

Washington State Register

MARCH 5, 1997

OLYMPIA, WASHINGTON

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CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 753-7470.

REPUBLICATION OF OFFICIAL DOCUMENTS

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of March 1997 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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

Mary F. Gallagher Dilley
Chair, Statute Law Committee

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Code Reviser

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Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

1996 - 1997
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
96-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
96-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
96-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
96-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
96-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
96-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
96-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
96-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
96-24	Nov 6	Nov 20	Dec 4	Dec 18, 1996	Jan 7, 1997
97-01	Nov 21	Dec 5	Dec 19, 1996	Jan 2, 1997	Jan 22
97-02	Dec 5	Dec 19, 1996	Jan 2, 1997	Jan 15	Feb 4
97-03	Dec 26, 1996	Jan 8, 1997	Jan 22	Feb 5	Feb 25
97-04	Jan 8	Jan 22	Feb 5	Feb 19	Mar 11
97-05	Jan 22	Feb 5	Feb 19	Mar 5	Mar 25
97-06	Feb 5	Feb 19	Mar 5	Mar 19	Apr 8
97-07	Feb 19	Mar 5	Mar 19	Apr 2	Apr 22
97-08	Mar 5	Mar 19	Apr 2	Apr 16	May 6
97-09	Mar 26	Apr 9	Apr 23	May 7	May 27
97-10	Apr 9	Apr 23	May 7	May 21	Jun 10
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97-22	Oct 8	Oct 22	Nov 5	Nov 19	Dec 9
97-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23
97-24	Nov 5	Nov 19	Dec 3	Dec 17, 1997	Jan 6, 1998

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

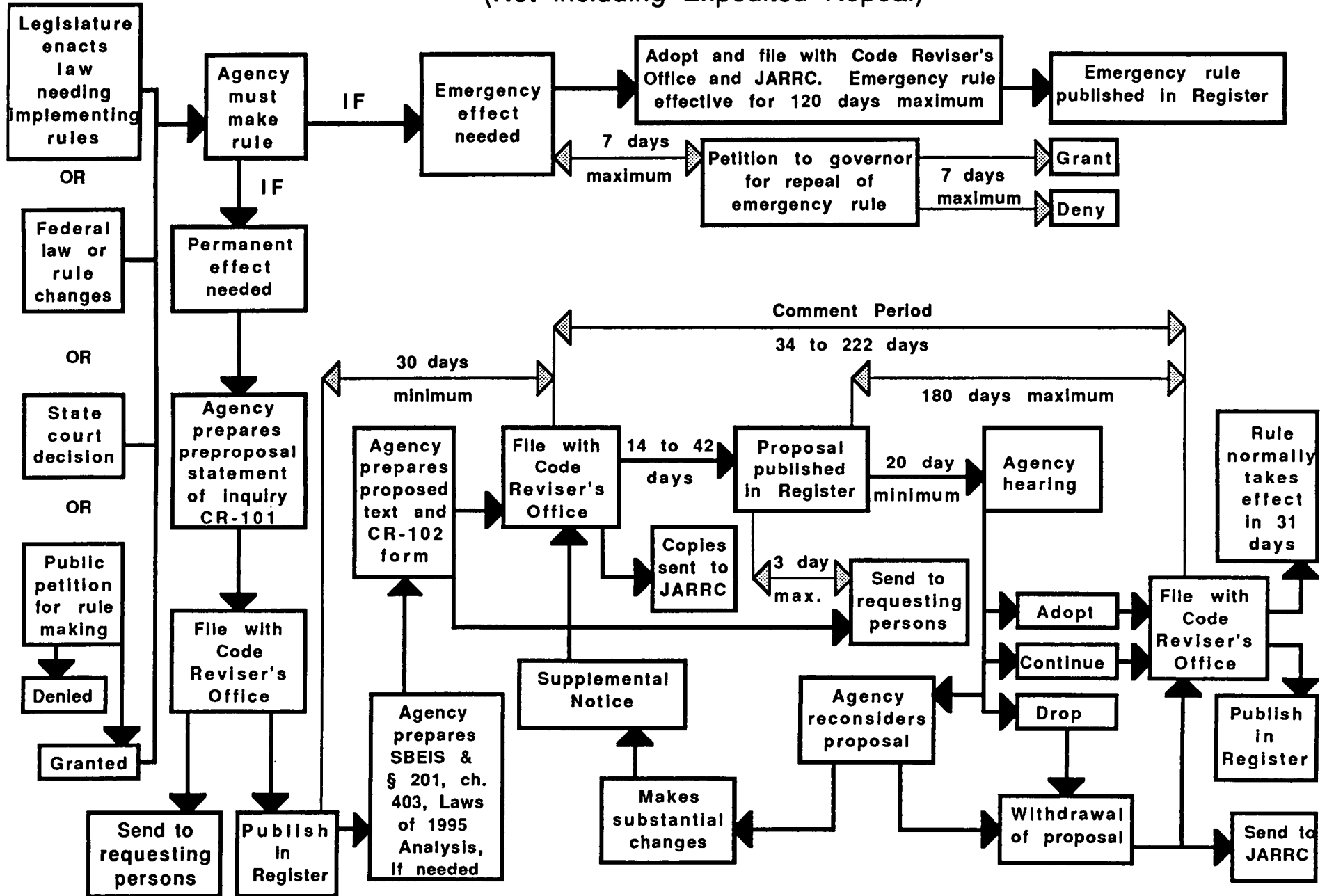
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS

(Not including Expedited Repeal)



WSR 97-05-013**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed February 10, 1997, 9:44 a.m.]

Subject of Possible Rule Making: Sale of gambling related products with sale of a business.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070 (2), (8), (14).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarify existing rules on what gambling related products may be sold with the sale of a business.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David Shaw, Rules and Policy Coordinator, (360) 438-7654, ext. 310, or Carrie Tellefson, Special Assistant to the Director, (360) 438-7654, ext. 373, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400. Meetings: On March 13 and 14, 1997, at the Howard Johnson Hotel, 3105 Pine Street, Everett, WA 98201, (206) 339-3333; on April 10 and 11, 1997, at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000; and on May 8 and 9, 1997, at 486 Bradley Boulevard, Richland, WA 99352, (509) 943-4400.

February 10, 1997

David D. Shaw

Rules and Policy Coordinator

WSR 97-05-014**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed February 10, 1997, 9:45 a.m.]

Subject of Possible Rule Making: Rules to change procedures and requirements for public disclosure requests.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 42.17.250 - 42.17.320, 9.46.070 (7), (8), (14), (18).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current public disclosure rules can be streamlined and clarified to demonstrate limits and guidelines for making a request and options available to the agency in fulfilling such requests.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David Shaw, Rules and Policy Coordinator, (360) 438-7654, ext. 310, or Carrie Tellefson, Special Assistant to the Director, (360) 438-7654, ext. 373, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400. Meetings: On March 13 and 14, 1997, at the Howard Johnson Hotel, 3105 Pine Street, Everett, WA 98201, (206) 339-3333; on April 10 and 11, 1997, at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000; and on May 8 and 9, 1997, at 486 Bradley Boulevard, Richland, WA 99352, (509) 943-4400.

February 10, 1997

David D. Shaw

Rules and Policy Coordinator

WSR 97-05-015**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed February 10, 1997, 9:46 a.m.]

Subject of Possible Rule Making: Rules to change use of credit and discounts and pricing by distributors and manufacturers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070 (4), (8), (14), (20).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Flow of gambling products through the supply chain down to the operator and player is currently hindered and jeopardized by current use of credit and discounts.

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting David Shaw, Rules and Policy Coordinator, (360) 438-7654, ext. 310, or Carrie Tellefson, Special Assistant to the Director, (360) 438-7654, ext. 373, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400. Meetings: On March 13 and 14, 1997, at the Howard Johnson Hotel, 3105 Pine Street, Everett, WA 98201, (206) 339-3333; on April 10 and 11, 1997, at The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, (360) 371-2000; and on May 8 and 9, 1997, at 486 Bradley Boulevard, Richland, WA 99352, (509) 943-4400.

February 10, 1997

David D. Shaw

Rules and Policy Coordinator

WSR 97-05-021**PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE UNIVERSITY**

[Filed February 10, 1997, 12:35 p.m.]

Subject of Possible Rule Making: Patron rules for use of the Martin Stadium, amendment to existing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.30.150(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Consumption of tobacco and alcohol products inside the Martin Stadium and its outer concourses, and usage of large bags which block aislesways, has become a health risk to stadium patrons, and a nuisance. Amending existing rules on this subject will allow the university to regulate such conduct more strictly, and so better to protect the health and safety of the public attending events in the Martin Stadium.

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

Process for Developing New Rule: This is not a new rule, but an amendment and adjustment of standing university facilities-use rules. There are no stakeholders to negotiate with practically, and so there is no need for a pilot project or agency study. Interested parties are invited to submit their ideas to the address below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Marcia Saneholtz, Senior Assistant Athletic Director, Washington State University, 107A Bohler Gym, P.O. Box 641610, Pullman, WA 99164-1610, (509) 335-0320, FAX (509) 335-0328 (limit to ten pages). Please send prior to March 7, 1997. No meetings are planned at this phase of rule development.

February 5, 1997
Richard L. Hutchinson
Rules Coordinator

WSR 97-05-026

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed February 11, 1997, 11:10 a.m.]

Subject of Possible Rule Making: Repeal of chapter 180-115 WAC, Grant project—Student teaching pilot projects.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.410.150 (statute no longer exists).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Grant project was effective until January 16, 1990. Rules are no longer necessary.

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

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

February 11, 1997
Larry Davis
Executive Director

WSR 97-05-027

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed February 11, 1997, 11:13 a.m.]

Subject of Possible Rule Making: Repeal of chapter 180-110 WAC, Grant program—Schools for the twenty-first century.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.630.210 (statute no longer exists).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Grant program ended June 30, 1994. Rules are no longer necessary.

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

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

February 11, 1997
Larry Davis
Executive Director

WSR 97-05-028

PREPROPOSAL STATEMENT OF INQUIRY WASHINGTON STATE PATROL

[Filed February 12, 1997, 8:28 a.m.]

Subject of Possible Rule Making: Repeal and amend existing sections of, and add new sections to chapter 212-17 WAC, Fireworks, to prescribe state-wide standards for retail fireworks stands.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 70.77, 43.43 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Recent legislative changes require the director of fire protection to prescribe uniform state-wide standards for retail fireworks stands. These changes will help to ensure uniform, safe operation of fireworks retail stands throughout the state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Fire Protection Bureau, under the state patrol is the sole regulating agency for fireworks in the state. The Department of Labor and Industries was consulted regarding requirements for electrical service to fireworks stands. Their recommendations were incorporated into the new sections.

Process for Developing New Rule: Mandated by legislative changes; key stakeholders participated in development of these changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mr. Lyall H. Smith, Deputy State Fire Marshal, Washington State Patrol, Fire Protection Bureau, P.O. Box 42600, Olympia, WA 98504-2600, phone (360) 753-0470, FAX (360) 753-0395.

January 11, 1997
Annette M. Sandberg
Chief

WSR 97-05-033

PREPROPOSAL STATEMENT OF INQUIRY FOREST PRACTICES BOARD

[Filed February 13, 1997, 12:34 p.m.]

Subject of Possible Rule Making: Modify forest practices rules that define type 2 and 3 waters in WAC 222-

16-030, and define requirements for the Forest Practices Board manual.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040, [76.09.]050 and chapter 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Modifications are needed to protect public resources, specifically fish, by ensuring that riparian rules are being applied to fish-bearing streams and that the water quality upstream of fish hatchery intakes is protected.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: State-Department of Ecology; Federal-Environmental Protection Agency, National Marine Fisheries Service, United States Fish and Wildlife Service, United States Forest Service; and Others-Indian tribes.

Process: Timber, fish and wildlife participants have worked together to draft this initial proposal, and they are working on a long-term plan to develop a more comprehensive proposal to recommend to the Forest Practices Board.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending comments to Judith Holter, Forest Practices Board Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1412, FAX (360) 902-1784.

February 12, 1997

Jennifer M. Belcher
Commissioner of Public Lands

WSR 97-05-037

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 14, 1997, 11:19 a.m.]

Subject of Possible Rule Making: Increasing metrology laboratory service fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.94.216, 19.94.325, and chapter 16-675 WAC.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: An increase in fees is necessary to improve cost recovery for services performed by the state metrology laboratory to achieve the mandate of RCW 19.94.216 to recover at least seventy-five percent of the laboratory's costs incurred in performing the service governed by the fee on or before June 30, 1998. Cost recovery based on the current fee schedule of \$50 per hour is approximately forty-two percent.

Process for Developing New Rule: Negotiated rule making; and proposed rules with new fees will be provided to stakeholders for comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties desiring to participate in this process should contact the Washington State Department of Agriculture, Attention: Bob Arrington, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1857 or FAX

(360) 902-2086, to obtain a copy of the proposed rules. Written comments should be submitted to the above address no later than 5:00 p.m., April 4, 1997.

February 14, 1997

Julie C. Sandberg
Assistant Director

WSR 97-05-038

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 14, 1997, 11:20 a.m.]

Subject of Possible Rule Making: Update rules in the areas of (1) uniform specifications, tolerances and other technical requirements for weighing and measuring devices; (2) uniform procedures for checking the net contents of packaged goods; (3) uniform packaging and labeling requirements; (4) uniform method of sale of commodities requirements; and (5) examination procedure for price verification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: (1) RCW 19.94.190 and 19.94.195; (2) RCW 19.94.190, 19.94.230, 19.94.350 and 19.94.370; (3) RCW 19.94.340 and 19.94.350; (4) RCW 19.94.340, 19.94.350, 19.94.400 and 19.94.420; and (5) RCW 19.94.390.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will update Washington's weights and measures regulations and ensure they are reasonably consistent with the most recent uniform state rules adopted by the National Conference on Weights and Measures and with those in effect in other states. Adoption will permit Washington businesses and consumers to realize the same benefits of improved technology in weighing and measuring that businesses and consumers in other areas of the United States enjoy.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Coordination with federal agencies, United States Department of Agriculture and Food and Drug Administration, accomplished at the national level. Adoption of uniform rules previously adopted by National Conference on Weights and Measures ensures coordination with federal agencies has occurred and is incorporated into the referenced publications.

Process for Developing New Rule: Proposed rules will be made available to stakeholders and interested parties for comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties desiring to participate in this process should contact the Washington State Department of Agriculture, Attention: Bob Arrington, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1857 or FAX (360) 902-2086. Publications referenced in Statutes Authorizing the Agency to Adopt Rules on this Subject above are available for viewing at the Washington State Department of Agriculture, Weights and Measures Office. National Institute of Standards and Technology (NIST) Handbooks 44, 130, and 133, which contain the referenced publications, are available for purchase from the United States Government Printing Office, Superintendent of Documents, Mailstop: SSOP, Washington, DC 20402-9328. Written

comments should be submitted to the Department of Agriculture no later than 5:00 p.m., April 4, 1997.

February 14, 1997
Julie C. Sandberg
Assistant Director

WSR 97-05-044
PREPROPOSAL STATEMENT OF INQUIRY
THE EVERGREEN STATE COLLEGE

[Filed February 18, 1997, 10:15 a.m.]

Subject of Possible Rule Making: Chapter 174-276 WAC, Access to public records, revision; chapter 174-133 WAC, Organization, revision; chapter 174-130 WAC, Tuition and fees, revision; chapter 174-122 WAC, Mid-contract termination with adequate cause, repeal; chapter 174-116 WAC, Parking, revision; and chapter 174-140 WAC, State Environmental Policy Act rule, revision.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.40.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These are minor technical adjustments to bring existing WACs into current state law or actual practice or to remove unnecessary sections from the WAC.

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

Process for Developing New Rule: On campus consultation, consensus building consistent with normal institutional practices.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting D. Lee Hoemann, Executive Associate to the President, The Evergreen State College, Library Building, Room 3105, Olympia, WA 98505, (360) 866-6000, ext. 6113, FAX (360) 866-6823.

February 13, 1997
D. Lee Hoemann
Rules Coordinator

WSR 97-05-047
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 18, 1997, 10:40 a.m.]

Subject of Possible Rule Making: 1, 3 Butadiene, a suspected carcinogen, chapter 296-62 WAC, General occupational safety and health standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, [49.17].040, and [49.17].050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Occupational Safety and Health Administration (OSHA) recently adopted new standards on this chemical. This rule will be proposed for amendment to meet the department's obligation to adopt rules identical to or at-least-as-effective-as federal standards as required by the Washington Industrial Safety and Health Act, chapter 49.17 RCW.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies (other than OSHA) are known that regulate this subject.

Process for Developing New Rule: The department must adopt rules identical or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. Parties interested in the formulation of these rules for proposal may contact the individual listed below. The public may also participate by commenting after amendments are proposed by providing written comments or giving oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dan Locke, Industrial Hygienist, phone (360) 902-5524, FAX (360) 902-5529, Department of Labor and Industries, Division of Consultation and Compliance Services, P.O. Box 44620, Olympia, WA 98504-4620.

February 18, 1997
Gary Moore
Director

WSR 97-05-049
PREPROPOSAL STATEMENT OF INQUIRY
UNIVERSITY OF WASHINGTON

[Filed February 18, 1997, 11:53 a.m.]

Subject of Possible Rule Making: Chapter 478-116 WAC, Parking and traffic regulations of the University of Washington.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.20.130 and 28B.10.560.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 478-116 WAC has not been reviewed for several years and several minor changes and additions need to be made.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments or inquiries to Rebecca Goodwin Deardorff, Administrative Procedures Officer via U.S. mail University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203; via e-mail adminpro@u.washington.edu; or via FAX (206) 543-0786.

February 14, 1997
Rebecca Goodwin Deardorff
Administrative Procedures Officer

WSR 97-05-064
PREPROPOSAL STATEMENT OF INQUIRY
BUILDING CODE COUNCIL

[Filed February 19, 1997, 10:25 a.m.]

Subject of Possible Rule Making: Review and update of the Washington State Energy Code and Washington State Ventilation and Indoor Air Quality Code.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.27.190, 19.27A.045.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed rule making will provide a review and possible amendment of the Washington State Energy Code, 1994 Second Edition, and the Washington State Ventilation and Indoor Air Quality Code, Third Edition, currently in effect.

