-600.

(2) The statement prepared and circulated pursuant to subsection (1) above, together with the draft EIS (which is not recirculated with the statement), shall constitute the "final EIS" for the proposal: *Provided*, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies. [Order 259, § 332-40-570, filed 6/10/76; Order 257, § 332-40-570, filed 5/21/76.]

WAC 332-40-580 Preparation of the final EIS—Contents—When critical comments received on the draft EIS. (1) When the department receives any comments critical of the scope or content of the draft EIS, whether made in writing or made orally at any public hearing on the environmental impact of the proposal, it shall comply with either subsection (2) or (3) below.

(2) The department may determine that no changes are required in either the draft EIS or the proposal, despite the critical comments that were received during the commenting period. The department must prepare a document containing a general response to the comments that were received, the text or summary of written comments, and a summary of the oral comments made by the public at any hearing held on the proposal or its environmental impacts. The department shall then circulate the document in the manner prescribed in WAC 332-40-600: *Provided*, That when the draft EIS was not circulated to the office of the governor or the ecological commission, then the draft EIS shall be attached only to the statement sent to these agencies.

(3) The department may determine that it is necessary and appropriate to rewrite the contents of the draft EIS in order to respond to critical comments received during the commenting period. In such instances, the department shall circulate the rewritten EIS in the manner specified in WAC 332-40-600. The department shall ensure that the rewritten EIS evidences an affirmative response by the department to the critical comments, or alternatively, contains a summary of those critical comments with which it does not agree.

(4) A document prepared and circulated pursuant to subsection (2) or (3) above shall constitute the "final EIS" for the proposal. [Order 259, § 332-40-580, filed 6/10/76; Order 257, § 332-40-580, filed 5/21/76.]

WAC 332-40-600 Circulation of the final EIS. The final EIS shall be circulated to the department of ecology, office of the governor or the governor's designee, the ecological commission, the department's SEPA public information center, agencies with jurisdiction, and federal agencies with jurisdiction which received the draft EIS. It shall be made available to the public in the same manner and cost as the draft EIS. [Order 259, § 332-40-600, filed 6/10/76; Order 257, § 332-40-600, filed 5/21/76.]

WAC 332-40-650 Effect of an adequate final EIS prepared pursuant to NEPA. (1) The requirements of this chapter relating to the preparation of an EIS shall not apply when an adequate final EIS has been prepared pursuant to the national environmental policy act of 1969 (NEPA), in which event such EIS may be utilized in lieu of a final EIS separately prepared under SEPA.

(2) The final EIS of a federal agency shall be adequate unless:

(a) A court rules that it is inadequate; or,

(b) The administrator of the United States Environmental Protection Agency issues a written comment pursuant to the Federal Clean Air Act, 42 U.S.C. § 1857, which determines it to be inadequate; or,

(c) The environmental elements of WAC 332-40-444, when applied locally, are not adequately treated in it.

(3) If, after review thereof, the department determines that the federal EIS is adequate, it shall be listed in the "EIS Available Register" in the SEPA public information center.

(4) A public hearing on the sole issue of the adequacy of the content of a federal EIS shall be held if, within thirty-five days of its listing in the register, at least fifty persons who reside within the jurisdiction of the department, or are adversely affected by the environmental impact of the proposal, make written request therefor. The department shall reconsider its determination of adequacy in view of comments received at any such public hearing. [Order 259, § 332-40-650, filed 6/10/76; Order 257, § 332-40-650, filed 5/21/76.]

WAC 332-40-652 Supplementation by the department of an inadequate final NEPA EIS. When a final EIS prepared pursuant to NEPA is inadequate under the criteria set forth in WAC 332-40-650(2), then the department shall either:

(1) Prepare a draft EIS independent of the final NEPA EIS or

(2) Modify or supplement the final NEPA EIS as necessary to prepare an adequate draft EIS. [Order 259, § 332-40-652, filed 6/10/76; Order 257, § 332-40-652, filed 5/21/76.]

WAC 332-40-660 Use of previously prepared EIS for a different proposed action. (1) The department may

adopt and utilize a previously prepared EIS, or portion thereof, to satisfy certain of the EIS requirements applicable to a different proposed action, as set forth in (2) and (3) below. In such event, two requirements shall be met:

(a) The previous EIS or portion thereof, together with any supplement to it, shall meet the requirements of these guidelines applicable to an EIS for the new proposed action, and

(b) A previous EIS shall not be used without an explanatory supplement where any intervening change in conditions would make the previous EIS misleading when applied to the new proposed action.

(2) When the new proposed action will have an impact on the environment that was not adequately analyzed in the previously prepared EIS, the department shall prepare a draft supplemental EIS and comply with the provisions of WAC 332-40-400 through 332-40-695. The contents of the draft and final supplemental EIS shall be limited to those impacts of the proposed action which were not adequately analyzed in the earlier EIS.

(3) When the new proposed action will not have an impact on the environment that is substantially different than the impacts of the earlier proposed action, the department may prepare a written statement setting forth its determination under this subsection and list the proposal in the "EIS Available Register". The department shall not be required to prepare a new or supplemental draft or final EIS on the new proposed action when this subsection is determined to apply. The provisions of WAC 332-40-480 through 332-40-490, relating to a public hearing on the environmental impact of a proposal shall apply, however, to proposed actions determined to be under the provisions of this subsection. [Order 259, § 332-40-660, filed 6/10/76; Order 257, § 332-40-660, filed 5/21/76.]

WAC 332-40-690 Use of another lead agency's EIS by the department for the same proposal. (1) When the department is considering an action which is identified as part of a proposal covered by a final EIS of a another lead agency, and the department was consulted as an agency with jurisdiction during the consultation process on the previous EIS because of the action it is now considering, the department must utilize the previous EIS unchanged when it is considering its present action except under the conditions of subsection (2) hereof.

(2) The department shall review and consider supplementing an EIS prepared by the lead agency only if:

(a) The proposal has been significantly modified since the lead agency prepared the EIS; or,

(b) The action now being considered was identified in the lead agency's EIS as one which would require further environmental evaluation; or,

(c) The level of design or planning for the proposal has become more detailed, revealing inadequately analyzed impacts; or,

(d) Technical data has become available which indicates the presence of a significant adverse environmental impact.

In such cases, the department shall prepare a supplement to the lead agency's EIS if, and only if, it determines that significant adverse environmental impacts have been inadequately analyzed in the lead agency's EIS.

(3) If the department is not listed as a licensing agency in the draft EIS pursuant to WAC 332-40-440(2)(d) and did not receive a copy of the draft EIS, the department shall not be limited by the contents of the earlier EIS in preparing its statement. [Order 259, § 332-40-690, filed 6/10/76; Order 257, § 332-40-690, filed 5/21/76.]