Process for Developing New Rule: Negotiated rule making; and appointment of technical advisory group.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Individuals or organizations interested in following the development of this rule should submit a letter of interest to James R. Beaver, Chair, Washington State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300, or FAX (360) 586-5880. Meeting notices, minutes, and draft language will be provided as requested. For further information, please contact Judith Darst at (360) 586-2251.

February 19, 1997
James R. Beaver
Chair

WSR 97-05-065

PREPROPOSAL STATEMENT OF INQUIRY BUILDING CODE COUNCIL

[Filed February 19, 1997, 10:27 a.m.]

Subject of Possible Rule Making: Review, amend and adopt the 1997 Editions of the Uniform Building Code and Uniform Mechanical Code, published by the International Conference of Building Officials, and the Uniform Fire Code, published by the International Fire Code Institute.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.27.074.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposed rule making will provide a detailed technical review of code changes from the 1994 Editions of the Uniform Codes currently adopted by Washington state.

Process for Developing New Rule: Negotiated rule making; and appointment of technical advisory group.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Individuals or organizations interested in following the development of this rule should submit a letter of interest to James R. Beaver, Chair, Washington State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300, or FAX (360) 586-5880. Meeting notices, minutes, and draft language will be provided as requested. For further information, please contact Al Rhoades at (360) 586-8999.

February 19, 1997
James R. Beaver
Chair

WSR 97-05-067

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed February 19, 1997, 10:54 a.m.]

Subject of Possible Rule Making: Amend chapter 16-532 WAC to change assessment procedures and add new hop varieties subject to labeling requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.65.280.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: (1) The Hop Board has the fiduciary responsibility to prepare budgets covering anticipated income and expenses and conduct advertising and research programs that benefit hop growers. Changes in hop processing technology and marketing channels have made assessment collection methods and budgeting less effective. (2) New varieties of hops have been released for commercial use.

Other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None.

Process for Developing New Rule: A notice of the proposed changes will be sent to all affected producers. Written comments will be accepted up to the date of the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. In addition to notices being sent to affected producers, a public hearing will be set to give interested parties an opportunity to participate and comment on the proposed rule changes. The assessment and collection procedure changes may be subject to a referendum of the growers. Please contact Ann George, Washington Hop Commission, 504 North Naches Avenue #11, Yakima, WA 98901, phone (509) 453-4749, FAX (509) 457-8561; or Walter Swenson, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1928, FAX (360) 902-2089.

February 19, 1997
William E. Brookreson
Assistant Director
Agency Operations



WSR 97-05-006
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE

[Filed February 6, 1997, 1:17 p.m.]

Continuance of WSR 97-01-136.

Preproposal statement of inquiry was filed as WSR 96-17-080.

Title of Rule: Criteria for determining when the benefits provided in a contract are and are not reasonable in relation to the amount charged by health carriers as regulated under RCW 48.44.010(3) and 48.46.020(1).

Other Identifying Information: Insurance Commissioner Matter No. R 96-7.

Summary: Continuation of adoption date.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, Internet e-mail inscomr@aol.com, FAX (360) 586-3535.

Date of Intended Adoption: March 28, 1997.

February 6, 1997

Deborah Senn

Insurance Commissioner

WSR 97-05-007
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION

[Filed February 7, 1997, 8:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-01-087.

Title of Rule: Chapter 468-16 WAC, Prequalification of contractors.

Purpose: To make minor changes to chapter 468-16 WAC to improve its effectiveness.

Statutory Authority for Adoption: RCW 47.01.101, 47.28.030, and 47.28.070.

Summary: Provides clarification for determining the maximum bidding capacity rating for a firm with an established ESOP (employee stock ownership plan), and suspension of qualification for failure to comply with EEO requirements.

Reasons Supporting Proposal: To implement statutory provisions for implementing the qualification process.

Name of Agency Personnel Responsible for Drafting: Ken Walker, 1D21 Transportation Building, (360) 705-7017; Implementation and Enforcement: John F. Conrad, 1C2 Transportation Building, (360) 705-7801.

Name of Proponent: Washington State Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed changes add clarity to the procedures for determining the qualifications of contractors performing highway construction. Chapter 468-16 WAC implements RCW 47.28.070 relating to prequalification of contractors for highway construction. The purpose of the rule is to assure that highway construction projects are awarded to competent and responsible contractors. The rule establishes an objective method for determining a contractor's qualifications and retention of such qualifications for bidding on department

work. It further provides for the enhancement of the contractor's bidding capacity through higher standards of performance. The rule increases the opportunity for better cooperation between the department and the construction industry. The rule provides for the award, denial, suspension, or revocation of qualification, and for a hearing procedure for such action.

Proposal Changes the Following Existing Rules: The rule codifies existing and new procedures for prequalification of contractors. It establishes rules for setting the maximum bidding capacity of a firm with and [an] established leveraged ESOP (employee stock ownership plan). It clarifies the penalties for failure to comply with equal employment opportunities, or women's, minority, and disadvantaged business enterprise requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required. The cost of prequalification under the proposed rules would impose no greater cost than would occur in compliance with our current prequalification process.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Commission Boardroom 1D2, Transportation Building, 310 Maple Park Drive, Olympia, WA 98504-7360, on April 15, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980, by April 11, 1997.

Submit Written Comments to: Ken Walker, Office Manager, Contract AD and Award, P.O. Box 47360, Olympia, WA 98504-7360, FAX (360) 705-6810, by April 11, 1997.

Date of Intended Adoption: April 15, 1997.

February 6, 1997

S. A. Moon

Deputy Secretary

for Operations

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

WAC 468-16-030 Definitions. The definitions set forth in this section apply throughout this chapter and have the following meanings, unless the context clearly indicates otherwise.

(1) **Above standard** - Performance ranging from standard to that meeting the lower range of superior.

(2) **Active contractor** - A contractor who has participated in department activities through maintaining required prequalification and having a history of performing department work.

(3) **Affiliate** - An associate, subordinate associate, or subsidiary firm which may involve the intermingling of funds, officers, or officials of one or more firms.

(4) **Assistant secretary for field operations support** - The primary representative of the secretary of transportation responsible for the highway construction program and for the qualification of contractors employed thereon.

(5) **Below standard** - Performance bordering on standard extending to the limits of inadequate.

(6) **Bidding proposal** - A form issued by the department for the submission of a contractor's bid containing

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spaces for entering bid amounts, authentication, and other data.

(7) **Capacity multiplier** - The number 5.0 multiplied by a firm's net worth to calculate its initial maximum bidding capacity.

(8) **Conditional qualification** - A temporary qualification status given a contractor who has received a "below standard" or "inadequate" overall rating or for other reasons which result in restrictions to a contractor's ability to bid on department work.

(9) **Contractor** - Any person, partnership, firm, corporation or joint venture who or which, in the pursuit of an independent business, undertakes, offers to undertake, or submits a bid to perform construction work for the department.

(10) **Department** - The department of transportation.

(11) **Endorser** - The ~~((district))~~ region operations engineer or immediate supervisor of the construction project engineer, or project architect or, under specified conditions, the ~~((district))~~ region administrator responsible for reviewing contractor's performance reports.

(12) **Inadequate** - Performance failing completely to meet the prescribed standard or requirement.

(13) **Integrity** - The quality of being of sound moral principle, uprightness, honesty, and sincerity.

(14) **Joint venture** - Two or more persons, sole proprietorships, companies, corporations, or combinations thereof, entering into an agreement for a business venture such as a construction project.

(15) **Limited work class** - A work classification given when a contractor lacks the total experience, organization, equipment, or skills required to perform the entire range of work within a work class.

(16) **Maximum capacity rating** - The total value of uncompleted prime contract work a contractor is permitted to have under contract at any time.

(17) **Performance inquiry** - A request made to a contractor's previous employers for an evaluation of the quality and manner of that contractor's performance.

(18) **Performance rating** - A numerical rating which is equal to the grand total of the evaluation elements of the prime contractor's performance report used to measure and quantify the quality of contractor performance.

(19) ~~((Performance score - The product of the performance rating when multiplied by a numerical factor which may be used to calculate prequalification ratings.~~

~~((20))~~ **Prequalification** - The process of evaluating a contractor's financial status, organizational structure, experience, equipment, integrity, and other required qualifications to determine a contractor's responsibility and suitability for performing department work. This term is used interchangeably with qualification.

~~((21))~~ **(20) Prime contractor performance report** - A report prepared to evaluate the performance of a prime contractor upon completion of, or at an interim period during a department project which is used ~~((as a guide))~~ to adjust a prime contractor's qualification status.

~~((22))~~ **(21) Project estimate** - A document prepared by the department establishing the estimated value of all items of work, the total estimated value of work within each class of work, and the estimated total value of a project.

~~((23))~~ **(22) Rater** - The designated individual, normally the project engineer, responsible for evaluation of the quality and manner of performance of a contractor in the completion of a project.

~~((24))~~ **(23) Revocation of qualification** - The act by which a contractor's qualification is terminated.

~~((25))~~ **(24) Secretary** - The secretary of transportation who may delegate his or her functions under this chapter to the assistant secretary for field operations support or such other individual as deemed appropriate.

~~((26))~~ **(25) Standard** - The expected, acceptable quality of performance, considered to meet the demand, need or requirement.

~~((27))~~ **(26) Standard questionnaire** - The application form completed by a contractor to present information relating to the applicant's financial status, experience, organization, and equipment for the purpose of becoming qualified to perform department work.

~~((28))~~ **(27) Superior** - Preeminent performance consistently at an extremely high level.

~~((29))~~ **(28) Suspension of qualification** - The termination of a contractor's qualification for a specified period of time.

~~((30))~~ **(29) Unsatisfactory** - Below standard or inadequate performance, failing to meet requirements.

~~((31))~~ **(30) Work class** - A specific type of work within the various classifications of work, e.g., grading, draining, fencing, etc.

~~((32))~~ **(31) Work class rating** - The maximum value within a class of work ~~((which a contractor may bid upon it))~~ that is used to determine a firm's eligibility to receive a bid proposal document for a single project.

AMENDATORY SECTION (Amending Order 128, filed 1/28/91, effective 2/28/91)

WAC 468-16-080 Qualification procedures for projects under fifty thousand dollars. (1) Contractors may be qualified by ~~((district))~~ region administrators for projects valued under fifty thousand dollars.

(2) Procedures for letting ~~((district))~~ region level projects valued under fifty thousand dollars are published in Department Directives.

(3) A limited prequalification questionnaire and other requirements are prescribed in WAC 468-14-040.

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

WAC 468-16-090 Standard questionnaire. The standard questionnaire and financial statement shall be prepared and transmitted to the secretary, Attn: ~~((Precontract administration))~~ Contractor prequalification office. The questionnaire shall include the following information:

(1) The contractor's name, address, phone number, facsimile number, and type of organization (corporation, partnership, sole proprietorship, etc.).

(2) A list of the classes of work for which the contractor seeks qualification.

(3) A statement of the ownership of the firm and, if a corporation, the name of the parent corporation, if any, and the names of any affiliated or subsidiary companies.

(4) A certificate of authority from the office of the secretary of state to do business in Washington state if the applicant is an out-of-state corporation.

(5) A list of officials within the applicant firm who are also affiliated with other firms involved in construction work as a contractor, subcontractor, supplier, or consultant; including the name of the firm and their relationship with the affiliate firm.

(6) A complete list of the highest valued contracts or subcontracts performed in whole or in part within the immediate three years preceding application. The contract amount, contract number, date of completion, class of work; and the name, mailing address, and phone number of the project owner or agency representative must be provided for those projects listed. Only that work completed by the contractor's own organization under its own supervision will be considered for prequalification purposes. A minimum of five completed projects must be listed.

(7) Personnel requirements.

(a) A listing of the principal officers and key employees indicating their years of experience in the classes of work for which prequalification is sought. For qualification in a class of work based on newly acquired personnel rather than the firm's past contract experience, the newly acquired personnel must be available for future employment for the full year for which qualification is sought unless replacement personnel have been approved. The loss of such personnel during the year of qualification, will result in revocation of qualification for the class of work granted pursuant to their acquisition. The department may require resumes of such personnel as deemed proper for making its determination. The firm's performance on department contracts must be currently rated standard or better to be used for qualification purposes.

(b) A firm must have, within its own organization, qualified permanent, full time personnel having the skills and experience including, if applicable, technical or specialty licenses, for each work class for which prequalification is sought. Those firms seeking qualification for electrical work (classes 9 and 16) must provide photocopies of current Washington state electrical licenses. The skills and experience must be substantiated by education and practical experience on completed construction projects.

(c) "Its own organization" shall be construed to include only the contractor's permanent, full time employed office and site supervisory personnel as shown on the most recently submitted or amended prequalification questionnaire. Workers of the organization shall be employed and paid directly by the prime contractor. The term "its own organization," shall also include the equipment owned or rented by the contractor with or without equipment operators. Such term does not include employees or equipment of another contractor, subcontractor, assignee, or agent of the applicant contractor although they are placed on the applicant contractor's payroll.

(8) A list of all major items of equipment used to perform those classes of work for which prequalification is sought. The description, quantity, condition, present location, and age of such equipment must be shown. The schedule must show whether the equipment is owned, leased, or rented.

(9) A financial statement.

~~((a))~~ For a firm showing a net worth in excess of one hundred thousand dollars, the applicant must provide, with the questionnaire, a copy of its financial statement as audited or reviewed for its last fiscal year, prepared in accordance with the standards of the American Institute of Certified Public Accountants. The statement must be prepared by an independent certified public accountant registered and licensed under the laws of any state. Balance sheets, income statements, a statement of retained earnings, supporting schedules and notes, and the opinion of the independent auditor must accompany the financial statement.

~~((b) Financial statements must be for the current twelve month period and must reflect a ratio of total current assets to total current liabilities of 1.0 or greater.))~~

(10) A wholly owned subsidiary firm may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for the subsidiary. When a consolidated financial statement is submitted, the requirements of subsection (9) of this section and WAC 468-16-140 (2)(b) must be fulfilled.

(11) The applicant shall list the following occurrences within the previous three years:

(a) Instances of having been denied qualification, or a license, or instances of having been deemed other than responsible by any public agency.

(b) Convictions for felonies listed in WAC 468-16-050.

(c) Failure to complete a contract.

(12) The standard questionnaire shall be processed as follows:

(a) The application for qualification shall be prepared on a standard questionnaire provided by the department and sworn to before a notary public or other person authorized to take oaths.

(b) A standard questionnaire will be reviewed and a written notice provided to the applicant, within thirty days of its receipt, stating whether the applicant has been prequalified or qualification has been denied. The applicant will be advised of lack of receipt of data corroborating project completion and errors or omissions in the questionnaire and a request made for additional information necessary to complete evaluation of the applicant. If the information is not provided within twenty calendar days of the request, the application will be processed, if possible, with the information available or it will be returned to the applicant without further action.

(c) When qualification is denied, the applicant shall be advised in writing by certified mail (return receipt requested) of the reasons for the denial and of the right to a hearing upon written request.

(d) Applicants not satisfied with the qualification granted may request in writing, a review of their questionnaire and qualification ratings. The request must be filed within thirty calendar days of the date of receipt of the notice of qualification and must specifically state the basis for the request.

(e) The secretary or designee shall advise the applicant of his or her decision on the reconsideration within thirty calendar days of receipt of the request.

(13) Criteria for initial qualification, renewal, and submission of supplemental data:

(a) Qualification may be established in any calendar quarter and must be renewed annually. Information submit-

ted in the questionnaire will be used as a basis for the contractor's initial prequalification, work class ratings, and maximum capacity ratings. Qualification will be valid for the remainder of the applicant's fiscal year plus one calendar quarter as established by the date of the year-end financial statement. Prequalification will be renewed annually thereafter or at other times as designated by the department.

(b) A standard questionnaire from a contractor, not previously qualified under this chapter, must have been received by the department no less than fifteen calendar days prior to the scheduled bid opening to receive consideration for issuance of a bidding proposal for that bid opening.

(c) The department may, during the period for which the contractor has been prequalified, require the submission of a new standard questionnaire. If the questionnaire is not provided within thirty calendar days of the date of request, the notice of qualification held by the contractor will be declared invalid and the contractor will not be permitted to bid with the department until the contractor is again prequalified.

(d) A supplemental questionnaire shall be submitted when a significant change in the structure of the firm occurs, e.g., incorporation, officers, ownership, etc., or when required by the department.

(e) If prequalification has lapsed for more than six months, the applicant will again be required to submit a fully executed standard questionnaire and financial statement.

(f) The applicant shall authorize the department to request and receive such additional information from any sources deemed necessary for the completion of the qualification process.

(g) Inquiries will be made and investigations, if necessary, will be conducted to verify the applicant's statements and to determine eligibility for qualification.

(h) The department may require a personal interview with a principal or principals of the contracting firm when considering its qualification.

(i) Qualified contractors in good standing shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

(14) Financial information supplied by, or on behalf of, a contractor for the purpose of qualification shall not be made available for public inspection and copying pursuant to RCW 42.17.310 (1)(m). The foregoing restriction shall not prohibit the department's providing such information in evidence or in pretrial discovery in any court action or administrative hearing involving the department and a contractor. Insofar as permitted by public disclosure statutes, qualification ratings shall be treated as confidential information.

(15) Qualified contractors will be provided with notices which list projects currently being advertised.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

WAC 468-16-100 Conditional qualification. (1) A firm may be conditionally qualified when it has been given a below standard (less than ~~((+0))~~ 100) performance ~~((score))~~ rating on a final performance report. A firm may also be qualified conditionally by the secretary when

performance has become below standard in either "quality of work" or "progress of work" on an interim report for a current project. The ~~((district))~~ region administrator may, under the foregoing condition, request in writing that a contractor be placed in conditional status. A conditionally qualified contractor will be denied bidding proposals while in that status but may receive, at the discretion of the secretary, a bidding proposal for one project.

(2) The assistant secretary for field operations support shall advise the contractor and the ~~((district))~~ region administrator when a contractor has been placed in conditional status.

(3) Should the contractor be the low successful bidder and be awarded a contract subsequent to being placed in conditional status, the issuance of further bidding proposals will be considered only when an interim report is submitted in accordance with WAC 468-16-160 or when a final performance report is submitted in accordance with WAC 468-16-150(12) and the rating thereon is standard or better.

(4) Normally a contractor may have only one active prime contract for the department while qualified conditionally.

(5) Return to fully qualified status of a conditionally qualified contractor will be effected by:

(a) A performance rating of standard or above on contracts completed during the current prequalification year; or

(b) An interim rating of standard or above on all concurrent contracts; or

(c) A standard or above rating on the first interim report for a project awarded subsequent to conditional qualification.

(6) Should the rating continue to be less than standard, the contractor's prequalification will be suspended in accordance with WAC 468-16-180.

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

WAC 468-16-120 Work class ratings. (1) Qualification shall be granted a contractor in one or more classes of work in which the firm has shown the capability to satisfactorily perform with its own forces under its own immediate supervision.

(2) The department's project estimate shall be the only estimate used to determine the value of the various classes of work within a project for determining a contractor's eligibility to bid that specific project. The contractor will be required to perform a specified percentage of the total work as provided for in the current issue of the *Standard Specifications*.

(3) Contractors will be given work class ratings on the basis of their financial status, performance record, previous experience, organization, and condition and suitability of equipment. ~~((Higher performance ratings result in higher work class ratings.))~~

(4) When it has been determined that adequate competition cannot be afforded as a result of either the lack of prequalified bidders, or the lack of applicants for qualification with sufficient experience in the work class required, the department may take in consideration the firm's experience in performing other related work in order to create competition providing that:

(a) The work class does not require a specialty license.

(b) The firm seeking the work class is deemed qualified in another work class under chapter 468-16 WAC.

(c) The firm seeking such work meets all other requirements prescribed under this chapter including the availability of the necessary equipment for the project being let.

(5) Data provided by project owners, other than the department, to inquiries made concerning new applicants seeking qualification, shall be used to determine initial work class ratings and maximum capacity ratings. Initial work class ratings for new applicants and those of firms which have not renewed their qualification within two years, will be based on performance data provided by agencies or organizations having previously employed the applicant. Such other data as the department may have on file may also be used. Work submitted by the new contractor and verified by the department will be given an initial work class rating equal to 2.5 times the highest value of the work the contractor has completed within that work class during the past three years. If a specific portion of a work class is performed by the contractor, the prequalification for that class will be limited to that portion of the work.

(6) Work reported as less than satisfactory will not be accepted for qualification purposes, but may be included with performance reports in determining the status of the contractor's prequalification.

(7) Work class ratings previously granted will not be reduced providing the contractor has maintained a standard performance record on department work and the contractor continues to submit the required questionnaire annually. Should a significant reduction of resources occur, the contractor's work class ratings may be modified or reduced to an amount within the contractor's current capacity.

(8) A contractor's work class ratings will be reviewed annually effective on the date the renewal questionnaire has been received. Work class ratings for those contractors renewing prequalification will be reviewed for increases, decreases, and additional work classes not previously granted. In determining the annual status of the contractor's work class ratings, prime work completed for the department and the performance rating given for that work shall be weighted more heavily than work completed for other agencies.

(9) Work class ratings shall be computed by multiplying the highest value of the work class completed satisfactorily during the preceding prequalification year by a factor of 2.5 provided that the currently established work class rating is not higher. In that event, the currently established work class shall become the work class rating for the ensuing qualification year. Work class ratings will not change if the contractor has not performed in that work class during the prequalification year.

~~((10) Work class ratings for inactive contractors renewing prequalification will be computed annually in the same manner as for new applicants for a period not to exceed three years. Work class ratings granted within three successive renewal periods shall remain the same as for an inactive contractor if the contractor continues to submit the required questionnaire annually and the questionnaire does not reveal a significant reduction in organizational resources. When a significant reduction of resources occurs, the~~

~~inactive contractor's work class ratings may be modified to an amount within the contractor's current capacity.))~~

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

WAC 468-16-130 Prequalification work classes. A contractor seeking prequalification under this chapter will be classified for one or more of the following listed work classes in accordance with the adequacy of the firm's equipment and plant facilities and its proven ability to perform the work class sought.

- | | |
|----------|---|
| Class 1 | Clearing, grubbing, grading & draining
Removal of tree stumps, shrubs, modification of the ground surface by cuts and fills, excavating of earth materials, and the placement of drainage structures. |
| Class 2 | Production and placing of crushed materials
Production and placing crushed surfacing materials and gravel. |
| Class 3 | Bituminous surface treatment
Placing of crushed materials with asphaltic application. |
| Class 4 | Asphalt concrete paving
Production and placing Asphalt Concrete Plant Mix Pavement. |
| Class 5 | Cement concrete paving
Production and placing cement concrete pavement. |
| Class 6 | Bridges and structures
Construction of bridges, walls and other major structures of timber, steel, and concrete. |
| Class 7 | Buildings
Construction of buildings and related structures within the right of way and major reconstruction and remodeling of such buildings. |
| Class 8 | Painting
Painting bridges, buildings, and related structures. |
| Class 9 | Traffic signals
Installation of traffic signal and control systems. |
| Class 10 | Structural tile cleaning
Cleaning tunnels, large buildings and structures and storage tanks. |
| Class 11 | Guardrail
Construction of a rail secured to uprights and erected as a barrier between, or beside lanes of a highway. |
| Class 12 | Pavement marking (excluding painting)
Thermoplastic markings, stripes, bars, symbols, etc. Traffic buttons, lane markers, guide posts. |
| Class 13 | Demolition
Removal of timber, steel, and concrete structures and obstructions. |
| Class 14 | Drilling and blasting
Controlled blasting of rock and obstructions by means of explosives. |

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- Class 15 **Sewers and water mains**
Draining, pipe jacking, water systems, pumping stations, storm drainage systems, sewer rehabilitation, sewage pumping stations, pressurized lines.
- Class 16 **Illumination & general electrical**
Highway illumination, navigational lighting, wiring, junction boxes, conduit installation.
- Class 17 **Cement concrete curb and gutter**
Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.
- Class 18 **Asphalt concrete curb and gutter**
Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.
- Class 19 **Riprap and rock walls**
Mortar, rubble, and masonry walls; rock retaining walls, and placing of large broken stone on earth surfaces for protection against the action of water.
- Class 20 **Concrete structures except bridges**
Cast-in-place median barrier, prestressing, post-tensioned structures, footings, prefabricated panels and walls, retaining walls, and ramps, foundations, rock bolts, and concrete slope protection.
- Class 21 **Tunnels and shaft excavation**
Tunnel excavation, rock tunneling, and soft bore tunneling.
- Class 22 **Piledriving**
Driving concrete, steel, and timber piles.
- Class 23 **Concrete surface treatment**
Exposed aggregate, fractured-fin and rope textured finishes; waterproofing concrete surfaces (clear or pigmented sealer).
- Class 24 **Fencing**
Wire and metal fencing, glare screens.
- Class 25 **Bridge deck repair**
Bridge expansion joint repair and modification, bridge deck resurfacing and repair.
- Class 26 **Deck seal**
Waterproof membrane.
- Class 27 **Signing**
Sign structures and signs.
- Class 28 ~~((**Electronics**
Surveillance and control systems design and installation, electronics training and maintenance.))~~ **Not used**
- Class 29 **Slurry diaphragm and cut-off walls**
Slurry excavation and the construction of structural concrete walls and slurry cut-off walls.
- Class 30 **Surveying**
Highway construction surveying.
- Class 31 **Water distribution and irrigation**
Irrigation systems and heavy duty water distribution.
- Class 32 **Landscaping**
Landscape irrigation, planting, sodding, seeding, fertilizing, mulching, herbicide application, insecticide application, weed control, mowing, liming, soil binder, topsoil.
- Class 33 **Engineering**
Work other than surveying, including engineering calculations, drawing and other related work for highway construction.
- Class 34 **Erosion control**
Seeding, fertilizing, mulching, slope protection, topsoil application, hydro-seeding, soil stabilization, soil sampling.
- Class 35 **Precast median barrier**
A concrete barrier that is cast and cured in other than its final position used to divide the median of two adjacent highways or temporarily placed to divert traffic in construction zones.
- Class 36 **Permanent tie back anchor**
Installation of permanent rock and soil anchors, soldier piles and timber lagging. Soldier pile tie back anchor wall construction.
- Class 37 **Impact attenuators**
Installation of approved protective systems filled with sand, water, foam, or other substances which prevent errant vehicles from impacting roadside hazards.
- Class 38 **Paint striping**
Painted bars, letters, symbols, and striping.
- Class 39 **Wire mesh slope protection**
The installation of a zinc coated steel wire mesh anchored by wire rope and reinforced concrete posts or anchor rods. Used for dampening the effects of rolling rocks onto the highway. Slope scaling, horizontal drains, rock dowels, and rock bolts for slope stabilization.
- Class 40 **Gabion and gabion construction**
Construction of walls made with containers of galvanized steel hexagonal wire mesh and filled with stone.
- Class 41 **Not used**
- Class 42 **Electronics—fiber optic based communications systems**
Design and installation of fiber optic based communication systems.
- Class 43 **Mechanical**
Plumbing work and the installation of heating or air conditioning units.
- Class 44 **Asbestos abatement**
Asbestos abatement (L & I certified workers).
- Class 45 ~~((**Not used**))~~ **Hazardous waste removal**
The containment, cleanup, and disposal of toxic materials. Companies seeking this classification shall have full-time person-

- nel with current hazardous waste training (certifications).
- Class 46 **Concrete restoration**
Pavement subseal, cement concrete repair, epoxy coatings, epoxy repair, masonry repair, masonry cleaning, special coatings, epoxy injection, gunite, shotcrete grouting, pavement jacking, gunite repair, and pressure grouting.
- Class 47 **Concrete sawing, coring, and grooving**
Concrete sawing, concrete planing and grooving, bump grinding, joint repair, concrete coring, rumble strips.
- Class 48 **Dredging**
Excavating underwater materials.
- Class 49 **Marine work**
Underwater surveillance, testing, repair, subaquatic construction, anchors, and cable replacement, floating concrete pontoon repairs and modifications, disassembly and assembly of floating concrete pontoons.
- Class 50 **~~(Not used)~~ Ground modification**
Pressure grouting, blast densification, stone column, jet grouting, compaction, dynamic compaction, soil mixing, gravel drain.
- Class 51 **Well drilling**
Drilling wells, installing pipe casing and pumping stations.
- Class 52 **Sewage disposal**
Hauling and disposing liquid and solid wastes.
- Class 53 **Traffic control**
Providing piloted traffic control, traffic control labor, and maintenance and protection of traffic.
- Class 54 **Railroad construction**
Construction of railroad subgrade, placing of ballast, ties, and track and other items related to railroad work.
- Class 55 **Steel fabrication**
Welding of steel members, heat straightening steel.
- Class 56 **Street cleaning**
Street sweeping with self-propelled sweeping equipment.
- Class 57 **Materials transporting**
Truck hauling.
- Class 58 **Sand blasting and steam cleaning**
Steam cleaning, sand blasting, shot blasting, and water blasting.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

WAC 468-16-140 Maximum capacity rating. (1) The maximum capacity rating shall be determined by multiplying the contractor's reported net worth by a factor of 5.0. The factor may be increased at a rate of 0.5 annually, provided the contractor has maintained a satisfactory performance record with the department and has completed a contract of

fifty thousand dollars or more within the preceding prequalification year. The maximum factor shall be 7.5. The department may at any time decrease the rating factor if the contractor's performance becomes less than standard, however no decrease in the bidding capacity will become effective until action to appeal, as specified in these rules, has been completed.

(2) For the purpose of prequalification and establishing the maximum capacity rating, the following additional resources may be added to net worth if supported with documentation as specified:

(a) An operating line of credit - Documentation from an acceptable financial institution stating the amount of credit authorized, its expiration date, and the amount currently available. The document must be authenticated by an official authorized to execute lines of credit on behalf of the institution. Should the operating line of credit be revoked, it shall be deducted before computing a new annual maximum capacity rating.

(b) A parent firm pledge of net worth - A sworn statement from the parent firm that guarantees the performance of the subsidiary for any contracts awarded it. The document shall include a parent firm pledge in an amount such that when calculated in subsection (1) of this section will not be less than the value of uncompleted contracts of the subsidiary. An audited financial statement, as prescribed in WAC 468-16-090 (9)(~~(a)~~), may be requested from the parent firm when deemed appropriate.

(c) A personal pledge of net worth - A sworn statement pledging a specific amount of personal assets. The statement must be accompanied by acceptable documents that will verify the ownership and value of the assets.

(3) Resources listed above will not be accepted in lieu of a minimum net worth of fifty thousand dollars.

(4) For the purpose of prequalification and establishing the maximum capacity rating, a bidding company which has established a leveraged ESOP (Employee Stock Ownership Plan) may use, in place of its net worth, the lesser of:

(a) The company's net worth, as adjusted by eliminating any contra-equity or unearned compensation entry in the net worth section of the balance sheet which is directly related to the ESOP loan; or

(b) The company value as established by the company's most recent valuation for ESOP purposes provided the valuation was performed within the last twelve months which meets federal guidelines for ESOP-related valuations. The department may require submission of a copy of this valuation report for documentation purposes.

(5) When the value of a firm's uncompleted work for the department exceeds its maximum capacity rating, a bidding proposal shall be denied that firm.

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

WAC 468-16-150 Prime contractor performance reports. (1) Performance reports described in this section, substantially in the format as that appearing at WAC 468-16-210, will be completed for prime contractors only for projects valued at one hundred thousand dollars or more. Each prime contractor's performance report will be classified as to the primary work class being rated. This shall be

stated in Section I of the report by listing the major classes of work performed by the contractor e.g., clearing, grading, surfacing, etc.

(2) Performance will be rated under the following headings: Administration, management, and supervision; quality of work; progress of work; and equipment.

(3) The following adjectival ratings are established for performance reports:

- (a) Superior(-) 131-150
- (b) Above standard(-) 101-130
- (c) Standard(-) 100
- (d) Below standard(-) 70-99
- (e) Inadequate(-) 50-69

(4) ~~The report shall contain a numerical section which quantifies the adjectival ratings into a total performance rating which is multiplied by .01 to obtain a performance score falling within one of the following ranges:~~

Superior	1.31	1.50
Above Standard	1.01	1.30
Standard	1.00	
Below Standard	.70	.99
Inadequate	.50	.69

(5) ~~The performance score (PS) is computed by multiplying the performance rating (PR) obtained from the prime contractor's performance report by a factor (F) of .01 e.g., 1.29 (PR) x .01 (F) = 1.29 (PS).~~

(6) ~~The annual performance score is the average of the scores, by work class, obtained from all performance reports submitted for department projects completed during the one-year period next preceding the date of expiration of the contractor's qualification.~~

(7) ~~The performance report shall be used in evaluating a contractor's prequalification status.~~

(8) ~~The report shall contain a narrative section which verbally provides the details substantiating the numerical rating. The narrative section shall be based upon documentation prepared during the life of the project, such as the project engineer's diary, the inspector's daily report and other pertinent documents. This documentation shall constitute the major portion of the administrative record to be used for any hearings or litigation that may arise from the rating process.~~

(9) ~~The performance report will be prepared and discussion held with the contractor by the project engineer. The report will include a numerical rating substantiated by a narrative report which describes the contractor's typical performance. The narrative will reference such documents as will substantiate the given numerical rating.~~

(10) ~~The report will be endorsed by the region operations engineer or designated assistant who will provide a copy to the contractor.~~

(11) ~~The contractor may appeal the rating to the region administrator in writing within twenty calendar days of the date the report is received by the contractor. If the report is not delivered to the contractor in person, it shall be forwarded by certified mail with a return receipt requested. The appeal must set forth the specific basis upon which it has been made.~~

(12) ~~The region administrator will review all contractor performance reports after they have~~

been endorsed and may modify the numerical or narrative rating if such is deemed appropriate. The contractor will be advised of any changes made. The region administrator will be required to make comments thereon only when the contractor's overall performance rating has been rated inadequate, below standard, or superior.

(13) ~~Performance reports, when completed at the region level, will be submitted to the secretary, Attn: Manager, contractor prequalification office, not later than forty-five calendar days following final completion of the project.~~

(14) ~~The region administrator shall review the appeal and provide a written response to the contractor by certified mail (return receipt requested) within twenty calendar days of its receipt. A copy of the appeal and the response thereto will be forwarded to the secretary, Attn: Contractor prequalification office.~~

(15) ~~The contractor may further appeal to the secretary in writing setting forth the specific basis for the appeal. The contractor's appeal shall be made within ten calendar days of the date of receipt of the region administrator's response. When making an appeal, the contractor may also present information in person. The secretary will consider the appeal and respond to it by certified mail within sixty calendar days of its receipt. This determination shall be the final administrative act of the department.~~

(16) ~~All prime contractor performance reports shall be reviewed by the office of the secretary for completeness, objectivity, and substantiation of numerical ratings. The secretary may modify the report as deemed appropriate as a result of the review. The rated contractor and region administrator shall be given a copy of the modified report. The contractor may appeal the modified report in the manner and within the time allotted in subsection (12) of this section to which the secretary shall respond as cited therein.~~

(17) ~~A prime contractor performance report shall be considered a preliminary paper until all reviews and appeals have been accomplished and it shall have been stamped and initialed as having been "filed in the office of the secretary."~~

(18) ~~DOT Form 421-010 is authorized.~~

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

WAC 468-16-160 Interim reports. (1) Interim performance reports will be completed for contracts of long duration, particularly those in excess of one year and submitted to the ~~(manager, precontract administration)~~ contractor prequalification office. They will be completed annually on the anniversary of the start date of the contract. An interim report will also be completed when a contractor's total, overall work has become less than standard and the firm has been advised in writing of such performance. An interim report may never cover a period of more than one year. The report will be used by the secretary as a basis for determining whether a contractor will be placed in conditional status.

PROPOSED

(2) In the case of a conditionally qualified firm, an interim report shall be submitted at sixty calendar day intervals for the project being undertaken by that firm subsequent to its being placed in conditional status. When a contractor's overall performance has not been brought up to standard after two consecutive interim reports have been prepared, no further interim reports shall be made except at the written request of the contractor. The date of the report will be the date of the contractor's request.