WAC 332-40-695 Draft and final supplements to a revised EIS. (1) In any case where the department is preparing a supplement to an earlier EIS or to an EIS prepared pursuant to NEPA, it shall prepare a draft supplemental EIS and comply with WAC 332-40-450. Copies of both the prior and supplemental EIS shall be maintained at the SEPA public information center, and copies of the prior EIS, as well as the supplement, shall be transmitted to the consulted agencies which had not previously received it.

(2) Upon preparation of the draft supplemental EIS, the department shall comply with WAC 332-40-550 through 332-40-580 and the final supplemental EIS, together with the earlier EIS, shall be regarded as a final EIS for all purposes of these guidelines. [Order 259, § 332-40-695, filed 6/10/76; Order 257, § 332-40-695, filed 5/21/76.]

WAC 332-40-700 EIS combined with existing planning and review processes. The EIS process shall be combined with the existing planning, review and project approval processes being used by the department when it has jurisdiction by law over a proposal. When required to be prepared, the EIS, the declaration of nonsignificance, or the previously circulated EIS being utilized pursuant to WAC 332-40-660, shall accompany a proposal through the existing review processes. [Order 259, § 332-40-700, filed 6/10/76; Order 257, § 332-40-700, filed 5/21/76.]

WAC 332-40-800 Amendments to this chapter. In the event that CEP or its successor agency adopts amendments to this chapter, the department shall adopt amendments to these guidelines within one hundred twenty days and one hundred eighty days, respectively, to bring these guidelines into conformance with SEPA guidelines as amended. [Order 259, § 332-40-800, filed 6/10/76; Order 257, § 332-40-800, filed 5/21/76.]

WAC 332-40-830 SEPA public information center. (1) The following documents shall be maintained at the department's SEPA public information center:

(a) Copies of all declarations of nonsignificance filed by the department, for a period of one year.

(b) Copies of all EISs prepared by the department, for a period of three years. Draft EISs which have been superseded by a final EIS need not be maintained at the center.

(3) In addition, the department shall maintain the following registers at its information center, each register including for each proposal its location, a brief (one sentence or phrase) description of the nature of the proposal, the date first listed on the register, and a contact person or office from which further information may be obtained:

(a) A "Proposed Declaration of Nonsignificance Register" which shall contain a listing of all current proposed declarations of nonsignificance.

(b) An "EIS in Preparation Register" which shall contain a listing of all proposals for which the department is currently preparing an EIS, and the date by which the EIS is expected to be available.

(c) An "EIS Available Register" which shall contain a listing of all draft and final EISs prepared by the department during the previous six months, including thereon the date by which comments must be received on draft EISs, and the date for any public hearing scheduled for the proposal.

(4) Each of the registers required by subsection (3) hereof shall be kept current and maintained at the information center for public inspection. In addition, the registers, or updates thereof containing new entries added since the last mailing, shall be mailed once every two weeks to those organizations and individuals who make written request therefor, unless no new proposals are placed on the register, in which event a copy of the register or update shall be mailed when a new proposal is added. The department may charge a periodic fee for the service of mailing the registers or updates, which shall be reasonably related to the costs of reproduction and mailing.

(5) The documents required to be maintained at the information center shall be available for public inspection, and copies thereof shall be provided upon written request. The department may charge for copies in the manner provided by chapter 42.17 RCW, and for the cost of mailing. [Order 259, § 332-40-830, filed 6/10/76; Order 257, § 332-40-830, filed 5/21/76.]

WAC 332-40-835 Regional SEPA public information centers. (1) For any proposal which will affect a county in which a regional SEPA public information center has been designated, the department shall transmit to the regional center all documents required to be maintained at such a SEPA public information center, together with information needed to update the registers maintained at such center.

(2) The department when it is proposing nonproject actions of regional or state-wide applicability shall transmit to the regional SEPA public information centers within counties affected thereby the information needed to update the registers of the regional centers, together with any notices made under WAC 332-40-450, but shall not be required to transmit any other environmental document to the regional centers. The department when considering proposed project or licensing actions shall comply with subsection (1) hereof in the same manner as local agencies. [Order 259, § 332-40-835, filed 6/10/76; Order 257, § 332-40-835, filed 5/21/76.]

WAC 332-40-840 Application of agency guidelines to ongoing actions. (1) The department's guidelines shall apply to any proposed action when initiated subsequent to the effective date of the guidelines of the department when it is the lead agency or the department when it is proposing the action.

(2) For proposals made prior to the effective date of the guidelines of the department, the department's guidelines shall apply to those elements of SEPA compliance remaining to be undertaken subsequent to the effective date of such guidelines. The department's guidelines adopted pursuant to RCW 43.21C.120 and the requirements of this chapter shall not be applied to invalidate or require modification of any threshold determination, EIS or other element of SEPA compliance undertaken or completed prior to the effective date of the guidelines of the department. [Order 259, § 332-40-840, filed 6/10/76; Order 257, § 332-40-840, filed 5/21/76.]

WAC 332-40-910 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected. [Order 259, § 332-40-910, filed 6/10/76; Order 257, § 332-40-910, filed 5/21/76.]

Chapter 332-44 WAC STRAY LOGS

WAC

332-44-010	Stray logs—Possession marks.
332-44-020	Log patrol—Activity in Everett Harbor.
332-44-030	Closed portion of Everett Harbor.
332-44-040	Closed portion of Everett Harbor—Exception.
332-44-050	Closed portion of Everett Harbor—Licensed log patrolmen—Duties.
332-44-060	Closed portion of Everett Harbor—Opening closed area—Notice.
332-44-070	Closed portion of Everett Harbor—Violations—Penalty.
332-44-080	Closed portion of Everett Harbor—Supersession of prior agreements.
332-44-090	Severability.

WAC 332-44-010 Stray logs—Possession marks. (1) It is the purpose of this resolution to provide licensed log patrolmen with a means whereby they can mark stray logs that they have recovered under the provisions of chapter 76.40 RCW, so that identification of their recovery may be made in the event of theft or the commingling with stray logs recovered by other licensed log patrolmen. It is also the purpose of this resolution to provide protection to log owners by establishing a new method of marking the stray logs to indicate recovery rights. This will permit enforcement of RCW 76.36.090, regarding the proper usage of catch brands, and prevent catch brands from being used for the purpose of identifying possession, when, in fact, no change of ownership has occurred or is intended.

(2) **Definitions:**

(a) "Waters of this state" means the same as defined in RCW 76.40.010(5).

(b) "Log patrol" means the same as defined in RCW 76.40.010(1).

(c) "Stray logs" means the same as defined in RCW 76.40.010(2).

(d) "Possession mark" means an identifying mark registered and assigned to licensed log patrolmen to be impressed upon stray logs recovered by that log patrolman.

(3) Every log patrolman who recovers or puts into any of the waters of this state any stray logs may have a possession mark, previously registered in the manner hereinafter provided, plainly impressed or cut in a conspicuous place on each stray log so recovered or put into any of such waters.