(3) The project engineer shall submit an interim report when it becomes evident that he or she will no longer be involved in the project, providing that project has been in progress for twenty-five percent of the working days assigned the project or ninety working days whichever is less.

(4) Interim performance reports will supplement and will be made a part of the final performance report.

(5) The procedures specified in WAC 468-16-150 ~~((8))~~ (5) through ~~((17))~~ (14) are also applicable to the processing of the interim performance report.

(6) DOT Form 421-010 is authorized.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

WAC 468-16-170 Refusal to issue proposal. The secretary may refuse to issue a proposal for reasons as enumerated in WAC 468-16-040 through 468-16-070, inclusive. Refusal to issue a proposal may continue in effect until the cause for the refusal has been eliminated. One or more of the following additional conditions may be considered sufficient for refusal to issue a proposal:

(1) The value of outstanding work plus the contract total of the work proposed to be bid exceeds the contractor's maximum capacity rating.

(2) Being placed in conditional status.

(3) Making false, fraudulent, or deceptive statements on the standard questionnaire, related documents, or documents prepared in the course of prosecuting the work.

(4) Debarment or suspension from participation in federal or state projects.

(5) Expiration of qualification.

(6) Failure to update the latest questionnaire to fairly represent the contractor's current organization and financial status.

(7) ~~((Noncompliance with equal employment opportunity (EEO), or minority and women's business enterprise (MWBE), or disadvantaged business enterprise (DBE) regulations.~~

~~((8))~~ Bankruptcy.

~~((9))~~ (8) The existence of any conditions described in WAC 468-16-040 through 468-16-070 inclusive.

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

WAC 468-16-180 Suspension of qualification. (1) A suspension may be ordered for cause or for a period pending the completion of investigation and any ensuing legal action for revocation of qualification.

(2) The secretary may, upon determination from reports, other documents, or through investigation that cause exists

to suspend the qualification of a contractor, impose suspension upon a contractor.

(3) The secretary may suspend qualification for:

(a) Incompetency found detrimental to timely project completion or to the safety of the public or employees.

(b) Inadequate performance on one or more projects.

(c) Infractions of rules, regulations, specifications, and instructions which may adversely affect public health, welfare, and safety.

(d) Uncompleted work which might prevent the prompt completion of other work.

(e) ~~((Continual))~~ Failure to comply with equal employment opportunity or women's, minority and disadvantaged business enterprise requirements.

(f) Repeated failure to comply with equal employment opportunity or women's, minority, and disadvantaged business enterprise requirements.

(g) Debarment or suspension from participation in federal or state projects.

~~((g))~~ (h) Pending completion of debarment proceedings in federal or state projects.

(4) The maximum period of suspension for acts or deficiencies enumerated above are as follows:

(a) For subsection (3)(a) and (e) of this section - Three months.

(b) For subsection (3)(b), (c), (d), and ~~((e))~~ (f) of this section - Six months.

(c) For subsection (3)~~((f))~~ (g) of this section - For duration of debarment or suspension by the federal or other state agency.

(d) For subsection (3)~~((g))~~ (h) of this section - Until a determination is made by the federal or other state agency.

(5) The secretary may reduce the period of suspension upon the contractor's supported request for reasons including, but not limited to:

(a) Newly discovered evidence;

(b) Elimination of causes for which the suspension was imposed.

WSR 97-05-010
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed February 7, 1997, 3:22 p.m.]

Supplemental Notice to WSR [97-01-017].

Preproposal statement of inquiry was filed as WSR 96-21-045.

Title of Rule: Estimating hours worked by part-time community college faculty.

Purpose: To bring the standards for calculating hours worked by part-time community college faculty for purposes of the teachers' retirement system (TRS) into conformity with similar standards promulgated by the legislature and the Employment Security Department.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.32.270, 41.32.010 (26)(b) and (37).

Summary: Actual hours worked are often not tracked for part-time community college instructors. For this reason, it becomes necessary to input hours worked. The proposed

rules adopt a method for inputting those hours that is consistent with rules adopted by the Employment Security Department (WAC 192-16-002) and statutes enacted by the legislature (RCW 28B.50.4891).

Reasons Supporting Proposal: The proposed rules have been adopted as emergency rules to ensure that they will be effective throughout the 1996-97 school year. Adopting the permanent rules will make sure the rule will remain in effect permanently.

Name of Agency Personnel Responsible for Drafting: Paul Neal, 1025 East Union Avenue, Olympia, WA, (360) 709-4747; Implementation and Enforcement: Greg Deam, 1025 East Union Avenue, Olympia, WA, (360) 709-5328.

Name of Proponent: Department of Retirement Systems, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule permanently codifies a method currently used by the department and the community colleges for estimating hours worked by part-time community college instructors. Under the rule a community college determines how many hours are required of a full-time instructor and multiplies those hours by the ratio of a part-time instructor's load to a full-time load (e.g. .5) to arrive at an estimate of the hours worked by a part-time instructor. The purpose of the rules is to establish a consistent method for estimating hours worked by part-time instructors. The anticipated effect is to continue the situation established by the emergency rule where community colleges have clear guidance on how to perform the calculation.

Proposal Changes the Following Existing Rules: The proposed rule amends WAC 415-112-330 so that it only applies to K-12 teachers' retirement system members. The rule deletes the provisions from WAC 415-112-330 that deal with part-time community college instructors and presents them in a revised version in new WAC 415-112-335.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules apply to public employers and employees participating in the retirement systems administered by the Department of Retirement Systems. No private businesses are affected by the rules, therefore, no small business economic impact statement is required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Retirement Systems is not one of the agencies that this provision applies to. The Department of Retirement Systems does not opt to voluntarily bring itself within the coverage of those rules.

Hearing Location: Boardroom, 2nd Floor, 1025 East Union Avenue, Olympia, WA 98504-8380, on March 28, 1997, at 2:30.

Assistance for Persons with Disabilities: Contact Paul Neal by March 25, TDD (360) 586-5450, or (360) 586-3368.

Submit Written Comments to: Paul Neal, P.O. Box 48380, Olympia, WA 98504-8380, FAX (360) 753-3166.

Date of Intended Adoption: March 31, 1997.

February 6, 1997
Paul Neal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 91-21-084, filed 10/18/91, effective 11/18/91)

WAC 415-112-330 (~~(Amount of)~~ **Calculating service credit for plan I K-12 employees.** (~~((1) This section shall apply only to persons who became members prior to October 1, 1977.~~

~~((2))~~ For plan I members who are employed (~~(as classroom teachers)~~) by a school district, a school year shall consist of one hundred eighty days. One year of service credit shall be granted to a plan I member who is employed as a classroom teacher for one hundred forty-four or more days during a school year. A fractional year of credit shall be granted to a plan I member who is employed for at least twenty days but less than one hundred forty-four days during a school year. The fraction shall be that produced by using the days employed as the numerator and one hundred eighty as the denominator. (~~(In the absence of an indication in the contract or elsewhere concerning what constitutes one day of employment)~~)

(1) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, a plan I classroom teacher shall be granted one day of credit for every seven hours ((the teacher works and for which the teacher is compensated)) of compensated employment.

~~((3) For members who are employed as community college academic employees as defined by chapter 28B.52 RCW, a school year shall consist of at least three academic quarters or two semesters during a fiscal year. Academic employees shall be granted one full year of service credit for eighty percent of the full-time annual load as defined in their institution's negotiated agreement. In the absence of a definition of full-time annual load in the agreement, the official board adopted college policy will apply. Percents of load of at least eleven percent (reported as not less than twenty days per fiscal year) and less than eighty percent (reported as eighty percent of the individual college academic calendar or one hundred thirty four days per fiscal year, whichever is greater) will be applied pro rata. Percent of load will be converted to days for institution reporting and for retirement benefit calculation purposes. Nonacademic employees will have their service credit reported and benefits calculated based on actual days worked. Where there is no definition of full-time load in either the collective bargaining agreement or the official board adopted college policy, service credit will be calculated pursuant to subsections (4) and (5) of this section.~~

~~(4) For members who are employed as community college classroom instructors, a school year shall consist of at least three academic quarters or two semesters during a fiscal year. Such a classroom instructor shall be granted one year of service credit for teaching thirty six quarter hours or twenty four semester hours. A fractional year of credit shall be granted to such instructors who teach at least five but less than thirty six quarter hours, or at least three but less than twenty four semester hours. The fraction shall be that produced by using the quarter hours taught as the numerator and forty five as the denominator, or the semester hours taught as the numerator and thirty as the denominator.~~

~~(5) Members who are not employed as classroom instructors and who are employed for one hundred forty four~~

~~or more days during a fiscal year shall be granted one year of service credit. A fractional year of credit shall be granted to a member who is employed for at least twenty days but less than one hundred forty four days. The credit granted shall be the fraction produced by using the days employed as the numerator and one hundred eighty as the denominator. Where there is no indication in the contract or elsewhere concerning what constitutes one day of employment,))~~

~~(2) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, plan I K-12 employees other than school district classroom teachers will earn one day of credit ((shall be granted)) for every eight hours ((the member works and for which the member is)) of compensated((: ~~Provided, That counselors and librarians who are employed by a community college district in an instructional position as defined in RCW 41.32.010 (1)(a)(ii) and paid on an hourly rate shall be granted one day of credit for every seven hours the member works and for which the member is compensated.~~~~

~~(6) The fact that a member is granted a fractional year of service credit under this section shall not be determinative as to whether that member was employed less than full time in a year used to determine benefits under RCW 41.32.497, 41.32.498, and 41.32.520, for purposes of determining whether the member held a bona fide part-time position and what earnable compensation the member would have received under RCW 41.32.011)) employment.~~

NEW SECTION

WAC 415-112-335 Calculating service credit for part-time community and technical college employees. Most community and technical colleges employ academic employees under contracts expressed in terms of a certain number of contact hours, which are usually limited to actual time spent in the classroom. Most academic positions require more time to be spent providing services to the college than are reflected in the contact hours. However, actual hours worked are not submitted by the academic employees nor recorded by the college. This subsection adopts a method for estimating hours of work in order to determine membership eligibility and service credit in plan I and plan II. This estimate is to be used solely for that purpose. The estimate is not a representation by the department of actual hours worked and is not to be used as a basis for calculating other benefits or salary for technical college and community college academic employees.

(1) **Plan I.** In order to estimate the number of days worked by a TRS I technical college or community college faculty academic employee for a particular month, the college will:

(a) Determine the number of working days in the month as defined by the college's adopted academic calendar;

(b) Determine the part-time workload for the employee. The part-time workload is the percentage of the part-time employees' weekly in-class teaching hours to the weekly in-class teaching hours required of a full-time instructor in that employee's discipline at the college; and

(c) Multiply the number of working days in the month by the academic employee's part-time workload. The resulting number is an estimate of days worked by the academic employee during the month. The college will

report this estimate to the department for the sole purpose of determining plan I service credit and/or membership eligibility.

(2) **Plan II.** Determining service credit for plan II requires the college to estimate hours worked rather than days worked. To estimate hours worked, the college uses the steps described in subsection (1) of this section and takes two additional steps:

(a) Determine the number of hours in a full-time work day. In the absence of a definition of the number of hours in a full-time work day in the collective bargaining agreement or elsewhere, the college will use seven hours;

(b) Multiply the estimated days worked as determined in subsection (1) of this section by the number of hours in a full-time work day.

The resulting number is an estimate of hours worked by the academic employee during the month. The college will report this estimate to the department for the sole purpose of determining plan II service credit and/or membership eligibility.

(3) **Definitions.** "In-class teaching hours" means contact classroom and lab hours in which full-time or part-time academic employees are performing contractually assigned teaching duties. The in-class teaching hours shall not include any duties performed in support of, or in addition to, those contractually assigned in-class teaching hours.

PROPOSED

**WSR 97-05-022
PROPOSED RULES
COMMISSION ON
JUDICIAL CONDUCT**

[Filed February 10, 1997, 1:30 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 292-09 WAC, Agency procedural rules.

Purpose: Amend WAC 292-09-010 to show correct references.

Statutory Authority for Adoption: RCW 42.52.370, Article IV, Section 31 of State Constitution.

Statute Being Implemented: Chapter 42.52 RCW.

Summary: The reference in WAC 292-09-010 to procedural rules for judges is updated.

Reasons Supporting Proposal: To accurately reference procedural rules.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, (360) 753-4585.

Name of Proponent: Commission on Judicial Conduct, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendment to WAC 292-09-010 would direct readers to the current applicable procedural rules affecting judges.

Proposal Changes the Following Existing Rules: The proposed changes would correct outdated references.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules do not regulate private business. The rules will have no economic impact on small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The commission is not an agency subject to RCW 34.05.328(5). These rules relate to internal governmental operations that are not subject to violation by a nongovernmental party.

Hearing Location: Sea-Tac Holiday Inn, 17338 Pacific Highway South, SeaTac, WA 98188, on June 6, 1997, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Kathy Sullivan by May 30, 1997, TDD (360) 753-4585.

Submit Written Comments to: Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, FAX (360) 586-2918, by May 30, 1997.

Date of Intended Adoption: June 6, 1997.

February 10, 1997

David Akana

Executive Director

CHAPTER 292-09 WAC AGENCY PROCEDURAL RULES

AMENDATORY SECTION (Amending Order 95-01, filed 2/8/95, effective 3/11/95)

WAC 292-09-010 Purpose of this chapter. The purpose of this chapter is to provide rules implementing the Ethics in Public Service Act (chapter 42.52 RCW) according to procedures prescribed in Article IV, Section 31, of the Constitution of the state of Washington and chapter 2.64 RCW for the commission on judicial conduct.

All proceedings involving state employees of the judicial branch of state government, except "judges" as defined in (~~chapter 292-08 WAC~~) Commission On Judicial Conduct Rules of Procedure (CJCRP), shall proceed under the rules set forth in this chapter. All proceedings involving "judges" as defined in RCW 2.64.010 and the Code of Judicial Conduct shall proceed exclusively under the rules set forth in (~~chapters 292-08 and 292-12 WAC~~) the CJCRP.

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

WSR 97-05-023 PROPOSED RULES COMMITTEE ON JUDICIAL CONDUCT [Filed February 10, 1997, 1:33 p.m.]

Supplemental Notice to WSR 96-21-130.
Preproposal statement of inquiry was filed as WSR 96-06-047.

Title of Rule: Substantive ethical rules.

Purpose: Adopt rules regarding the definition of "measurable expenditure of public funds" pursuant to RCW 42.52.180 (2)(b). Proposed rules regarding occasional use of state resources of de minimis cost and value pursuant to RCW 42.52.160(3) are withdrawn.

Statutory Authority for Adoption: RCW 42.52.180 (2)(b) and 42.52.370.

Statute Being Implemented: RCW 42.52.180 (2)(b).

Summary: The rules define "measurable expenditures."

Reasons Supporting Proposal: RCW 42.52.180 (2)(b) provides for commission action on definitions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, (360) 753-4585.

Name of Proponent: Commission on Judicial Conduct, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 42.52.180(2) provides that the commission adopt a definition of "measurable expenditures."

Proposal does not change existing rules. There is no existing rule applicable to officers and employees of the judicial branch of state government.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules do not regulate private business. The rules will have no economic impact on small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The commission is not an agency subject to RCW 34.05.328(5). These rules relate to internal governmental operations that are not subject to violation by a nongovernmental party.

Hearing Location: Sea-Tac Holiday Inn, 17338 Pacific Highway South, SeaTac, WA 98188, on June 6, 1997, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Kathy Sullivan by May 30, 1997, TDD (360) 753-4585.

Submit Written Comments to: FAX (360) 586-2918, by May 30, 1997.

Date of Intended Adoption: June 6, 1997.

February 10, 1997

David Akana

Executive Director

CHAPTER 292-11 WAC

AGENCY SUBSTANTIVE RULES

NEW SECTION

WAC 292-11-010 Purpose of this chapter. The purpose of this chapter is to provide substantive rules implementing the Ethics in Public Service Act (chapter 42.52 RCW). The substantive rules in this chapter are intended to apply to all state employees of the judicial branch of state government, including "judges" as defined in the *Commission On Judicial Conduct Rules of Procedure (CJCRP)*.

NEW SECTION

WAC 292-11-020 Definitions. (1) The term "measurable expenditure" as used in RCW 42.52.180 (2)(b) shall mean an expenditure or consumption of public resources having more than a de minimis cost and value.

(2) As used herein, the term "de minimis cost and value" shall refer to a cost and/or value of the actual use of

public resources that is sufficiently small to be reasonably disregarded as negligible or trifling.

WSR 97-05-043
WITHDRAWAL OF PROPOSED RULES
STATE BOARD OF EDUCATION
 (By the Code Reviser's Office)
 [Filed February 18, 1997, 8:05 a.m.]

WAC 180-86-080, 180-86-086 and 180-86-116, proposed by the State Board of Education in WSR 96-16-087, appearing in issue 96-16 of the State Register, which was distributed on August 21, 1996, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 97-05-045
PROPOSED RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY
 [Filed February 18, 1997, 10:21 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: SCAPCA Regulation I, Article II, Section 2.04-Violations; SCAPCA Regulation I, Article II, Section 2.08-Falsification of Statement or Document, Unlawful Alteration of Documents, and their Removal or Mutilation Prohibited; and SCAPCA Regulation I, Article II, Section 2.11-Penalties.

Purpose: To provide general provisions under which the Spokane County Air Pollution Control Authority (SCAPCA) operates.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Changes are being made to improve consistency with state laws and rules and to clarify Article II to improve implementation.

Reasons Supporting Proposal: The primary reason for the changes is to address issues raised by the Environmental Protection Agency regarding SCAPCA's Title V program so that full program approval can be received.

Name of Agency Personnel Responsible for Drafting: Kelle Vigeland, West 1101 College, Suite 403, Spokane, (509) 456-4727, ext. 106; Implementation and Enforcement: Mabel Caine, West 1101 College, Suite 403, Spokane, (509) 456-4727, ext. 120.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule establishes general provisions regarding SCAPCA's operations covering topics like powers and duties of the board and control officer, handling confidential information, issuing violations, assessing penalties, etc.

These changes improve consistency with state law and rules and should increase SCAPCA's effectiveness in implementing its air quality programs.