(4) A separate and exclusive possession mark shall be established, assigned and registered to each existing log patrolman within a reasonable time after the passage of this resolution. Newly licensed log patrolmen shall be assigned a possession mark, and registered, upon the issuance of their license. There shall be no fees for the registration of these possession marks.

(5) The possession mark shall be registered by the supervisor, of the department of natural resources, or his deputy, in a segregated portion of the "Forest Products Brand Register" provided for in RCW 76.36.030 entitled "Log Patrolman Marks," by entering therein the name of the owner, character of the mark, date of registration, and such other details as he may see fit to enter therein.

(6) Every log patrolman wishing to use a possession mark may be informed of the character of the mark assigned and registered to him upon application to the office of the law enforcement and log patrol section of the department of natural resources, P.O. Box 168, Olympia, Washington.

(7) No possession marks registered under this resolution shall be assignable, and shall be considered to be attached to and a part of the log patrol license as issued under RCW 76.40.030.

(8) All stray logs having impressed thereon a registered possession mark shall be presumed to have been recovered by the log patrol appearing in the possession mark registry. A possession mark shall not indicate or be presumed to indicate ownership of the stray log. The possession mark shall not be necessary when the stray log is, in fact, owned by the log patrolman, or has been conveyed to him as indicated by the proper usage of a catch brand. [Resolution 1, filed 1/27/65.]

WAC 332-44-020 Log patrol—Activity in Everett Harbor. Pursuant to the provisions of chapter 76.40 RCW that portion of Everett Harbor, Snohomish County, Washington, which is more particularly described in WAC 308-44-030, below, is, except as herein provided, closed to activities of the log patrol. [Docket 255, § 1, filed 10/28/66.]

WAC 332-44-030 Closed portion of Everett Harbor. That portion of Everett Harbor closed to activities of the log patrol is described as follows:

Those parts of Townships 29 and 30 North, Range 5 East, W.M., lying easterly of a line beginning at the

Stone House on Priest Point, running thence southeasterly to that point on the north end of the jetty known as the Hole in the Wall, thence southerly along the jetty to the south end thereof, thence southwesterly to the south bank of Pigeon Creek at the point it enters Everett Harbor, being the point of termination of this line description. [Docket 255, § 2, filed 10/28/66.]

WAC 332-44-040 Closed portion of Everett Harbor—Exception. Nothing herein shall preclude use by the log patrol of log storage areas now, or hereafter approved by the department of natural resources and which are easterly of the line described in WAC 332-44-030, above, in connection with the otherwise lawful activities of the log patrol. [Docket 255, § 3, filed 10/28/66.]

WAC 332-44-050 Closed portion of Everett Harbor—Licensed log patrolmen—Duties. Upon request to a licensed log patrolman by the United States coast guard station, Everett, by the office of the Snohomish county sheriff, or by the department of natural resources, said log patrolman shall enter the closed area and remove therefrom such log or logs as have been referred to him by one of the above agencies as being a danger to property or a hazard to navigation. Licensed log patrolmen shall respond and enter the closed area only at the request of one of the above agencies. A list of currently licensed log patrolmen operating in the Everett area will be furnished, from time to time, to the United States coast guard station, Everett, and to the office of the Snohomish county sheriff by the department of natural resources. Each agency will keep a record of all references to licensed log patrolmen concerning the removal of logs from the closed area in Everett Harbor. [Docket 255, § 4, filed 10/28/66.]

WAC 332-44-060 Closed portion of Everett Harbor—Opening closed area—Notice. When in the judgment of the department of natural resources such quantity of stray logs has accumulated within a closed area of Everett Harbor as to justify or require the removal thereof, the closed area will be opened to the activities of the log patrol for such period as is considered necessary to remove the stray logs. Notice of such opening, and the period thereof shall be given by mail to each licensed log patrolman operating in the Everett Harbor and by mailing to such others as request such notice. [Docket 255, § 5, filed 10/28/66.]

WAC 332-44-070 Closed portion of Everett Harbor—Violations—Penalty. Any violation in the provisions of WAC 332-44-020 through 332-44-090 shall be punishable as a misdemeanor and may, in addition, constitute grounds for the suspension or revocation of the license of a log patrolman. [Docket 255, § 6, filed 10/28/66.]

WAC 332-44-080 Closed portion of Everett Harbor—Supersession of prior agreements. This WAC 332-44-020 through 332-44-090 supersedes any prior

agreement concerning log patrol activities in the Everett harbor. [Docket 255, § 7, filed 10/28/66.]

WAC 332-44-090 Severability. If any section or provision of WAC 332-44-020 through 332-44-090 is held to be, for any reason, ineffectual or unconstitutional, such holding shall not affect the validity or enforceability of the remainder. [Docket 255, § 8, filed 10/28/66.]

Chapter 332-48 WAC FIRE AND GAME DAMAGE

WAC
332-48-010 Electrical fence controllers.
332-48-020 Unauthorized use of Colocum airstrip.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

332-48-050 Fire rules. [Resolution 21, filed 6/6/61.] Repealed by Order 256, filed 5/13/76. Later promulgation, see WAC 332-24-061.

WAC 332-48-010 Electrical fence controllers. (1) Purpose. The purpose of this resolution is to protect the health and safety of the people of Washington from the danger of electrically caused fires, and to protect property situated in Washington from the hazards of electrically caused fires.

(2) Definitions.

(a) "Persons" include individuals, corporations, associations, firms, partnerships, joint stock companies, municipal corporations, state agencies, and any political subdivision thereof.

(b) "Electrical fence controller" includes any controller, equipment, appliance, device, or apparatus used as an electrical fence, controller, energizer, or pulsator which uses or conveys an electrical current.

(c) "Certified electrical fence controller" means an electrical fence controller listed in the published list of Underwriters Laboratories entitled "Electrical Appliance and Utilization Equipment List," dated May, 1963, and the supplements thereto, as an approved electrical product, and which has not been decertified.

(d) "Uncertified electrical fence controller" includes all electrical fence controllers which are not listed in the Underwriters Laboratories Electrical Appliance and Utilization Equipment List dated May, 1963, and the supplements thereto.

(e) "Forest land" means any land which has enough slashing, chopping, woodland, brushland, timber, standing or down, grass and sagebrush when adjacent to or intermingled with areas supporting tree growth, or other inflammable material to constitute a fire menace to life or property.

(f) "Label" means a card furnished by the department of natural resources to all those parties dealing with the sale or other transfers of electrical fence controllers, indicating to all interested persons that the usage of such fence controllers is limited. The form of such labels shall be substantially as follows:

NOTICE

This fence controller is not approved by Underwriters Laboratories as free from fire hazard. It is unlawful to use this fence controller on forest land or land over which fire may spread to forest land at any time other than the months of November, December, January, February, and March.