Proposal Changes the Following Existing Rules: Changes are being made which will affect SCAPCA's ability to prosecute a criminal action against a violator, which will prohibit false statements to SCAPCA and prohibit rendering monitoring devices inaccurate, which clarify that each day's continuance of a criminal violation is a separate and distinct offense, and which clarify when penalties are due.

No small business economic impact statement has been prepared under chapter 19.85 RCW. SCAPCA is not required under chapter 19.85 RCW to file small business economic impact statements.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Spokane County Air Public Works Building, Hearing Room Lower Level, West 1026 Broadway, Spokane, WA 99201, on April 3, 1997, at 9 a.m.

Submit Written Comments to: Kelle Vigeland, Spokane County Air Pollution Control Authority, West 1101 College, Suite 403, Spokane, WA 99201, FAX (509) 459-6828, by March 31, 1997.

Date of Intended Adoption: April 3, 1997.

February 14, 1997
 Kelle Vigeland
 Environmental Engineer

PROPOSED AMENDMENTS TO SCAPCA REGULATION I,
ARTICLE II, SECTIONS 2.04, 2.08, & 2.11

AMENDATORY SECTION (Amending WSR 92-07-068, filed 3/16/92)

SECTION 2.04 VIOLATIONS

A. At least thirty days prior to the commencement of any formal enforcement action under ~~((Chapter))~~ RCW 70.94.430 ~~((RCW))~~ or ~~((Chapter))~~ RCW 70.94.431, ~~((RCW))~~ the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of Chapter 70.94 RCW, or any regulation, ordinance, or resolution in force pursuant thereto, ((the State Law or of this Regulation)) alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable amount of time. In lieu of an order, the Board or the Control Officer may require that the alleged violator or violators appear before the ~~((Hearings Board))~~ Board of Directors for a hearing. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action.

B. The Control Officer may, in place of an order or hearing after service of a notice of violation ~~((and expiration of reasonable and/or required period of time without correction))~~, request the County Prosecutor to prosecute a criminal action against the violator.

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AMENDATORY SECTION (Amending rule section adopted before SCAPCA followed 34.05.320 and 34.05.380)

SECTION 2.08 FALSIFICATION OF STATEMENTS OR DOCUMENTS, ((UNLAWFUL ALTERATION OF)) AND TREATMENT OF DOCUMENTS ((DISPLAY OF DOCUMENTS, AND THEIR REMOVAL OR MUTILATION PROHIBITED))

A. No person shall willfully make a false or misleading statement to the Board or their authorized representative as to any matter within the jurisdiction of the Board.

B. No person shall reproduce or alter, or cause to be reproduced or altered, any order, registration certificate, or other paper issued by the Authority ((Agency)) if the purpose of such reproduction or alteration is to evade or violate any provision of Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto ((this Regulation or any other law)).

C. Any order or registration certificate required to be obtained by Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto, ((this Regulation)) shall be available for review on the premises designated on the order or certificate.

D. In the event the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the ((Board)) Authority.

E. No person shall make any false material statement, representation or certification in any form, in any notice or report required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

F. No person shall render inaccurate any monitoring device or method required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending WSR 92-07-69, filed 3/16/92)

SECTION 2.11 PENALTIES

A. Criminal Penalties

1. Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or any regulation, ordinance, or resolution in force pursuant thereto, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment in county jail or by both fine and imprisonment as provided by Chapter 70.94 RCW for each separate violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

2. Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.

3. Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the

terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.

4. Any person who knowingly fails to disclose a potential conflict of interest under Chapter 70.94 RCW is guilty of a gross misdemeanor, and upon conviction thereof, is subject to a fine as provided by Chapter 70.94 RCW.

B. Other Penalties

1. a. In addition to or as an alternative ((alternate)) to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules and regulations of the Department of Ecology or this Authority in force under this chapter may incur a civil penalty in an amount not to exceed that provided by Chapter 70.94 RCW for each violation. Each such violation is a separate and distinct offense, and in case of a continuing violation, each day's continuance is a separate and distinct violation.

b. Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or this Regulation is liable for a civil penalty in an amount not to exceed the penalty authorized by Chapter 70.94 RCW for each day of continued noncompliance.

2. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 ((RCW)) on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

3. Each act of commission or omission which procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.

4. The penalty is due and payable on the later of:

a. Thirty days after receipt of the notice imposing the penalty;

b. Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

c. Thirty days after receipt of the notice of decision of the Pollution Control Hearings Board of Washington if the penalty is appealed.

((when the person incurring the same receives a notice in writing from the Control Officer of the Authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Pollution Control Hearings Board as provided in Chapter 43.21B RCW. When a request is made for a hearing, the penalty is due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part.)) If the ((amount of such)) penalty is not paid within thirty days after it becomes due and payable, ((and a request for a hearing has not been made,)) the ((Board or Control Officer,)) Authority may ((shall)) bring an action to recover such penalty in the Superior Court of Spokane County. The penalties provided by Chapter

70.94 RCW and this section are imposed pursuant to ~~((Chapter))~~ RCW 43.21B.300 ~~((RCW))~~.

5. All penalties recovered under this section by the Authority shall be ~~((are))~~ payable to the treasury of the Authority and credited to its funds.

6. To secure the penalty incurred under this section, ~~((the State of))~~ the Authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW ~~((Chapter))~~ 60.36.050 ~~((RCW))~~.

7. In addition to other penalties provided by this section, persons falsifying emission data or other information used to set fees, or persons required to pay emission, registration, permit, or any other fee payable to the Authority who are more than ninety days late with such payments are subject to a penalty equal to three times the amount of the original fee. The penalty shall be in addition to the fee.

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

WSR 97-05-046
PROPOSED RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY

[Filed February 18, 1997, 10:25 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Regulation I, Article X Fees and Charges.

Purpose: To amend existing fee schedules for registered air pollution sources, notices of construction, asbestos removal, and agricultural burning permits. To amend the fee waiver provisions to allow for partial waivers.

Statutory Authority for Adoption: RCW 70.94.141, [70.94.]151, [70.94.]152, and [70.94.]162.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Amendment of existing fees.

Reasons Supporting Proposal: Registration fees are being increased over the next four years to reach full cost recovery. Other fees are being amended to more accurately recover costs.

Name of Agency Personnel Responsible for Drafting: Kelle Vigeland, West 1101 College, #403, Spokane, (509) 456-4727, ext. 106; Implementation: Barbara Nelson, West 1101 College, #403, Spokane, (509) 456-4727, ext. 116; and Enforcement: Mabel Caine, West 1101 College, #403, Spokane, (509) 456-4727, ext. 120.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule authorizes Spokane County Air Pollution Control Authority to assess fees for registrations, permits, notices of construction, and other activities. The purpose and effect is to fully recover costs of operating permit program and to partially recover costs of registration, notice

of construction, and other Spokane County Air Pollution Control Authority programs.

Proposal Changes the Following Existing Rules: The proposal is an amendment to adjust fees for the Spokane County Air Pollution Control Authority's programs, to increase the portion of the programs' costs that are recovered through fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 19.85 RCW applies to agencies, departments, and instrumentalities of the state government. The Spokane County Air Pollution Control Authority is a municipal corporation pursuant to RCW 70.94.081.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Spokane County Public Works Building, Hearing Room Lower Level, West 1026 Broadway, Spokane, WA 99201, on April 3, 1997, at 9:00 a.m.

Submit Written Comments to: Kelle Vigeland, Spokane County Air Pollution Control Authority, West 1101 College, Suite 403, Spokane, 99201, FAX (509) 459-6828, by March 31, 1997.

Date of Intended Adoption: April 3, 1997.

February 14, 1997

Kelle Vigeland

Environmental Engineer

**PROPOSED AMENDMENTS TO SCAPCA REGULATION I,
ARTICLE X - FEES AND CHARGES**

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

SECTION 10.01 DEFINITIONS

When used in Regulation I of the Spokane County Air Pollution Control Authority:

A. Air Operating Permit Source means any facility required to have an operating permit pursuant to Chapter 173-401 WAC.

B. Burn Out Oven means any oven used to clean or remove dirt, grease, grime, paint, varnish, or any other unwanted substance or contaminant, from any object by using controlled incineration.

C. Criteria Pollutant means any one of the following: fine particulate matter (PM10), volatile organic compounds (VOC), nitrogen oxides, sulfur oxides, ozone, lead, or carbon monoxide.

D. Emission Fee means the component of a registration fee or operating permit fee which is based on total actual annual emissions of criteria and toxic air pollutants. In the case of a new or modified source or a source being registered initially, the emission fee is based on projected emissions as presented in an approved Notice of Construction or registration form.

E. Emission Reduction Credit means a credit granted to a source for a voluntary reduction in actual emissions per 173-400-131 WAC.

F. Registration Period means the twelve month period for which an annual fee has been assessed pursuant to Section 10.06.B.(1) or 10.06.B.(2).

G. Source means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or

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more contiguous properties, and are under the control of the same person, or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

H. Significant Emissions means, in reference to a net emissions increase or the potential of a source to emit, any of the following pollutants, at a rate of emissions equal to or greater than any one of the following rates:

- increased emissions of 10 tons per year of any one toxic air pollutant; or,
- increased emissions of 25 tons per year of two or more toxic air pollutants; or,

<u>Pollutant</u>	<u>Tons/Year</u>
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate Matter (PM)	25
Fine particulate matter (PM10)	15
Volatile organic compounds	40
Lead	0.6
Fluorides	3
Sulfuric Acid Mist	7
Hydrogen sulfide (H ₂ S)	10
Total reduced sulfur (including H ₂ S)	10
Reduced sulfur compounds (including H ₂ S)	10
Municipal waste combustor organics (measured as total tetra-through-octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride)	40

I. Stage I Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a transport tank into a stationary storage tank.

J. Stage II Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a stationary storage tank into a motor vehicle fuel tank.

K. Total Actual Annual Emissions means the total of all criteria and toxic air pollutant emissions for the most recent complete (~~calendar~~) year that is available to SCAPCA.

L. Toxic Air Pollutant means any toxic air pollutant (TAP) listed in WAC 173-460-150 or 173-460-160. Toxic air pollutant does not include particulate matter or volatile organic compounds as generic classes of substances.

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

SECTION 10.04 FEE WAIVER

A. Except for air operating permit sources (~~(subject to the operating permit program, pursuant to RCW 70.94.161)),~~ the Control Officer may waive payment of ~~((any))~~ all, or a portion, of any fee or service charge required by this Article upon a showing deemed sufficient by the Control Officer

that payment of the fee would cause financial hardship upon the applicant.

B. The Control Officer may identify categories of sources, or groups of sources within a category, in Section 10.04.C. with similar emissions units and processes where the Control Officer determines that any of the following conditions exist:

1. Facility-wide emission rates are less than 1 ton per year of air contaminants; or
2. There are no specific regulations on the control of air contaminants; or
3. Compliance with control requirements is readily accomplished through nontechnical self-inspection techniques; or
4. The primary purpose for registration, pursuant to Article IV, is to inventory air contaminant emissions.

As categories are so identified, the Control Officer may waive one-half of the annual registration fee for owners or operators of individual facilities who provide emission inventory data, and other required information relative to compliance with applicable regulations, within 30 days of the request by the Authority, in a format acceptable to the Authority. In so doing, the owner or operator shall certify to the best of his/her knowledge, on forms provided by the Authority, that the emission inventory data is accurate and the facility is in compliance with applicable regulations. Owners or operators who fail to return the information within 30 days of the request will not qualify for a fee waiver under this Section. Notwithstanding the provision of required data by the owner or operator, the Authority reserves the right to conduct inspections of the facility.

C. The following categories of sources are eligible for the fee waiver specified in Section 10.04.B. However individual sources are not eligible if one or more Notices of Violation have been issued by the Authority, pursuant to Section 2.04 of Regulation I, to the facility in the previous 36 month period:

<u>Source Category</u>	<u>Rating</u>
Surface Coating Operations	<1 ton/yr VOC emitted
Gasoline Dispensing Facilities	Exempt from stage II vapor recovery requirements
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Natural Gas Combustion	<10 ⁷ BTU/hr heat input
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Other Fossil Fuel Combustion	<10 ⁶ BTU/hr heat input
Dry Cleaning Plants	<140 gal/yr solvent consumption
Waste Oil Burners	<500,000 BTU/hr heat input

Tire Recapping Facilities	All units in the category
Grain Elevators	All units with no on-site processing capability

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

SECTION 10.06 REGISTRATION AND OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES

A. All sources required by Article IV, Section 4.01 to be registered, all air operating permit sources (~~(subject to the operating permit program pursuant to RCW 70.94.161)~~), and all sources required by Article V, Section 5.02 to obtain an approved Notice of Construction and Application for Approval shall pay an annual fee for each year, or portion of each year, during which it operates. Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. The annual fee for each source shall be determined as follows:

(1) For sources that are not subject to Section 10.06.B. (3), (4), or (5) of this regulation and which emit less than 5 tons per year of criteria and toxic air pollutants:

- (a) a flat fee of \$160 (~~(+50)~~); and
- (b) a \$30 fee for each stack and other emission point, not to exceed \$600 (~~(300)~~); and
- (c) an emission fee of \$20 (~~(+0)~~) per ton of each criteria and toxic air pollutant; and
- (d) an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period; and(-)

(e) an additional fee of \$100 if the source is required by the Authority to submit an annual emissions inventory to the Washington Emission Data System (WEDS).

(2) For sources that are not subject to Section 10.06.B. (3), (4), or (5) of this regulation and which emit 5 tons or more per year of criteria and toxic air pollutants, but less than 100 tons per year of any one criteria pollutant:

- (a) a flat fee of \$215 (~~(200)~~); and
- (b) a \$30 fee for each stack and other emission point, not to exceed \$600 (~~(300)~~); and
- (c) an emission fee of \$20 (~~(+0)~~) per ton of each criteria and toxic air pollutant; and
- (d) an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period; and(-)

(e) an additional fee of \$100 if the source is required by the Authority to submit an annual emissions inventory to the Washington Emission Data System (WEDS).

(3) For air operating permit sources (~~(subject to the air operating permit program pursuant to Chapter 173-401 WAC)~~), a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation, plus:

- (a) for bulk gasoline loading terminals, Standard Industrial Classification 5171, a fee of \$11,500;
- (b) for secondary aluminum facilities, Standard Industrial Classification 3341, a fee of \$21,100;
- (c) for municipal solid waste incineration facilities, Standard Industrial Classification 4953, a fee of \$20,400;

(d) for military bases, Standard Industrial Classification 9711, a fee of \$17,850; or

(e) for sources not listed in (a), (b), (c), or (d) above i. which have total annual actual emissions of less than 50 tons, a fee of \$1,350;

ii. which have total annual actual emissions of greater than or equal to 50 tons but less than 100 tons, a fee of \$2,025; or

(iii) which have total actual annual emissions of 100 tons or greater, a fee of \$3,650.

(4) For affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq):

(a) a fee of \$50 per hour of time expended in carrying out the fee eligible activities specified in RCW 70.94.; and

(b) a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation.

(5) For gasoline dispensing facilities which are not subject to Section 10.06.B.(3) of this regulation, a flat fee of \$165 (~~(+50)~~).

C. The Board of Directors shall annually review the fee schedule for air operating permit sources (~~(subject to the operating permit program pursuant to RCW 70.94.161)~~) and projected costs to implement the requirements of RCW 70.94.161 and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to recover program costs. Such review shall include opportunity for public review and comment on the projected costs and any changes to the operating permit fee schedule. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board of Directors determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board of Directors shall amend the fee schedule to more accurately recover program costs.

D. Individual shares of the assessment pursuant to RCW 70.94.162(3) shall be determined by the following formula:

$$I = \frac{F_1}{F_T} \times A_E$$

Where,

I is the individual share of the assessment, and

F_1 is the individual fee assessed pursuant to Section 10.06.B. (3) or (4) of this regulation, and

A_E is the total assessment pursuant to RCW 70.94.-162(3), and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.B. (3) and (4) of this regulation.

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY SOURCE

A. For all projects required by Article V to file a Notice of Construction and Application for Approval (NOC) or a Notice of Intent to Install and Operate a Temporary Source, a filing fee of \$150 shall be paid at the time of filing the application.

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B. IN ADDITION to the filing fee provided in (~~"A"~~ ~~above~~) Section 10.07.A, a plan review (~~and approval~~) fee shall be paid according to (~~one of~~) the following:

(1) An equipment fee based on one of the following:

(a) Fuel Burning Equipment With or Without Air Pollution Control Equipment:

Design Input Size (MMbtu/hr)	Fee
.4 < 5	\$200
5 < 10	\$250
10 < 20	\$300
20 < 50	\$350
50 < 100	\$400
100 < 250	\$500
250 < 500	\$650
500 < UP	\$850

~~((2))~~ (b) Refuse Burning Equipment Including Air Pollution Control Equipment:

Capacity (ton/day)	Fee
0 < 12	\$1,000
12 < 250	\$1,500
250 < UP	\$2,500

~~((3))~~ (c) Process Equipment and/or Air Pollution Control Equipment or Uncontrolled Process Equipment:

Actual ft ³ /min	Fee
0 < 5,000	\$150
5,000 < 20,000	\$250
20,000 < 50,000	\$350
50,000 < 100,000	\$450
100,000 < 250,000	\$550
250,000 < 500,000	\$650
500,000 < UP	\$800

~~((4))~~ (d) Gasoline dispensing facilities:

Equipment Being Installed	Fee
<u>Annual facility gasoline throughput of less than 1.5 million gallons</u>	\$150
<u>Annual facility gasoline throughput of 1.5 million gallons or greater</u>	\$250
((Stage I Vapor Recovery	\$ 50
Stage II Vapor Recovery	\$125
Stage I and Stage II	(\$150))

~~((5))~~ (e) For sources not included in (~~(1), (2), (3), or (4) above~~) the above categories, an hourly fee of \$50.00 per hour of time expended in plan review (~~and approval~~).

(2) In addition, for any new source of air pollution to be constructed and anticipated to produce significant emissions, a significant emissions review fee of \$250.

(3) In addition, for any new or modified source of air pollution which requires review pursuant to Chapter 173-460 WAC, a toxic air pollutant review fee of \$100.

C. For sources applying for more than one emission point under one Notice of Construction application, as allowed in Section 5.02.C, the applicant shall pay, according to Sections 10.07.A and 10.07.B, one filing fee, plus one significant emissions review fee, if applicable, plus one toxic air pollutant review fee, if applicable, plus (~~a review~~) an equipment fee for each emission unit and/or air pollution control system being installed or modified.

D. For sources seeking a change in conditions of an order of approval pursuant to Section 5.10.B. of this regulation, the fee shall be one half the current fee for a Notice of Construction and Application for Approval for that type of source, including the filing fee according to Section 10.07.A and the applicable fees according to Section 10.07.B or ~~\$(250)~~ 350 which ever is less.

E. Where a compliance investigation is conducted pursuant to Section 5.12 of this regulation, the compliance investigation fee shall be equal to 2 times the applicable fees according to Section 10.07.B (~~fee required in Section 5.03 of this regulation~~).

~~((F. IN ADDITION to the other fees and costs herein above required any new source of air pollution to be constructed and anticipated to produce SIGNIFICANT EMISSIONS shall pay an additional fee of \$250.))~~

~~((G. IN ADDITION to the other fees and costs herein above required, any new or modified source of air pollution which requires review pursuant to Chapter 173-460 WAC shall pay an additional fee of \$100.))~~

AMENDATORY SECTION (Amending WSR 93-19-043, filed 9/8/93)

SECTION 10.09 ASBESTOS

Any owner or operator of a demolition or renovation activity required by federal regulation or Regulation I to notify the Authority prior to removal or demolition, or required by Federal Regulation to be approved or inspected by the Authority, shall (~~give required notice and~~) pay a fee according to the (~~following~~) 10.09.A, or 10.09.B below. The fee shall accompany the required notice.

A. Commercial

~~((a))~~ 1) If more than 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter (35 cubic feet) of regulated asbestos-containing material (RACM) as defined in Section 9.02.R of this regulation (~~asbestos~~) is to be removed a \$150 fee is required. (This includes the demolition fee, if applicable.)

~~((b))~~ 2) If less than or equal to 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter (35 cubic feet) but more than or equal to 3 linear meters (10 linear feet), one square meter (11 square feet), one cubic foot of regulated asbestos-containing material (RACM) as defined in Section 9.02.R of this regulation (~~asbestos~~) is to be removed a \$75 fee is required. (This includes the demolition fee, if applicable.)

~~((c))~~ 3) (~~If less than 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot of asbestos is to be removed or if the activity is a demolition not requiring asbestos removal a)~~ A \$40 fee is required for any demolition activity, as defined in Section 9.02.F of this regulation.

(4) Registered sources may elect to submit an annual notice for work conducted in their own facility by their own employees in place of individual notifications. A fee of \$150 shall accompany the annual notice.

B. Residential (residential buildings having less than four dwellings)

~~((d))~~ 1) If more than or equal to 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot of regulated asbestos-containing material (RACM) as

defined in Section 9.02.R of this regulation (~~asbestos~~) is to be removed from a private residence a \$40 fee is required. (This includes the demolition fee, if applicable.)

~~((e)2)~~ No notice or fee is required for private residences if the amount of asbestos to be removed is less than 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot.

~~(3)~~ For demolition activity involving more than or equal to 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter (35 cubic feet) of regulated asbestos containing material (RACM), as defined in Section 9.02.R, where there is no RACM removal before demolition, a fee of \$40 is required.

~~(4)~~ For any demolition activity where at least 15 square meters (160 square feet) of Category II nonfriable asbestos containing material, as defined in Section 9.02.D, remains in the facility, where there is a high probability as determined by the Control Officer, that the material will become crumbled, pulverized, or reduced to powder, a fee of \$40 is required.

~~((f) Registered sources may elect to submit an annual notice, for work conducted in their own facility by their own employees rather than individual notifications. A fee of \$150 shall accompany the annual notice.)~~

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

SECTION 10.12 AGRICULTURAL BURNING FEES

A. For agricultural burning permits issued by the Authority pursuant to Section 6.11 of this regulation, a fee shall be paid by the applicant according to the following:

1. Portion for local administration: ~~((the greater of a minimum fee of \$12.50 per year per farm, based on burning up to and including 10 acres or equivalent, or))~~ a ~~((variable))~~ fee of \$1.25 per acre; and

2. The state administration and research portions, ~~((as provided in))~~ pursuant to 70.94.650 RCW and WAC 173-430-040 (3)(b).

B. Refunds of fees collected by the Authority may be provided at the discretion of the Authority for portions of acreage, of equivalent, unburned, provided that the total adjusted fee is no less than \$25.

C. Acreage equivalency shall be in accordance with the determination of the agricultural burning practices and research task force pursuant to WAC 173-430-040 (3)(d).

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

WSR 97-05-053
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)

[Filed February 18, 1997, 4:45 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-49-360, 388-49-362, 388-49-364, 388-49-366, 388-49-368, 388-49-369, 388-49-380, and 388-49-385.

Purpose: To change chapter 388-49 WAC to be in compliance with Section 6, of HR 3734 Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: Section 6 of HR 3734 (Public Law 104-193).

Summary: Changes food stamp disqualification penalty for refusing or failing to register for work, to participate in the food stamp employment and training program, and quitting a job. Adds description of workfare for food stamp recipients. Clarifies food stamp employment and training program policies.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lee Burnett, Division of Employment and Social Services, (360) 413-3243.

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

Rule is necessary because of federal law, Section 6, HR 3734 Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule changes the food stamp disqualification penalty applied when a person refuses or fails to register for work or participate in the food stamp employment and training program and when a person quits a job; describes workfare; and clarifies food stamp employment and training program policies by creating six new sections.

Proposal Changes the Following Existing Rules: Amends WAC 388-49-360, 388-49-362, 388-49-364, 388-49-366, 388-49-368, 388-49-369, 388-49-380, and 388-49-385.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not apply to this rule.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on March 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut by March 11, 1997, (360) 902-8317 or TTY (360) 902-8324.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 25, 1997.

Date of Intended Adoption: No sooner than March 26, 1997.

February 18, 1997
Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3803, filed 10/26/94, effective 11/26/94)

WAC 388-49-360 Work registration and food stamp employment and training (FSE&T) program ((services)) participation. (1) Unless exempt, the department shall register ~~((each individual between eighteen and sixty years~~

PROPOSED

~~of age, for employment at certification and once every twelve months thereafter. The department shall register a child reaching eighteen years of age during a certification period for work during the next recertification process)) for work and require participation in the food stamp employment and training (FSE&T) program persons:~~

- ~~(a) Ages sixteen through fifty-nine with dependents;~~
- ~~(b) Ages sixteen and seventeen out of school, not heads-of-households; and~~
- ~~(c) Ages fifty-one through fifty-nine with dependents.~~
- ~~(2) Registration happens at certification and once every twelve months thereafter.~~

~~(3) The department shall ((register)) exempt from work registration and participation in the FSE&T program persons who are:~~

~~(a) Sixteen and seventeen((-year old)) years of age who are not heads of households ((for employment unless the individuals)) who are:~~

- ~~((a)) (i) Attending school; or~~
- ~~((b)) (ii) Enrolled in ((an E&T)) a program under temporary assistance for needy families (TANF), a program under Job Training Partnership Act (JTPA), a program under section 236 of the Trade Act of 1974, or other state or local employment and training programs at least half time.~~

~~((3) The department shall exempt from work registration a person:~~

- ~~(a)) (b) Physically or mentally unfit for employment;~~
- ~~((b)) (c) Responsible for the care of a dependent child under six years of age or of an incapacitated person((- If a child's sixth birthday falls within a certification period, apply the exemption until the next recertification));~~
- ~~((e)) (d) Applying for or receiving unemployment compensation (UC);~~

~~((d) Subject to and participating in any work program under Titles IV A and IV C of the Social Security Act, as amended, or other E&T program;))~~

- ~~(e) Participating in a program under TANF;~~
- ~~(f) Employed or self-employed thirty hours or more per week, or receiving weekly earnings equal to the federal minimum wage, multiplied by thirty. This shall include migrant and seasonal farmworkers under contract or agreement with an employer;~~

~~((f)) (g) Enrolled as a student ((half-time or more in any recognized school, training program, or institution of higher education provided the students enrolled in higher education meet the eligibility conditions under WAC 388-49-020)) as defined in WAC 388-49-330;~~

- ~~((g)) (h) Regularly participating in a drug addiction or alcoholic treatment and rehabilitation program((;~~
- ~~(h) Complying with work requirements imposed as a participant in any)).~~

~~(4) The department shall work register and exempt from participation in the FSE&T program persons who:~~

- ~~(a) Participate in a refugee assistance program; ((or~~
- ~~(i) Under contract or agreement with an employer as a migrant or seasonal farmworker.~~

~~(4) The department shall register each household member required to be work registered))~~

- ~~(b) Reside in an exempt area;~~
- ~~(c) Reside one hour or more travel distance from available FSE&T services;~~

~~(d) Do not have a mailing address or message telephone;~~

~~(e) Have dependent care needs that exceed the maximum amount payable by the department. The exemption shall continue until:~~

- ~~(i) A suitable program service is available; or~~
- ~~(ii) Circumstances change and monthly dependent care costs no longer exceed the department reimbursement limit.~~
- ~~(f) Have a temporary incapacity expected to have a sixty day or more duration including women in the first or second trimester of pregnancy.~~

~~(5) The department shall accept an applicant's statement concerning the employability of each member of the household unless the information is questionable. The department shall verify any claim for exemption the department determines questionable.~~

~~((6) The department shall:~~

- ~~(a) Refer persons to E&T program services, unless the person is exempted by subsection (9) of this section; and~~
- ~~(b) Provide E&T program services to assigned applicants or recipients, either directly or through a contracted service provider, as specified in the state plan.~~

~~(7) Persons subject to E&T services shall participate in an E&T program service for:~~

~~(a) A minimum level of participation comparable to spending approximately twelve hours a month for two months during:~~

- ~~(i) An eight week or two four week period or periods, each time an applicant/recipient enters into the food stamp program; or~~
- ~~(ii) Each twelve months of continuous participation, whichever occurs sooner.~~

~~(b) A maximum level of participation not to exceed one hundred twenty hours. In any month, hours of participation may include a combination of:~~

- ~~(i) An E&T program; and~~
- ~~(ii) Workfare program; and~~
- ~~(iii) Hours worked for compensation.~~

~~(8) The department shall require persons subject to E&T to:~~

~~(a) Report at a prescheduled time to the department or service provider and participate in an initial assessment interview. The department or service provider shall provide written information regarding:~~

- ~~(i) An E&T plan developed jointly between the department or service provider and the participant;~~
- ~~(ii) The grounds for noncompliance;~~
- ~~(iii) The sanctions for noncompliance without good cause; and~~

~~(iv) Provisions for ending noncompliance.~~

~~(b) Provide supplemental information regarding employment status or availability for work as requested;~~

- ~~(c) Report when referred to an employer, if the potential employment is suitable;~~
- ~~(d) Accept a bona fide offer of suitable employment;~~
- ~~(e) Complete reports as scheduled on the results of individual participation in all E&T services; and~~
- ~~(f) Appear for follow-up interviews.~~

~~(9) The department shall exempt from referral for E&T program services applicants or recipients who:~~

- ~~(a) Reside in an exempt county as specified in the state plan;~~

(b) Reside one hour or more travel distance from the service provider;

(c) Have no mailing address or message telephone; or

(d) Have a temporary incapacity expected to have a sixty day or more duration.

(10) The department shall reimburse participants for expenses incurred in fulfilling E&T requirements as follows:

(a) An allowance of twenty five dollars per participant month for transportation or other costs reasonably necessary and directly related to participation in the E&T program; and

(b) Dependent care costs directly related to participation in the E&T program, up to standards as set forth for the food stamp E&T program.

(i) A participant who is part of an AFDC household and resides in an area with work programs under Titles IV A and IV C of the Social Security Act, as amended, is not eligible for dependent care reimbursement under the E&T program.

(ii) An individual's participation in E&T activities shall be deferred if dependent care costs would exceed the published standards for E&T dependent care. Deferment shall continue until:

(A) A suitable component is available; or

(B) Circumstances change and monthly dependent care costs no longer exceed the limit.

(iii) Any portion of child care costs reimbursed may not be claimed as an expense and used in calculating the child care deduction.

(11) If a household member fails to comply with work registration or E&T program requirements without good cause, the department shall:

(a) Disqualify the entire household if the noncompliant member is the household employment representative; or

(b) Disqualify the noncompliant person if that person is not the household employment representative. The department shall treat the disqualified member as an ineligible household member.

(12) The department shall determine whether or not good cause exists before initiating sanction for refusal or failure to register for work or participate in E&T program services. The following circumstances shall constitute good cause for failure to register for work or participate in E&T program services. The following circumstances are not inclusive:

(a) Illness of the participant;

(b) Illness of another household member requiring the presence of the member;

(c) A household emergency;

(d) The unavailability of transportation; and

(e) Lack of adequate child care for children who reached six years of age, but are under twelve years of age.

(13) Within ten days of a determination of failure to comply the department shall determine whether good cause exists and, if not, provide notice to the household that contains:

(a) The particular act of noncompliance;

(b) The proposed period of disqualification;

(c) Notification that the individual or household may re-apply at the end of the disqualification period; and

(d) Information describing the action the individual or household may take to end or avoid the sanction.

(14) The disqualification period for noncompliance shall be for two months or until the noncompliant member moves

from the household, becomes exempt for reasons other than subsection (3)(e) and (d) of this section, or complies, whichever is earlier.

(a) If the noncompliant member moves from the household, the household may resume participation.

(b) If the noncompliant member moves from the household and joins another household:

(i) As the household employment representative, the entire new household is ineligible for the remainder of the disqualification period; or

(ii) As other than the household employment representative, the department shall consider the noncompliant individual as an ineligible household member of the new household for the remainder of the disqualification period.

(c) If a new person, who has not committed a violation joins a sanctioned household:

(i) As the household employment representative, the period of ineligibility ends; or

(ii) As other than the household employment representative, the disqualification continues.

(15) The department shall consider a household member subject to work requirements of Titles IV A or IV C of the Social Security Act, as amended, or UC work registration and participation requirements, who fails to comply with such requirements, the same as under E&T program service requirements if the requirements were comparable. If a comparable E&T program service requirement does not exist, the household member shall lose exemption status as referenced under subsection (3)(d) of this section and shall register for work.

(16) At the end of the two month disqualification period, a household may apply to re-establish eligibility. The individual may re-establish eligibility during the disqualification period if the reason for disqualification is corrected.

(17) Persons subject to reporting requirements who lose exemption status due to any reportable change of circumstance shall be work registered by the department when the case is processed.

(18) Persons who lose their exemption status due to a nonreportable change in circumstance shall be work registered at their next recertification.

(19) A registrant moving out of the jurisdiction of the department's local office where the registrant is registered shall reregister at the department local office in the new location.

(20) The household shall be held liable for any overissuances resulting from erroneous information given by the household member or the household's authorized representative.

(21) Each household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to:

(a) A determination of nonexempt status; or

(b) Failure to comply with work registration and employment and training program requirements; or

(c) Determination of noncompliance with a comparable work program under Titles IV A and IV C of the Social Security Act, as amended, or UC requirement.

(22) The department of social and health services shall administer the program and may contract E&T services through other agencies:))

NEW SECTION

WAC 388-49-362 Food stamp employment and training program responsibilities. The department shall require persons in the FSE&T program to:

- (1) Comply with FSE&T program service requirements;
- (2) Report to the department or service provider and participate as required;
- (3) Provide information regarding employment status or availability for work as requested;
- (4) Report when referred to an employer;
- (5) Accept a bona fide offer of suitable employment.

NEW SECTION

WAC 388-49-364 Food stamp employment and training program services. (1) The department of social and health services shall administer the FSE&T program and provide FSE&T program services either directly or through a contracted service provider.

(2) Persons required to participate in the FSE&T program may receive one or more of the following services:

- (a) Job search activities;
 - (b) General education development (GED) services; or
 - (c) English as a second language (ESL) services.
- (3) A maximum level of participation shall not exceed one hundred twenty hours in a month. Hours of participation may include a combination of FSE&T services and hours worked for compensation (in cash or in kind).
- (4) The department shall provide written information to FSE&T participants regarding:
- (a) The FSE&T program;
 - (b) The grounds for disqualification;
 - (c) The disqualification penalties; and
 - (d) The provisions for ending a disqualification.

NEW SECTION

WAC 388-49-366 Food stamp employment and training good cause. (1) The department shall determine if a person has good cause for refusing or failing to:

- (a) Register for work;
 - (b) Participate in the FSE&T program.
- (2) The department may determine that a person has good cause for reasons including, but not limited to:
- (a) Illness of the person;
 - (b) Illness of another household member requiring the presence of the member;
 - (c) A household emergency;
 - (d) The unavailability of transportation;
 - (e) Lack of adequate child care for children who reach six years of age, but are under twelve years of age.

NEW SECTION

WAC 388-49-368 Food stamp employment and training disqualifications. (1) If a person refuses or fails to comply with work registration and participate in the FSE&T program without good cause as found in WAC 388-49-366(2), the department shall disqualify the noncompliant person. The department shall treat the disqualified person as an ineligible household member.

(2) Within ten days of a determination of failure to comply the department shall determine whether good cause exists and, if not, provide notice to the person that contains:

- (a) The particular act of noncompliance;
 - (b) The proposed period of disqualification;
 - (c) Notification that the person may re-apply at the end of the disqualification period; and
 - (d) Information describing the action the person may take to end the disqualification.
- (3) The disqualification period shall be:
- (a) For the first failure to comply, one month and until the failure to comply ceases;
 - (b) For the second failure to comply, three months and until the failure to comply ceases;
 - (c) For the third or subsequent failure to comply, six months and until the failure to comply ceases.
- (4) If a person becomes exempt under WAC 388-49-360(4), a disqualification ends when a person:
- (a) Has served the one, three, or six month portion of the disqualification penalty; and
 - (b) Is registered for work.
- (5) The department shall consider a household member subject to work requirements of TANF, or UC work registration and participation requirements, the same as under FSE&T program service requirements if the requirements were comparable. If a comparable FSE&T program service requirement does not exist, the household member shall lose exemption status as referenced under section WAC 388-49-360 (3)(ii) and shall register for work.
- (6) At the end of a disqualification period, a person may apply to re-establish eligibility.
- (7) Each persons has a right to a fair hearing to appeal a denial, reduction, or termination of benefits regarding:
- (a) A determination of nonexempt status;
 - (b) Failure to comply with:
 - (i) Work registration;
 - (ii) FSE&T program;
 - (iii) A comparable program to the FSE&T program.