(3) **Underwriters Laboratories, Inc., as Standard.** On or before the 2nd day of June, 1964, the division of fire control, department of natural resources, shall obtain an authentic copy of the Underwriters Laboratories Electrical Appliance and Utilization and Equipment List, May, 1963, and supplements thereto, and shall annually thereafter obtain new sets of such lists. These lists shall be kept on file in the office of the division of fire control, department of natural resources.

(4) **Regulations.**

(a) No person shall use or energize any uncertified electrical fence controller on any forest land in the state of Washington except during the months of November, December, January, February, and March; *Provided*, That this section shall not be construed to mean that the person may not have, establish, install, or erect such an uncertified electrical fence controller which does not contain a current of electricity during the prohibited months.

(b) No person shall sell, offer for sale, or dispose of by gift or otherwise to any consumer or user in the state of Washington, any uncertified electrical fence controller that is not labeled. It is the responsibility of those persons selling or otherwise disposing of these fences to attach the label. Labels shall be issued upon request and without charge by the division of fire control, department of natural resources, P.O. Box 110, Olympia, Washington, to those persons responsible for their attachment.

(c) Certified electrical fence controllers may be maintained, used, sold, offered for sale, disposed of by gift or otherwise under this resolution without restriction.

(5) **Administration.**

(a) The department of natural resources, division of fire control, shall inspect all electrical fence controllers for which a label is required by subsection (4)(b) above. The division of fire control shall also inspect the installation to which such fence controllers are being used for violation of subsection (4) above. The responsibility of presenting sufficient evidence of certification such as the Underwriters Laboratories label, brand name, model number, etc., for these inspections, shall be upon the user.

(b) Failure to present sufficient evidence of certification such as Underwriters Laboratories label, brand name, model number, etc., at an inspection of the usage of electrical fence controllers during the months prohibited by subsection (4) above shall be prima facie evidence of noncompliance with the provisions of this resolution.

(6) **Violations.** Any person who wilfully violates these rules and regulations made by the board of natural resources shall by authority of RCW 76.04.120 be guilty of a misdemeanor. [Resolution 54, filed 6/3/64.]

WAC 332-48-020 Unauthorized use of Colocukum airstrip. (1) The Colocukum airstrip located in Section 15, Township 20 North, Range 20 East, W.M., is necessary to the public welfare for the use in forest protection and game management.

(2) Unauthorized usage of the airstrip is detrimental to the game of that area and increases the risks of forest fires. The unauthorized usage of this airstrip by persons in their private, sporting, or recreational activities is hereby prohibited. Vehicular traffic is also prohibited except upon the extreme west edge of the airstrip. Any person knowingly violating this regulation, except in the case of airborne emergency, shall by authority of RCW 76.04.120, be guilty of a misdemeanor. [Resolution 44, filed 11/5/63.]

Chapter 332-52 WAC

MANAGED LANDS AND ROADS—USE OF

WAC

332-52-010	Definitions.
332-52-020	Applicability and scope.
332-52-030	General rules.
332-52-040	Public behavior—Recreation sites.
332-52-050	Vehicles.
332-52-060	Use of fire.
332-52-070	Penalties.
332-52-080	Enforcement.
332-52-090	Effective dates.

WAC 332-52-010 Definitions. The following definitions shall apply to all of the listed regulations:

(1) The term "Developed Recreation Sites" means all improved observation, swimming, boating, camping and picnic sites.

(2) The term "Camping Equipment" includes tent or vehicle used to accommodate the camper, the vehicles used for transport, and the associated camping paraphernalia.

(3) The term "Department" shall mean the Department of Natural Resources.

(4) The term "Vehicle" shall mean any motorized device capable of being moved upon a road and in, upon, or by which any persons or property is or may be transported or drawn upon a road. It shall include, but not be limited to automobiles, trucks, motorcycles, motor bikes, motor-scooters and snowmobiles, whether or not they can legally be operated on the public highways. [Order 29, § 332-52-010, filed 4/17/70, effective 5/20/70.]

WAC 332-52-020 Applicability and scope. The following public use rules are aimed at protecting recreational, economic and industrial activities on land and roads under the jurisdiction of the Department of Natural Resources of the State of Washington. These rules are designed to allow Washington's trust lands to fulfill their historic roles of revenue production. The rules cover public use activities on developed recreation sites and all other lands under the jurisdiction of the Department of Natural Resources. They cover the public use of roads and trails under the jurisdiction of the Department of Natural Resources and the recreational use of fire. These public use rules are not applicable to persons, or

their assignees or representatives, engaged in industrial harvest, commercial leases or agriculture or grazing activities carried on under sale, lease or permit from the Department on lands under its jurisdiction if such application is incompatible with state contracts or agreements. Nor shall these rules, except the provisions of WAC 332-52-060, apply on lands under Department's jurisdiction that are withdrawn or leased by a public agency having rules governing public use on the lands withdrawn or leased, provided that these rules may apply upon request of the applicable public agency. Public notices of these rules shall be posted by the Department of Natural Resources in such locations as will reasonably bring them to the attention of the public. The department will also set forth conditions with respect to any areas on which special restrictions are imposed and post in same manner. A copy of the rules shall be made available to the public in the office of the Commissioner of Public Lands, Olympia, and in offices of local District Administrators. [Order 29, § 332-52-020, filed 4/17/70, effective 5/20/70.]

WAC 332-52-030 General rules. The following acts or omissions are prohibited on any lands under the jurisdiction of the Department of Natural Resources:

(1) Sanitation

(a) Disposal of all garbage, including paper, cans, bottles, waste materials and rubbish except by removal from the area, or disposal at designated disposal areas.

(b) Draining or dumping refuse or waste from any trailer, car or other vehicle except in designated disposal areas.

(c) Cleaning fish or food, or washing clothing or articles for household use in any drinking water source.

(d) Polluting or contaminating water through failure to use due and reasonable care with regard to activities involving lakes, streams or other sources of water.

(e) Depositing, except into receptacles provided for that purpose, any body waste in or on any portion of any comfort station or any public structure, or upon the ground, or depositing any bottles, cans, cloths, rags, metal, wood, stone or any other damaging substance in any of the fixtures in such stations or structures.

(f) Using refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought as such from private property.

(2) Public Behavior

(a) Inciting or participating in riots, or indulging in abusive, threatening or indecent conduct or indulging in conduct that destroys the normal recreational experience of other users. Persons violating this rule may be evicted from lands under the jurisdiction of the Department of Natural Resources.

(b) Destroying, injuring, defacing, removing or disturbing in any manner any public building, sign, equipment, marker or other structure or property.

(c) Selling or offering for sale any merchandise without the written consent of the Department of Natural Resources.

(d) Posting, placing or erecting any bills, notices, papers or advertising devices or matter of any kind without

the written consent of the Department of Natural Resources.