NEW SECTION

WAC 388-49-369 Food stamp employment and training payments. The department shall pay for a person's actual expenses, up to the department limit, that are necessary for the person to participate in the FSE&T program. A person may receive payment for:

- (1) Transportation related costs; and
- (2) Dependent care costs for each dependent;
 - (a) Reimbursement shall not be made for a dependent age thirteen or older unless the dependent is:
 - (i) Physically and/or mentally incapable of caring for himself or herself; or
 - (ii) Under court order.
 - (b) Reimbursement shall not be made when any member in the food stamp household provides the dependent care service.
 - (c) Any portion of dependent care payments may not be claimed as an expense and used in calculating the dependent care deduction.

AMENDATORY SECTION (Amending Order 3803, filed 10/26/94, effective 11/26/94)

WAC 388-49-380 Voluntary quit. (1) A ~~((household where the household employment representative))~~ person who voluntarily quits his or her most recent job without good cause shall be ineligible if:

(a) The employment involved twenty hours or more per week or provided weekly earnings equivalent to twenty times the minimum wage;

(b) The quit occurred within sixty days prior to application or any time thereafter; ~~((and))~~

(c) At the time of the voluntary quit, the ~~((household employment representative))~~ person was ~~((, at the time of the voluntary quit,))~~ required to register for work as provided under WAC 388-49-360 ~~(with exception of subsection (3)(d) and (e) of this section); and~~

(d) An employee of the federal, state, or local government who participates in a strike against such government and is dismissed from his or her job because of participation in the strike.

(2) Good cause for voluntarily quitting employment includes the following:

(a) Circumstances included under WAC ~~((388-49-360(12)))~~ 388-49-366(2);

(b) The employment is unsuitable as defined under WAC 388-49-370;

(c) Discrimination by an employer based on age, race, sex, color, ~~((handicap,))~~ religious belief, national origin, ~~((or))~~ political belief, marital status, or the presence of any sensory, mental, or physical disability or other reasons in RCW 49.60.180;

(d) Work demands or conditions rendering continued employment unreasonable, such as working without being paid on schedule;

(e) Acceptance by the ~~((household employment representative))~~ person of employment or enrollment of at least half time in any recognized school, training program, or institution of higher education including fulfillment of the provisions under WAC 388-49-330, requiring the ~~((household employment representative))~~ person to leave employment;

(f) Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program, or institution of higher education in another county or similar political subdivision requiring the household to move thereby requiring ~~((the household employment representative))~~ any other member to leave employment;

(g) Resignations by persons under sixty years of age recognized by the employer as retirement;

(h) Acceptance of a bona fide offer of employment of twenty hours or more a week or where the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the ~~((household employment representative))~~ person, subsequently either does not materialize or results in employment of twenty hours or less a week or weekly earnings of less than the federal minimum wage multiplied by twenty hours; and

(i) Leaving a job in connection with patterns of employment where workers frequently move from one employer to another, such as migrant farm labor or construction work.

(3) A household where ~~((the household employment representative))~~ a person voluntarily ~~((quit their))~~ quits his or her most recent job shall not be ineligible if the circumstances of the employment involve:

(a) Changes in employment status resulting from reduced hours of employment while working for the same employer;

(b) Termination of a self-employment enterprise; or

(c) Resignation from a job at the demand of an employer.

(4) An employee of the federal government or of a state or local government who participates in a strike against the government and is subsequently dismissed because of participation in the strike, shall be considered to have voluntarily quit a job without good cause.

(5) The person shall have primary responsibility for providing verification of good cause for voluntary quit. If the household and the department are unable to obtain verification, the department shall not deny the household access to the program.

~~((6) If a quit was without good cause, the ~~((department shall:~~~~

~~((a) Deny a household's application for a period of ninety days beginning with the day of quit; or~~

~~((b) For participating households, disqualify the household for three months. The disqualification shall start the first of the month following the adverse action period.~~

~~((6) The household shall have primary responsibility for providing verification. If the household and the department are unable to obtain verification, the department shall not deny the household access to the program.))~~ person is disqualified.

(a) For the first quit, one month and until the person complies with subsection (8) of this section;

(b) For the second quit, three months and until the person complies with subsection (8) of this section;

(c) For the third or subsequent quit, six months and until the person complies with subsection (8) of this section.

(7) For persons residing in exempt areas under WAC 388-49-360(4), a disqualification ends when a person:

(a) Has served the one, three, or six month portion of the disqualification penalty; and

(b) Complies with subsection (8)(a) of this section.

(8) The ~~((household))~~ person may re-establish eligibility ~~((during))~~ after the disqualification, if otherwise eligible, and the person who caused the disqualification:

(a) Secures new employment:

(i) Comparable in monthly salary to the job the person quit; or

(ii) Of a lesser monthly salary ~~((, that is expected to improve the person's future employment prospects)).~~

(b) ~~((Leaves the household))~~ In nonexempt areas, is participating in the food stamp employment and training program;

(c) ~~((Becomes exempt from work registration for reasons other than under WAC 388-49-360 (3)(e) and (d); or~~

~~((d) Complies with requirements to correct the disqualification))~~ Is participating in workfare; or

(d) Becomes exempt other than under WAC 388-49-360 (3)(d) and (e).

~~((8)) (9) If the ((noncompliant member)) person moves from the household and joins another household(=~~

~~(a) As the household employment representative, the entire new household is ineligible for the remainder of the disqualification period; or~~

~~(b) As other than the household employment representative), the department shall consider the ((noncompliant individual)) person as an ineligible household member of the new household for the remainder of the disqualification period.~~

~~((9) If a new person who has not committed a violation joins a sanctioned household:~~

~~(a) As the household employment representative the period of ineligibility ends; or~~

~~(b) As other than the household employment representative, the disqualification continues:))~~

NEW SECTION

WAC 388-49-385 Food stamp workfare. (1) Workfare is a program available to persons eighteen through fifty years of age without dependents, that gives persons the opportunity to maintain eligibility for food stamp benefits.

(2) Workfare consists of:

(a) For the first month, job search activities or unpaid work with a public or private nonprofit agency; and

(b) Subsequent months, unpaid work with a public or private nonprofit agency.

(3) The department determines the hours that a person must participate in unpaid work with a public or private nonprofit agency.

(4) Workfare hours when added to compensated hours worked may not exceed thirty hours a week.

(5) The department shall pay for a person's actual expenses, up to the department limit, that are necessary for the person to participate in workfare.

WSR 97-05-057
PROPOSED RULES
GAMBLING COMMISSION
[Filed February 19, 1997, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-15-020.

Title of Rule: WAC 230-30-025 Progressive jackpot pull tabs.

Purpose: This rule establishes how progressive prizes are made, how progressive jackpots accrue, and the method for calculating the required percentage payout. In addition, changes were made to add new terms and definitions to make the rule easier to read and follow.

Statutory Authority for Adoption: RCW 9.46.070 (1), (2), (4), (8), (11), (14).

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: David Shaw, Lacey, (360) 438-7654, ext. 310; Implementation: Frank Miller, Lacey, (360) 438-7654, ext. 302; and Enforcement: Ben Bishop, Lacey, (360) 438-7654, ext. 370.

Name of Proponent: Staff, in conjunction with pull tab industry representatives, private.

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

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

Proposal Changes the Following Existing Rules: See Summary and Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995 apply to this rule adoption.

Hearing Location: The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, on April 11, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by April 7, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: David Shaw, Mailstop 42400, Olympia, Washington 98504-2400, FAX (360) 438-8652, by March 24, 1997.

Date of Intended Adoption: April 11, 1997.

February 18, 1997

David Shaw

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 305, filed 11/21/96)

WAC 230-30-025 Progressive jackpot pull tab ~~((games)) series - Definitions - Restrictions - ((Manner of conducting - Record keeping - Approval)) Operating procedures.~~ The Commission finds that the preservation of the public general welfare, and prevention of fraud against the player and gambling industry necessitates the immediate adoption of the following requirements.

For purposes of this title, the following definitions, restrictions, operating procedures, and record keeping requirements apply to ~~((such devices))~~ progressive jackpot pull tab series.

(1) Definitions:

(a) Progressive jackpot ~~((prize))~~ - A ~~((minimum))~~ prize that is comprised of a starting jackpot amount ((prize)) which increases by ((plus the accumulation of)) a predetermined ((dollar)) amount ((of)) for each pull tab ((sale)) sold ((-The jackpot shall increase for each pull tab sale)) until a player redeems the winning jackpot tab.

(b) Jackpot accrual rate - The rate at which a jackpot accrues. This rate shall determine the amount of each pull tab sold which will be added to the starting jackpot.

(c) Accrued portion of the progressive jackpot - The progressive jackpot at the time the game is pulled, less the starting jackpot amount.

(d) Bank system - a ((set)) group of ((up to ten)) dispensing devices networked together. These devices shall be linked to a computer system capable of calculating total sales and the accumulation of the progressive jackpot ((prize)).

What are the operating conditions governing dispensing devices used for progressive jackpot pull tabs?

(2) Progressive jackpot pull tab dispensing devices may be operated under the following conditions:

(a) All machines in a bank system must be located ~~((together))~~ in the same physical proximity on the license premises, so that players can observe all tabs in a series;

(b) Each bank system must be linked to a computer system which ~~((monitors))~~ records all sales and the accumulation of the progressive jackpot ((prize));

(c) A licensee may have more than one bank system operating at one time, but at no time shall a bank system exceed ten machines; and

(d) ~~((From the effective date of this rule, t))~~ The number of progressive pull tab dispensing devices per location shall be limited to ten machines for commercial stimulant licensees and twenty machines for charitable or nonprofit licensees. The director may approve an increase in the number of machines upon receipt of a written request by the licensee if the director determines that the licensee is in compliance with all regulations and approval would not be detrimental to the interests of the commission and/or the public;

In addition to all other rules governing pull tabs, what additional requirements apply to ((Under what conditions may)) progressive jackpot pull tab series ((games be operated))?

(3) Progressive jackpot pull tab ~~((games))~~ series shall be conducted in the same manner as other pull tab series ~~((games))~~. In addition, the following requirements apply:

(a) An owner or licensed commercial or charitable or non-profit gambling manager shall be on the premises at all times during the operation of progressive jackpot pull tab series ~~((games));~~

(b) Tabs shall be stored in secured locations with access limited to ~~((authorized))~~ owners and licensed individuals only;

(c) The licensee shall have sufficient funds available to pay all prizes upon redemption of winning tabs. Failure to have sufficient funds available shall be *prima facie* evidence of defrauding the public in violation of RCW 9.46.190;

(d) The current progressive jackpot ((prize)) total must be clearly displayed near the bank of machines at all times during the sale of progressive pull tabs; ~~((The maximum jackpot prize amount shall also be disclosed near the bank of machines;))~~

(e) One flare shall be prominently displayed near the bank of machines;

(f) The following are prohibited for use with progressive jackpot pull tab series ~~((games))~~:

- (i) Substitute flares;
- (ii) Merchandise prizes; and
- (iii) Last sale prizes((-);

(f) The operator must disclose the operating procedures regarding playing out a series or carrying over accrued prizes, as set forth in (4)(e) below; and

(g) After the retention period, unsold tabs shall be destroyed in such a manner that unopened winning tabs may not be found and used later.

What are the operating conditions governing prizes ~~((and the payout regiment))~~?

(4) The following conditions apply to ~~((the))~~ prizes ~~((and payout regiment))~~ for progressive jackpot pull tab series ~~((games))~~:

(a) The prize pool which includes the starting jackpot amount plus all other winners shall be equal to or greater than forty percent of total gross gambling receipts available from the series; ((Only the minimum possible jackpot prize shall be included in determining the sixty percent payout, as required by WAC 230-30-075;))

(b) The minimum jackpot accrual rate shall be determined by a formula whereby the starting jackpot will accrue to an amount which, when added to all other winners, will reach at least sixty percent of total gross gambling receipts available by the end of the series;

(c) The manufacturer shall determine the ((minimum)) starting jackpot amount and corresponding jackpot accrual rate needed to meet the sixty percent payout requirement in (4)(a) and (b) above. This information shall be packaged with each series;

~~((e) Operators may increase the minimum jackpot amount prior to putting the game in play;))~~

(d) ~~((The ((maximum)) starting jackpot amount plus the accrued portion of the progressive jackpot ((prize)) for an individual series, not including the portion carried over from previous series, shall not exceed five thousand dollars; ((as required by WAC 230-30-075(2). However, operators may elect to set the maximum jackpot at an amount less than five thousand dollars)); and~~

~~((e) The licensed operator shall set the amount to be added to the jackpot prize for each ticket sold. This amount will remain the same for each pull tab sold from a game; Provided, that the jackpot prize may not exceed the maximum jackpot prize detailed in (4)(d) above;))~~

(e) Operators shall not remove a progressive jackpot pull tab series from play prior to the progressive jackpot being won. Provided, That operators may elect to pull a series from play at the beginning or end of any business day only if the accrued portion of the progressive jackpot is carried over to a new series within twenty-four hours. The accrued portion of the progressive jackpot shall be added to the starting jackpot amount from the new series when it is placed out for play. The minimum starting jackpot of the subsequent series must be equal to or greater than the ending jackpot amount of the previous series.

How must winning tabs be redeemed?

(5) Winning tabs shall be redeemed in the same manner as required by WAC 230-30-070. The following requirements also apply:

(a) For jackpot prizes ~~((one thousand two hundred))~~ six hundred dollars and over, the winner's full name, address, and social security number shall be recorded on a separate form for income tax purposes;

(b) At least the ~~((minimum))~~ starting jackpot ((prize amount)) portion of the progressive jackpot shall be paid by check. The licensee shall record the check number in addition to the information required in WAC 230-30-070 ~~((-))~~(5). These checks may not be cashed on the licensed premises; and

(c) All jackpot winning tabs must be defaced immediately upon receipt ~~((+))~~ instead of within twenty-four hours.

PROPOSED

What records must I keep, and for how long must they be retained?

(6) All record keeping requirements outlined in WAC 230-08-010 must be followed, in addition to the following:

(a) All winning tabs and winner information for jackpot prizes, along with the ~~((game))~~ flares, must be retained for one year from the date in which the ~~((games))~~ series were removed from play; and

(b) Licensees shall record progressive jackpot ~~((games))~~ series on a separate monthly record in a format prescribed by the commission. ~~((This format must contain the following i))~~ In addition to the information required by WAC 230-08-010(9), the following must be recorded for each series:

(i) Starting jackpot amount;

(ii) Jackpot accrual rate;

(iii) The ~~((Dollar))~~ amount, stated in currency, of each pull tab sold ~~((sale))~~ which is contributed to the jackpot;

~~((ii) Separate prizes paid figures for jackpot prizes and regular prizes; and))~~

(iv) Number of tabs sold out of each dispensing device;

(v) Progressive jackpot amount, if awarded;

(vi) Ending progressive jackpot amount, if the series was pulled prior to the jackpot being won;

(vii) Regular prizes awarded; and

~~((iii))~~ (viii) Prizes paid by check;

~~((e) Licensees are required to maintain records for each game/bank system detailing:~~

(i) The beginning jackpot prize amount;

(ii) The number of tickets sold out of each dispensing device; and

(iii) The ending jackpot prize amount;

(d) The above records must be maintained for a period of not less than three years from the end of the fiscal year for which the records are kept.)

What aspects of a progressive pull tab system require agency approval and what standards are applicable to this approval process?

(7) The director shall approve all progressive jackpot pull tab series, ~~((games and all))~~ progressive jackpot dispensing devices, and ~~((In addition, the director shall approve all))~~ computer software used to link dispensing devices, accrue jackpot prizes, and store data used in preparing records. Procedures for approval are as follows:

(a) Any costs related to ~~((the))~~ this approval ~~((of progressive jackpot pull tab games, progressive jackpot dispensing devices, and computer software used to link dispensing devices, accrue jackpot prizes, or store data used in preparing records))~~ shall be billed to the persons requesting approval~~((:));~~

~~((a))~~ (b) The following progressive jackpot pull tab series requirements shall be approved prior to sale in Washington:

(i) ~~((The progressive jackpot dispensing device;~~

~~((ii))~~ The process used to manufacture the progressive jackpot series ~~((games)); and~~

~~((iii))~~ (ii) The secondary win code system; and

~~((b))~~ (c) Computer software requiring the approval of the ~~((D))~~ director shall be subject to the following standards;

(i) For each game, no person other than the maker of the software shall be able to alter data once it is input into the system; and

~~((ii) The system must stop accruing when the jackpot amount reaches \$5,000 or the maximum amount predetermined by the operator;~~

~~((iii))~~ (ii) A record of transactions for a game must be retained in memory until the transactions have been totaled, printed, and cleared by the operator regardless of whether the units primary power source is interrupted.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 97-05-058

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed February 19, 1997, 9:24 a.m.]

The Department of Agriculture is withdrawing CR-102, WSR 97-04-090, filed on February 5, 1997. Due to refinement of the lentil anthracnose quarantine language, another filing will be made on the rule.

Mary Toohey
Assistant Director

WSR 97-05-059

PROPOSED RULES DEPARTMENT OF AGRICULTURE

[Filed February 19, 1997, 9:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-23-068.

Title of Rule: Rules relating to lentil anthracnose quarantine.

Purpose: Prevent introduction of the plant disease anthracnose of lentils to Washington lentil crop.

Statutory Authority for Adoption: RCW 17.241.041 [17.24.041].

Statute Being Implemented: RCW 17.241.041 [17.24.041].

Summary: Forbids introduction in Washington and/or planting of seed of lentils crops from areas where the disease is established or could be easily introduced.

Reasons Supporting Proposal: Potential devastating effect of disease establishment on the Washington lentil crop.

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Diane Dolstad, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2071.