(e) Erecting or using unauthorized buildings. Persons violating this rule may be evicted from lands under the jurisdiction of the Department of Natural Resources.

(f) Exploding or igniting firecrackers, rockets or fireworks of any kind.

(3) Audible Devices

(a) Operating or using any audible devices, including radio, television and musical instruments and other noise producing devices, such as electrical generating plants and equipment driven by motors or engines, in such a manner and at such times so as to unreasonably disturb other persons.

(b) Operating or using portable public address system, whether fixed, portable, or vehicle mounted, except when such use or operation has been approved by the Department in writing.

(4) Vehicles and Road Use

It is the policy of the Department of Natural Resources to encourage public use of all roads and trails, land and water under its jurisdiction consistent with its trust responsibilities, conservation of soil and water, timber and grass and the natural environment, while maintaining a reasonable balance between the proper needs of conflicting user groups. Therefore, the following rules shall pertain to all lands under the jurisdiction of the Department of Natural Resources and to all access roads across private lands through which the Department has obtained the right of public use. Rules and regulations bearing upon recreational access to department managed lands and roads may be waived (in writing) by the Department for special situations provided that the events are consistent with the above Department policy.

(a) Vehicles may travel over all roads adequate for conventional 2-wheel drive passenger automobiles unless posted against such use.

(b) Roads, abandoned railway grades, skid roads, and similar routes inadequate for conventional 2-wheel drive automobiles and all trails are closed to vehicular use unless designated or posted as open for such use.

(c) Vehicular travel off-road or off-trails is prohibited except in areas designated or posted by the Department as open for vehicular travel.

(d) Snowmobiles may travel over roads and trails on Department managed lands except where posted against such use.

(e) Snowmobiles are prohibited from off-roads and off-trails travel except in areas designated or posted as open by the Department.

(f) All regulations having to do with safety, noise abatement, speed and fire precautions which apply to other motorized vehicles in developed recreation sites or on other lands managed by the department shall apply to snowmobiles provided that: One headlight in working order shall be deemed sufficient lighting system for snowmobiles.

(g) Operating a motor vehicle at any time without a muffler in good working order or operating a vehicle in such a manner as to create excessive or unusual noise or annoying smoke or using a muffler, cutoff, bypass or

similar device or operating a motor vehicle with an exhaust system that has been modified so that the noise emitted by the engine of such vehicle is amplified or increased above that emitted by the muffler originally equipped on the vehicle is prohibited.

(h) Every motor vehicle during the "Closed Season" as defined in RCW 76.04.252 shall be equipped with a spark arresting muffler approved by the Supervisor of the Department of Natural Resources whenever such vehicle shall traverse over any state lands other than on roads from which the inflammable vegetation has been cleared of sufficient width to pass a four-wheel vehicle and such road is surfaced with a noninflammable material.

(i) Driving in a careless or negligent manner or driving while under the influence of intoxicating liquors or under the influence of narcotic or hallucinogenic drugs is prohibited.

(j) Headlights must be turned on whenever the visibility is reduced to 200 feet or less due to darkness, dust, smoke, fog or other weather or atmospheric conditions.

(k) Speed Limits—The driver shall operate his vehicle at a safe speed at all times and not in excess of any posted speed.

(l) Right-of-Way—The driver of any vehicle, other than an emergency vehicle, shall yield the right-of-way to log hauling or gravel trucks, except as otherwise provided:

(i) The driver of a vehicle approaching an intersection, not otherwise posted, shall look out for and yield the right-of-way to any vehicle on his right simultaneously approaching the intersection regardless of which vehicle first reaches and enters the intersection.

(ii) The driver of a vehicle intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction.

(iii) The driver of a vehicle shall yield the right-of-way to animal-drawn vehicles and persons riding animals and shall make reasonable effort to avoid frightening or startling such animals.

(m) Following—A vehicle whose driver does not intend to pass shall not follow another vehicle closer than 150 feet provided that vehicles driven by a single organized group may follow one another at a lesser but reasonable following distance.

(n) Pedestrians' Rights and Duties—Every driver of a vehicle shall yield the right-of-way to pedestrians. Pedestrians should clear traffic lanes as soon as practicable.

(o) Animals—Every person in control of an animal or animal-drawn vehicle shall remove same from the roads to allow vehicles to pass as soon as practicable.

Whenever the driver of a vehicle encounters a herd of livestock which is in control of any person, he shall not move through the herd until directed to do so by the person in control of the herd. The person in charge of the herd shall remove the herd from the road or trail as soon as possible.

(p) Drive to Avoid Damage—No person shall operate any vehicle in such a way as to cause damage to the roads, bridges, cattleguards, gates or other structures or appurtenances which form a part of the road.

(q) Parking—No person shall stop, part or leave standing any vehicle or obstacle upon the main-traveled part of the road; any vehicles otherwise parked must leave sufficient room for the passage of at least normal traffic, provided, that this does not apply to the driver of: (i) a disabled vehicle, (ii) an emergency vehicle, (iii) a fire vehicle.

(r) Engine Noise—Excessively accelerating the engine of any type of vehicle when such vehicle is not moving or is starting from a stopping place is prohibited. [Order 29, § 332-52-030, filed 4/17/70, effective 5/20/70.]

WAC 332-52-040 Public behavior—Recreation sites. The following acts or omissions are further prohibited at Department of Natural Resources developed recreation sites:

(1) Destroying, defacing or removing any natural feature or vegetation.

(2) Discharging firearms. No person shall discharge across, in, or into any portion of the developed recreation site a firearm, bow and arrow, or air or gas device or any device capable of injuring or killing any animal or person or damaging or destroying any public or private property except where the department has authorized otherwise.

(3) Occupying a site for other than primarily recreational purposes.

(4) Entering or using a site or a portion of a site posted closed to public use.

Notices establishing closure shall be posted in such locations as will reasonably bring them to the attention of the public.

(5) Building a fire outside of stoves, grills, fireplaces or outside of fire rings provided for such purposes.

(6) Camping overnight in places restricted to day use only.

(7) Failure to clean their rubbish from the place occupied by the person or persons before departure.

(8) Pitching tents or parking trailers or other camping equipment except in places provided for such purposes.

(9) Camping within a campground for a longer period of time than that established by the Department of Natural Resources. Notices establishing limitations on the period of time persons may camp within a campground shall be posted in such locations as will reasonably bring them to the attention of the public. There may be different time limits in the various recreation sites depending upon conditions, time of the year, or available facilities.

(10) Failing to maintain quiet in campground between the hours of 10 p.m. and 6 a.m. All persons shall maintain reasonable quiet, and adults accompanied by children or pets shall be responsible to insure that children and/or pets maintain a reasonable quiet.

(11) Bringing saddle, pack or draft animals into the site unless it has been developed to accommodate them and is posted accordingly.

(12) Bringing pets or other animals into campground unless under physical restrictive control at all times.

(13) Leaving a camp unit unoccupied during the first night after camping equipment has been set up or leaving unattended camping equipment for more than 24 hours. Such unattended camping equipment which is not removed is subject to removal. [Order 29, § 332-52-040, filed 4/17/70, effective 5/20/70.]

WAC 332-52-050 Vehicles. The following acts or omissions are further prohibited at Department of Natural Resources developed recreation sites:

(1) Driving or parking any vehicle or trailer except in places designed for this purpose.

(2) Driving any vehicle at a speed or in a manner likely to endanger any person or property.

(3) Driving bicycles, motorbikes and motorcycles on trails unless such trails are posted for vehicular traffic.

(4) Driving motorbikes, motorcycles, or other motor vehicles on roads in developed recreation sites for any purpose other than access into, or egress out of, the site unless authorized and posted by the Department of Natural Resources. [Order 29, § 332-52-050, filed 4/17/70, effective 5/20/70.]

WAC 332-52-060 Use of fire. Chapter 76.04 RCW and all rules and regulations duly promulgated thereunder apply to recreational fires on lands under the jurisdiction of the Department of Natural Resources other than developed recreation sites. The written permission required under WAC 332-24-080 may be waived for recreational fires by the local district administrator in designated areas within his jurisdiction. [Order 29, § 332-52-060, filed 4/17/70, effective 5/20/70.]

WAC 332-52-070 Penalties. Failure to comply with any of the rules set forth in the preceding sections subjects the party or parties to the penalties provided by chapter 160, Laws of 1969 ex. sess., and the loss of access to and exercise of privileges on state-owned lands under the jurisdiction of the Department of Natural Resources for such period of time as the duly authorized representative of the Department of Natural Resources determines. [Order 29, § 332-52-070, filed 4/17/70, effective 5/20/70.]

WAC 332-52-080 Enforcement. These rules and regulations will be enforced by the Commissioner of Public Lands and such of his employees as he may designate.

(1) Provisions of the above rules and regulations may be waived by written permission by the Department of Natural Resources except for those activities controlled by statute or ordinance. Waivers may be granted when they are determined by the Department to be in the best public interest and will result in minimal damage to department managed land or resources.

(2) No rule or regulation adopted for the Public Use of the Department of Natural Resources Managed Lands and Roads shall interfere with operations conducted for the purpose of the saving of life or property when such operations are directed by the proper authority.

(3) All rules and regulations listed above are adopted by the Department of Natural Resources pursuant to chapter 43.30 RCW. [Order 29, § 332-52-080, filed 4/17/70, effective 5/20/70.]

WAC 332-52-090 Effective dates. These rules and regulations shall become effective upon the expiration of thirty (30) days after said rules and regulations are filed with the Code Reviser, except WAC 332-52-030(4)(a), (b), (c), (d), and (e), which shall become effective August 1, 1970. [Order 29, § 332-52-090, filed 4/17/70, effective 5/20/70.]

Chapter 332-100 WAC LEASES, SALES, RIGHTS OF WAY, ETC.

WAC

332-100-010	Percentage of proceeds to management account.
332-100-020	Leasing—Priority to public school districts.
332-100-030	Interest rates on deferred payments.

WAC 332-100-010 Percentage of proceeds to management account. (1) The board of natural resources hereby determines that a deduction of twenty percent from the gross proceeds of all leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department of natural resources and affecting public lands is necessary in order to achieve the purposes of chapter 79.64 RCW.

(2) From and after the effective date of this resolution, a deduction of twenty percent shall be made by the department of natural resources from such gross proceeds. All sums so deducted shall be paid into the resource management cost account in the state general fund created by chapter 79.64 RCW. [Resolution 16, filed 4/5/61.]

WAC 332-100-020 Leasing—Priority to public school districts. Acting under the authority as hereinbefore set forth and RCW 79.01.096, the board of natural resources declares it to be the policy of the department of natural resources to grant priority to public school districts in the leasing of common school lands under the jurisdiction of the department of natural resources; *Provided, however,* That the needs of such lands for public school purposes is clearly demonstrated and the request is not in excess of actual or reasonably foreseeable needs. [Resolution 32, filed 4/3/62.]

WAC 332-100-030 Interest rates on deferred payments. The interest rate to be charged on all contracts requiring the same pursuant to RCW 79.01.216 and 79.01.132 shall be the average prime interest rate as quoted by Seattle First National Bank, National Bank of Washington, National Bank of Commerce, and Peoples' National Bank on the first day of the last full quarter preceding approval of a contract by the Board of Natural Resources. Said rate shall not be less than six per cent per annum. [Order 27, § 332-100-030, filed 11/19/69.]

Chapter 332-110 WAC
LEASES OF STATE OWNED LAND

WAC
332-110-010 Minutes.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

332-110-001 Certificate of filing. [Filed 3/2/66.] Decodified 12/31/77.

WAC 332-110-010 Commissioner's authority. It was moved by Governor Rosellini, seconded by Dean Marckworth, and passed, that the commissioner be authorized to administer all leases of state owned lands under the department's direction on the same principle as school grant lands, subject to periodic review and power of intervention by the board. [Motion No. 78, minutes of April 1, 1958, meeting of board of natural resources (codified as WAC 332-110-010), filed 3/2/66.]

Reviser's note: The above section is an excerpt from the minutes of the April 1, 1958, meeting of the board of natural resources, which were filed in their entirety in order that motion number 78 may be given effect as a rule under the Administrative Procedure Act.

Chapter 332-120 WAC
SURVEY MONUMENTS—REMOVAL OR DESTRUCTION

WAC
332-120-010 Definition.
332-120-020 Application.
332-120-030 Permit.
332-120-040 Standards.
332-120-050 Report.

WAC 332-120-010 Definition. Monument: Any physical object or structure of record which marks or accurately references a corner or other survey point established by or under the supervision of a qualified party, including any corner or natural monument established by the General Land Office and its successor, the Bureau of Land Management; section subdivision corners down to and including one-sixteenth corners and any permanently monumented boundary, rights of way alignment, horizontal and vertical control points established by any governmental agency or private surveyor including street intersections but excluding dependent interior lot corner points. [Order 131, § 332-120-010, filed 3/1/72, effective 4/7/72.]

WAC 332-120-020 Application. All persons desiring to temporarily remove or destroy a section corner or any other land boundary mark or monument shall submit an application in substantially the following form to the Commissioner of Public Lands, giving all pertinent information regarding existing conditions at the monument, necessity for its temporary removal or destruction, and methods proposed for referencing or witnessing the monument to preserve its position. The application form shall be signed by a registered professional engineer or land surveyor and shall bear his seal and license number.

State of Washington
Department of Natural Resources

APPLICATION FOR PERMIT TO TEMPORARILY REMOVE OR DESTROY SECTION CORNER, OR OTHER LAND BOUNDARY MARK OR MONUMENT

To the Commissioner of Public Lands:

Pursuant to the provisions of Paragraph 6, section 25, chapter 271, Laws of 1969 ex. sess., the undersigned

(name) acting in and for (person, firm, corporation, or association) hereby applies for permit to

(temporarily remove) (destroy)
(strike out one)

the following described survey monument in Section
, Township North, Range
in County.

EXISTING CONDITIONS AT MONUMENT

Type of Monument: Sect. Cor. (), Triangulation
Sta. (), Bench Mark (),
Other

Established By: GLO (), Federal (), State (),
Other

Marked By: Pipe (), Rock (), Tree (), Conc.
Mon. (), Brass Cap (),
Other

Original and/or Supporting Evidence Found:

Coordinates: State (Lambert) (), Zone,
Other (specify)
Y (N) X (E)

Source of Coordinates:
Accuracy of Coordinates:

SKETCH (Indicate Meridian)

NECESSITY FOR TEMPORARY REMOVAL OR DESTRUCTION OF MONUMENT

PROPOSED METHOD OF REFERENCING and/or REESTABLISHING MONUMENT

SEAL Date -----

Signature of Registered
Engineer or Land Sur-
veyor
Lic. No. Address -----

Date of Issue by -----
----- (Authorized Issuing
Officer)
(Detach at perforations)

Mail completed form to:
Department of Natural Resources
Bureau of Surveys and Maps
P.O. Box 168 Tel. No. 753-5337
Olympia, WA 98504

State of Washington
Department of Natural Resources
Olympia, Washington

REPORT ON TEMPORARY REMOVAL OR
DESTRUCTION OF SECTION CORNER OR
OTHER LAND BOUNDARY MARK OR
MONUMENT

[Order 131, § 332-120-020, filed 3/1/72, effective
4/7/72.]

(date)

WAC 332-120-030 Permit. When satisfied that the
application complies with all laws and regulations, the
officer in charge of the Bureau of Surveys and Maps,
designated as the issuing officer for such permit, acting
for the Commissioner of Public Lands, shall issue a per-
mit in substantially the following form for the temporary
removal or destruction of the mark or monument. He
shall maintain on file a public record of such permits is-
sued, and provide copies of said permits on request and
within 5 working days to the respective county or local
governmental agencies where required.

To the Commissioner of Public Lands:

In accordance with your Permit No.
----- dated ----- 19--, I have (tem-
porarily removed) (destroyed) monument named
therein. There follows a description of monuments
and accessories I established to perpetuate the orig-
inal location of this point.

Permit No. -----

State of Washington
Department of Natural Resources
Olympia, Washington

(Sketch--attach sheet if necessary)

PERMIT TO TEMPORARILY REMOVE OR
DESTROY SECTION CORNER, OR OTHER
LAND BOUNDARY MARK OR MONUMENT

(signature)

(address)

To: -----
(applicant)

(Seal)
License No. -----

(street) (city) (state) (zip)

Pursuant to the authority vested in me by
chapter 271, Laws of 1969 ex. sess., and in confor-
mity with your application dated ----- 19--,
you are hereby authorized to (temporarily remove)
(destroy) the following described survey monument:

Except, applications concerning any monument of the
Federal horizontal or vertical geodetic networks will be
referred for appropriate action to the National Ocean
Survey and as applicable and if so identified, the estab-
lishing party or agency of any monument will be imme-
diately notified of the pending action.

Except, under extraordinary circumstances, to prevent
hardship and delay, the issuing officer upon assurance
by an authorized party that proper precautions are being
taken to perpetuate a point, may verbally grant permis-
sion to proceed pending the processing and issuance of a
written permit. [Order 131, § 332-120-030, filed
3/1/72, effective 4/7/72.]

This permit is granted subject to the provisions
of law and the regulations promulgated by me, as
given on the reverse side of the application form.
The work performed by you under this permit is to
be reported to the issuing officer on the Report
form below, and is subject to field inspection at his
discretion.

The requirement for reference to the
Washington Coordinate System is hereby waived.
Yes () No ()

WAC 332-120-040 Standards. The issuing officer
may waive the requirement for referencing to the
Washington State Coordinate System where such refer-
encing is deemed to be impractical. Replacement and/or
reference monuments to be of a permanent nature suit-
able for local conditions, and identified as to the respon-
sible party or agency and the month and year when set.
Replacement monuments or reference monuments estab-
lished in lieu thereof shall be of a kind or a higher

BERT L. COLE
Commissioner of Public Lands

standard than the monument being replaced. Said issuing officer shall be guided by the following recommended standards for remonumentation as published by the Department of Natural Resources pursuant to section 27, chapter 271, Laws of 1969 ex. sess.:

1. All concrete monuments used must contain re-enforcing steel or other magnetic material, except those enclosed in monument cases.
2. A minimum of 2" diameter iron pipe should be used for monuments in unpaved streets.
3. Monument cases shall be used in paved streets. Minimum monument in cases shall be 2" diameter concrete filled iron pipe.

[Order 131, § 332-120-040, filed 3/1/72, effective 4/7/72.]

WAC 332-120-050 Report. Upon completion of the temporary removal and replacement or the destruction of a mark or monument and the proper establishment of reference monuments, the applicant shall within 10 days complete the report form which is attached to his permit (see Permit form under WAC 332-120-030) showing all pertinent information as to work accomplished, marks, reference marks, reference points, and any accessories or features by which the point can be located if inaccessible or otherwise difficult to ascertain. When completed, this form shall be detached from the Permit and be returned to the issuing officer for his permanent file. The issuing officer shall furnish copies of this form upon request and within 5 working days to the County and local governing agencies as applicable. [Order 131, § 332-120-050, filed 3/1/72, effective 4/7/72.]

Chapter 332-130 WAC SURVEY STANDARDS

WAC

332-130-010	Authority.
332-130-020	Definitions.
332-130-030	Land subdivision standards—Recording.
332-130-040	Land description requirements—General.
332-130-050	Land description requirements—Specific items.
332-130-060	Survey map requirements.
332-130-070	Field traverse standards for land surveys.
332-130-080	Geodetic control survey standards.

WAC 332-130-010 Authority. The Department of Natural Resources, in accordance with the authority defined in paragraph 1, chapter 58.24.040 RCW, does herewith prescribe the following regulations setting Minimum Standards for Land Boundary Surveys and Geodetic Control Surveys. [Order 275, § 332-130-010, filed 5/2/77.]

WAC 332-130-020 Definitions. As used for these rules, the following definitions shall apply:

(1) **Land Boundary Surveys:** All surveys whether made by private persons or entities or public bodies of whatever nature for the specific purpose of establishing or reestablishing the boundary of any lot, tract or parcel of real property in the State of Washington;

(2) **Geodetic Control Surveys:** Surveys for the specific purpose of establishing control points for extending the Lambert Grid Net and establishing plane coordinate values on primary cadastral monuments within the requirements of the Washington Coordinate System, as defined in chapter 58.20 RCW;

(3) **Land Surveyor:** Shall mean every person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW, as now or hereafter amended;

(4) **Land Survey:** Shall mean the locating and monumenting, in accordance with sound principles of land surveying by or under the supervision of a licensed land surveyor, of points or lines which define the exterior boundary or boundaries common to two or more parcels or which reestablish or restore General Land Office or Bureau of Land Management survey corners;

(5) **Washington Coordinate System:** Shall mean that system of plane coordinates as established and designated by chapter 58.20 RCW;

(6) **Public Record:** Shall be the system of records maintained by the Bureau of Surveys and Maps, the county auditors and such other agencies as may be officially designated and by law assigned the responsibility of maintaining a record of such information available to the general public during normal working hours;

(7) **The Survey Recording Act:** Shall mean chapter 50, Laws of 1973, (Title 58.09 RCW) as now or hereafter amended;

(8) **GLO and BLM:** Means the General Land Office and its successor, the Bureau of Land Management. [Order 275, § 332-130-020, filed 5/2/77.]

WAC 332-130-030 Land subdivision standards—Recording. The following minimum standards shall apply to land subdivision:

(1) The subdivision of a section shall conform to the rules prescribed for official U. S. Government Surveys of the public lands and instructions relating thereto, and/or applicable federal or state court decisions relating thereto;

(2) Section subdivision and line data shall be shown on the record of survey to the extent necessary to support the position of any subdivisional corner used to reference a surveyed parcel and to justify the location of the parcel boundary therein; except where a section subdivision is a matter of public record, then reference may be made to that record and only so much of the section subdivision as is necessary to properly orient the surveyed parcel need be shown;

(3) Every General Land Office or Bureau of Land Management survey mark or corner controlling a surveyed parcel shall be documented and recorded as required by the Survey Recording Act, unless the corner and its accessories are substantially as described in an existing record conforming to the provisions of this section on file with the county auditor and the Bureau of Surveys and Maps. The documentation of any GLO or BLM corner shall include at least three substantial references to the corner mark placed in such a manner that they are not likely to be destroyed along with the corner. A valid set of coordinates on the Washington Coordinate

System may serve as one of the three required references. [Order 275, § 332-130-030, filed 5/2/77.]

WAC 332-130-040 Land description requirements—General. Any legal land description written defining land boundaries shall be complete and accurate from the title standpoint, providing definite and unequivocal identification of the lines or boundaries from which a physical survey can be accomplished. [Order 275, § 332-130-040, filed 5/2/77.]

WAC 332-130-050 Land description requirements—Specific items. The following items must be considered and included in a land description when applicable:

- (1) Lot, tract or portion thereof in a recorded plat:
 - (a) lot and block number or designation,
 - (b) addition or subdivision name and number and its location by section, township, range and meridian,
 - (c) plat book and page number of recorded plat,
 - (d) recording office, city or county and state.
 - (2) Lot or tract described by metes and bounds:
 - (a) city and/or county and state,
 - (b) subdivision(s) of section, township, range, meridian or other official GLO or BLM survey subdivision, or portion of recorded plat,
 - (c) measurement to official GLO or BLM survey subdivision corner or properly determined subdivision corner thereof with physical description of such corners,
 - (d) a traverse of the boundary giving:
 - (i) place of beginning and/or initial point including description of the physical monument,
 - (ii) bearings or azimuths in degrees, minutes and seconds,
 - (iii) distances in feet to the nearest one-hundredth,
 - (iv) identification of adjoining giving official recording office and recovery index when other deed calls are uncertain,
 - (v) indicate if course is a dividing line of a section subdivision, a line of record or parallel thereof,
 - (vi) indicate area to the nearest one-hundredth acre.
- [Order 275, § 332-130-050, filed 5/2/77.]

WAC 332-130-060 Survey map requirements. The record of survey shall be a map properly drawn to a convenient scale such as to satisfy the requirements of the Survey Recording Act and/or chapter 58.17 RCW relating to platting, subdivision and dedication of land.

- (1) Boundary survey maps shall include the following where applicable:
 - (a) Title of survey;
 - (b) Land surveyor certification by showing name, license number, signature and seal;
 - (c) Date;
 - (d) North arrow and bearing reference;
 - (e) Deed calls and reference to control monuments;
 - (f) Indicate monuments found and set;
 - (g) Gearings, azimuths or angles in degrees and minutes and seconds and distances to the nearest one-hundredth of a foot;
 - (h) Legal description of property;

(i) Indicate hiatuses (gaps) and/or overlapping boundaries;

(j) Physical appurtenances (fences, structures, etc.) which may indicate encroachment, lines of possession or conflict of title;

(k) Indexing data block, showing:

(i) section, township and range and, additionally, the quarter(s) of a section in which the surveyed parcel lies,

(ii) other official subdivisional tract of the GLO or BLM survey,

(iii) in a recorded subdivision, show lot, block, name and number of subdivision with volume and page of recorded plat;

(2) A copy of the survey map shall be furnished the client. [Order 275, § 332-130-060, filed 5/2/77.]

WAC 332-130-070 Field traverse standards for land surveys. The following standards shall apply to field traverses used in land boundary surveys. Such standards should be considered minimum standards only. Higher levels of precision are expected to be utilized in areas with higher property values or in other situations necessitating higher accuracy.

(1) Linear Closures after Azimuth Adjustment.

- (a) City – central and local business and industrial areas 1:10,000
- (b) City – residential and subdivision lots 1:5,000
- (c) Section subdivision, new subdivision boundaries for residential lots and interior monument control 1:5,000
- (d) Suburban – residential and subdivision lots 1:5,000
- (e) Rural – forest land and cultivated areas 1:5,000
- (f) Lambert grid traverses 1:10,000

(2) Angular closure.

(a) Where 1:10,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of $10 \sqrt{n}$, where "n" equals the number of angles in the closed traverse or three seconds per angle whichever is the least.

(b) Where 1:5,000 minimum linear closure is required, the maximum angular error in seconds shall be determined by the formula of $30 \sqrt{n}$ where "n" equals the number of angles in the closed traverse or eight seconds per angle whichever is the least. [Order 275, § 332-130-070, filed 5/2/77.]

WAC 332-130-080 Geodetic control survey standards. The following standards shall apply to Geodetic Control Surveys:

(1) Horizontal Control.

(a) At least second-order Class II accuracy and specifications as published by the Department of Commerce, February, 1974 in Bulletin titled, "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys";

(b) Cadastral monuments, as defined in chapter 58.20 RCW.

(2) Vertical Control.

At least second-order Class II accuracy and specifications as published by the Department of Commerce,

February, 1974 in Bulletin titled, "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Surveys". [Order 275, § 332-130-080, filed 5/2/77.]