Name of Proponent: USA Dry Pea and Lentil Council, Tim McGreevy, Administrator, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Anthracnose of lentils (caused by the plant pathogen *Colletotrichum truncatum*) is a potentially devastating disease to the Washington lentil crop. In recent years it has been introduced to mid-Canadian provinces and contiguous lentil-growing areas of the United States, but not to Idaho or Washington. The proposed rules are intended to prevent the spread of the disease into this state, as the pathogen is seed-borne on lentils. It is a companion measure to an existing Idaho state quarantine, as Idaho and Washington lentil-growing areas are contiguous. It will increase the likelihood that the Pacific Northwest can avoid this disease.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Due to industry concerns about introduction of anthracnose, very few shipments of seed lentils have occurred from the proposed quarantine area in recent years. This rule would not require significant alteration of current behavior. In addition, Washington lentil growers would be severely impacted economically, should anthracnose become established in this state.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Washington Interactive Television (formerly Bryant Elementary), Educational Service District, 4022 East Broadway, Spokane, WA 99202, on April 11, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by April 4, 1997, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Mary Toohey, FAX (360) 902-2094, by April 11, 1997.

Date of Intended Adoption: May 12, 1997.

February 19, 1997
Mary A. Martin Toohey
Assistant Director

Chapter 16-473 WAC LENTIL ANTHRACNOSE QUARANTINE

NEW SECTION

WAC 16-473-001 Promulgation—Establishing quarantine. The disease anthracnose of lentils (caused by the plant pathogen *Colletotrichum truncatum* (Schwein)) is potentially devastating to the Washington lentil crop. The disease has become established in central Canada and contiguous lentil growing areas of North Dakota and South Dakota, all of which produce lentil varieties grown in Washington. Anthracnose of lentils is a seed borne disease. In order to prevent its introduction, the director, under authority provided in chapter 17.24 RCW, establishes a quarantine.

NEW SECTION

WAC 16-473-010 Regulated articles. Regulated articles include lentils used, or intended to be used, as seed.

NEW SECTION

WAC 16-473-015 Quarantine areas. Quarantine areas are the Canadian provinces of Manitoba, Saskatchewan, and Alberta, the states of North Dakota and South Dakota, and any other states and territories of the United States and foreign countries known to have confirmed the presence of anthracnose of lentils.

NEW SECTION

WAC 16-473-020 Prohibited acts. The sale, offering to sell, transporting, disposing of, distributing and/or planting of regulated articles as defined in WAC 16-473-010 from or originating in the quarantine area as listed in WAC 16-473-015 is prohibited.

NEW SECTION

WAC 16-473-025 Permits. The director may allow, by special permit, the transportation, distribution, disposal of or planting of regulated articles, listed in WAC 16-473-010. Such permit shall specify terms and conditions, pursuant to RCW 17.24.041 and 17.24.091. Permits may be requested from the Washington state department of agriculture, plant protection program at telephone number (360) 902-2071.

WSR 97-05-060 PROPOSED RULES GAMBLING COMMISSION [Filed February 19, 1997, 9:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-11-125.

Title of Rule: WAC 230-20-070, sale of raffle tickets by nonmembers.

Purpose: This rule authorizes the sale of raffle tickets by nonmembers when there is no direct compensation for the sale of the tickets, nonmembers are supervised by members, and details of the activity and relationship are provided for review on request.

Statutory Authority for Adoption: RCW 9.46.070 (1), (11), (14), (17), (19).

Statute Being Implemented: WAC 230-20-070.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: David Shaw, Lacey, (360) 438-7654, ext. 310; Implementation: Frank Miller, Lacey, (360) 438-7654, ext. 302; and Enforcement: Ben Bishop, Lacey, (360) 438-7654, ext. 370.

Name of Proponent: Staff, in conjunction with representatives from charitable and nonprofit organizations, private.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt

under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: The Inn at Semi-ah-moo, 9565 Semiahmoo Parkway, Blaine, WA 98230-9326, on April 11, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by April 7, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: David Shaw, Mailstop 42400, Olympia, Washington 98504-2400, FAX (360) 438-8652, by March 24, 1997.

Date of Intended Adoption: April 11, 1997.

February 18, 1997

David Shaw

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 268, filed 4/18/95, effective 5/19/95)

WAC 230-20-070 Regulation of managers, operators, and other employees—Charitable or nonprofit organizations. Charitable or nonprofit organizations shall closely supervise all persons involved in the conduct of all gambling activities operated to ensure all rules of the commission are followed. The following restrictions apply to managers, operators, and other employees:

(1) Amusement games and raffles. No person other than a bona fide member of a qualified charitable or nonprofit organization shall take any part in the management or operation of, including the furnishing of equipment for amusement games, or work as an employee upon, amusement games or raffles conducted by that organization under a license from the commission: *Provided*, That(±) employees of the organization on a regular or part-time basis, employed primarily for purposes other than the conduct of such activities, shall be considered members of the organization for the purposes of conducting amusement games or raffles licensed by the commission: *Provided Further, That persons under the supervision of members may sell raffle tickets if such persons are not directly compensated for such and details of the activity and relationships are made a part of the application for a license to conduct raffles and maintained by the organization to be available to the commission upon request. Applicants or licensees may be charged additional fees to offset costs of evaluating these applications.*

(2) Bingo.

(a) No person other than a bona fide member or an employee of a charitable or nonprofit organization shall take any part in the management or operation of bingo games conducted under a license issued by the commission, and no licensee shall allow any person not one of its members or employees to do so. No person other than a bona fide member of a charitable or nonprofit organization operating without a license under RCW 9.46.0321 shall take any part in the management or operation of bingo conducted by that organization and no such organization shall allow any person not one of its members to do so.

(b) No person who takes any part in the management or operation of a bingo game conducted by one licensee shall take any part in the management or operation of any bingo game conducted by any other organization, or any other branch of the same organization except under the following conditions:

(i) A person participating in the conduct of bingo games by one Class A, B, or C licensee may also participate in the conduct of bingo games by other Class A, B, or C licensees on a voluntary basis only when such person receives no remuneration for services to other licensees and when the requirements of (c) of this subsection are satisfied; or

(ii) A person participating in the operation of bingo games conducted by one licensee under any class of license may also participate in the operation of bingo games conducted by other licensees under any class of bingo license, but only when that person has no managerial or supervisory responsibilities in connection with the operation of bingo activities by any licensee and when the requirements of (c) of this subsection are satisfied. An assistant gambling manager, as defined by WAC 230-04-145(6), shall not be deemed a person having managerial or supervisory responsibilities for the purpose of this section and may participate as an hourly employee in the bingo operations of other bingo licensees.

(c) Any licensee that desires to have any person, who participates in any manner in the conduct of bingo games for another licensee, participate in the conduct of its bingo games shall notify the commission, local police officials, and any other licensees for which the person works, in writing, of the following:

(i) The name and address of that person;

(ii) The name and address of any licensees for which that person is working; and

(iii) The capacity in which that person is working for each licensee prior to the time that person participates in the conduct of the licensee's bingo games.

(d) No licensee shall allow any person to take any part in the management, supervision or operation of a bingo game except in conformance with this rule.

(3) Certain premises excepted. The limitations set forth above in (1) and (2) shall not apply to qualified agricultural fairs conducting amusement games or bingo.

WSR 97-05-068
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)

[Filed February 19, 1997, 11:01 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-215-1115 Living in the home of a relative of specified degree—Temporary absence—Denial of assistance to a caretaker relative who fails to report a child's absence.

Purpose: To comply with the federal requirement in Public Law 104-193 that temporary assistance for needy

families (TANF) be denied to a parent or other caretaker relative who fails to notify the Department of Social and Health Services within five days of the date it becomes clear that the child will be absent for more than ninety days.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Statute Being Implemented: Public Law 104-193, Section 103 (a)(1) (1996).

Summary: Federal rules for the temporary assistance for needy families (TANF) cash assistance program require that TANF benefits be denied to a parent or other caretaker relative who fails to notify the Department of Social and Health Services within five days of the date it becomes clear that the child will be absent from the home for more than ninety days.

Reasons Supporting Proposal: To qualify for federal funding under the TANF program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, Division of Income Assistance, (360) 413-3093.

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

Rule is necessary because of federal law, Public Law 104-193, Section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-215-1115 Living in the home of a relative of specified degree—Temporary absence—Denial of assistance to a caretaker relative who fails to report a child's absence, to comply with the federal requirement in Public Law 104-193 regarding denial of TANF to a parent or other caretaker relative who fails to notify the department within five days of the date it becomes clear that the child's absence from the home will exceed ninety days, in order to qualify for federal TANF funding.

Proposal Changes the Following Existing Rules: Prior to this rule change, there was no penalty for a parent or other caretaker relative's failure to report a child's absence timely.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses. It only affects applicants and recipients of temporary assistance for needy families.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104A, Lacey, WA 98503, on March 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut, Manager, by March 11, 1997, (360) 902-8317, or TTY (360) 902-8324.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 25, 1997.

Date of Intended Adoption: No sooner than March 26, 1997.

February 19, 1997
Merry A. Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-215-1115 Living in the home of a relative of specified degree—Temporary absence—Denial of assistance to a caretaker relative who fails to report a child's absence. (1) When a minor child is temporarily absent from the home, the department shall deny assistance for one month to a parent or other caretaker relative who fails to notify the department within five days of the date it becomes reasonably clear to the parent or other caretaker relative that the absence of the child will exceed ninety days.

(2) In denying assistance to a parent or other caretaker relative for the reason described in subsection (1) of this section, the needs of that individual shall be excluded in determining the need and payment amount of the assistance unit.

(3) The income of a parent or other caretaker relative who is disqualified under this section shall be allocated under WAC 388-218-1640 as if the individual were ineligible due to sanction or noncooperation.

**WSR 97-05-069
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)
[Filed February 19, 1997, 11:03 a.m.]**

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-215-1570 Denial of assistance to persons convicted of drug-related felonies.

Purpose: To comply with the federal requirement in Public Law 104-193 that temporary assistance to needy families (TANF) be denied to persons convicted of drug-related felonies.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Statute Being Implemented: Public Law 104-193, Section 115 (1996).

Summary: Federal rules for the temporary assistance for needy families (TANF) cash assistance program require that TANF benefits be denied to individuals convicted of drug-related felonies.

Reasons Supporting Proposal: To qualify for federal funding under the TANF program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, Division of Income Assistance, (360) 413-3093.

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

Rule is necessary because of federal law, Public Law 104-193, Section 115.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-215-1570 Denial of assistance to persons convicted of drug-related felonies, to comply with the federal requirement in Public Law 104-193 regarding denial of TANF benefits to persons convicted of drug-related felonies, in order to qualify for federal TANF funding.

PROPOSED

PROPOSED

Proposal Changes the Following Existing Rules: Denies TANF assistance to individuals who have been convicted of certain drug-related felonies, which was not a factor of eligibility under the former aid to families with dependent children (AFDC) program.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104A, Lacey, WA 98503, on March 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Manager, by March 11, 1997, TTY (360) 902-8324.

Submit Written Comments and Identify WAC Numbers to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 25, 1997.

Date of Intended Adoption: No sooner than March 26, 1997.

February 19, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-215-1570 Denial of assistance to persons convicted of drug-related felonies. (1) The department shall deny TANF benefits to an individual convicted after August 22, 1996, under federal or state law, of any felony involving the possession, use or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act by excluding the needs of that individual in determining the need and payment amount of the assistance unit.

(2) Each applicant shall attest in writing whether the applicant or a person for whom the applicant is applying has been convicted of a felony as described in subsection (1) of this section.

**WSR 97-05-070
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)**

[Filed February 19, 1997, 11:04 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-46-120 and 388-46-110, fraud disqualification periods.

Purpose: To comply with the federal requirement in Public Law 104-193 that temporary assistance to needy families impose a ten-year disqualification period for persons convicted of fraudulently misrepresenting residence in order to obtain assistance in two or more states. To comply with state law to add TANF applicants and recipients to those

persons who can be disqualified if convicted of unlawful practices.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Statute Being Implemented: Public Law 104-193, Section 103 (a)(1), RCW 74.08.290.

Summary: Federal rules for the temporary assistance for needy families (TANF) cash assistance program require that TANF impose a ten-year disqualification period for persons convicted of fraudulently misrepresenting residence in order to obtain assistance in two or more states. State law requires a disqualification period for TANF applicants and recipients who have been convicted of unlawful practices.

Reasons Supporting Proposal: To qualify for federal funding under the TANF program and to comply with state law.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Virginia Paynter, Division of Income Assistance, (360) 413-3098.

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

Rule is necessary because of federal law, Public Law 104-193, Section 103 (a)(1) and RCW 74.08.029.

Explanation of Rule, its Purpose, and Anticipated Effects: To comply with the federal requirement in Public Law 104-193, Section 103 (a)(1) that temporary assistance to needy families program impose a ten-year disqualification period for persons convicted of fraudulently misrepresenting residence in order to obtain assistance in two or more states. To comply with state law to add TANF applicants and recipients to those persons who can be disqualified if convicted of unlawful practices.

Proposal Changes the Following Existing Rules: Persons who are convicted of fraudulently misrepresenting residence in order to obtain assistance in two or more states will have a ten-year disqualification period. Both general assistance persons and persons receiving TANF can be disqualified for being convicted of unlawful purposes.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses. It only affects applicants and recipients of temporary assistance to needy families.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104A, Lacey, WA 98503, on March 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut by March 11, 1997, (360) 902-8317, or TTY (360) 902-8324.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 25, 1997.

Date of Intended Adoption: No sooner than March 26, 1997.

February 19, 1997
Leslie Baldwin
for Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3892, filed 9/6/95, effective 10/7/95)

WAC 388-46-110 Disqualification period for recipients convicted of unlawfully obtaining assistance. (1) An applicant or recipient who has been convicted of unlawful practices in obtaining temporary assistance to needy families (TANF) or general assistance ((shall)) will be disqualified from receiving further TANF or general assistance benefits.

(2) For general assistance, the disqualification ((shall)) will apply only to convictions based on actions which occurred on or after July 23, 1995. For TANF, the disqualification will apply only to convictions based on actions which occurred on or after May 1, 1997.

(3) The length of the disqualification shall be for a period to be determined by the court, but in no even less than six months upon the first conviction and no less than twelve months for a second or subsequent violation.

(4) The disqualification applies only to the person convicted of unlawful practices.

(5) The disqualification period begins on the date the individual is convicted in state court of unlawful practices related to obtaining assistance.

(6) The department shall terminate benefits to a recipient disqualified under this section following notice requirements specified under chapter 388-245 WAC. The department shall deny benefits to an applicant according to chapter 388-215 WAC for the duration of the disqualification period.

NEW SECTION

WAC 388-46-120 Disqualification period for temporary assistance to needy families (TANF) applicants or recipients convicted of misrepresenting residence to obtain assistance in two or more states. (1) An applicant or recipient of TANF will be disqualified from receiving further benefits under TANF if the individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states.

(2) For the purposes of determining the disqualification of an applicant or recipient under subsection (1) of this section, assistance is defined as receipt of benefits funded by the following:

- (a) TANF and any other benefit authorized by Title IV-A of the Social Security Act;
- (b) Any benefit authorized by The Food Stamp Act of 1997;
- (c) Any benefit authorized by Title XIX, Medicaid; and
- (d) Supplemental Security Income benefits authorized by Title XVI.

(3) The disqualification will apply only to convictions based on actions which occur on or after May 1, 1997.

(4) The length of the disqualification is ten years or the period determined by the court under WAC 388-46-110, whichever is longer.

(5) The disqualification applies only to the person convicted of fraud in a federal or state court.

(6) The disqualification period begins on the date the individual is convicted of having made fraudulent statement or representation with respect to the place of residence of the

individual in order to receive assistance simultaneously from two states.

(7) The provisions of subsections (1) through (6) of this section do not apply to the conviction of an individual when the President of the United States has granted a pardon with respect to the conduct which was the subject of the conviction. The disregard of the provisions because of a pardon is effective the date the pardon is granted and continues for each month thereafter.

**WSR 97-05-071
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)**

[Filed February 19, 1997, 11:05 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-215-1400 Support enforcement—Assignment of support rights—Cooperation with division of child support; and repealing WAC 388-265-1350 Protective payment—AFDC clients sanctioned for failure or refusal to cooperate with the office of support enforcement.

Purpose: To comply with the federal requirements in Public Law 104-193 that for the purposes of the temporary assistance for needy families program the IV-D agency (Division of Child Support) is responsible for determining if TANF clients are cooperating in paternity establishment and child support collection; a family's grant is to be reduced by 25% if the caretaker relative fails to cooperate with the IV-D agency; and a family shall be denied TANF assistance if a family member fails to assign certain support rights to the state.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Statute Being Implemented: Public Law 104-193, Section 103 (a)(1) (1996).

Summary: Under TANF: (1) The IV-D agency (Division of Child Support) is responsible for determining if TANF clients are cooperating in paternity establishment and child support collection; (2) a family's grant is to be reduced by 25% if the caretaker relative fails to cooperate with the IV-D agency; and (3) a family shall be denied TANF if a family member fails to assign certain support rights to the state.

Reasons Supporting Proposal: To qualify for federal funding under the TANF program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, Division of Income Assistance, (360) 413-3093.

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

Rule is necessary because of federal law, Public Law 104-193, Section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-215-1400 Support enforcement—Assignment of support rights—Cooperation with Division of Child Support, under TANF, the IV-D agency (Division of

PROPOSED

Child Support) is responsible for determining if TANF clients are cooperating in paternity establishment and child support collection; a family's grant will be reduced by 25% if the caretaker relative fails to cooperate with the IV-D agency; and a family shall be denied TANF if a family member fails to assign certain support rights to the state.

WAC 388-265-1350 Protective payment—AFDC clients sanctioned for failure or refusal to cooperate with the office of support enforcement, this rule is being repealed because under the new TANF rules caretaker relatives will no longer be sanctioned by excluding them from the assistance unit. Because of that, it is no longer necessary to establish a protective payee.

Proposal Changes the Following Existing Rules: Prior to this rule change, the IV-A agency determined if a client was cooperating with the child support agency; the caretaker relative was sanctioned for failure to cooperate with the child support agency by excluding their needs from the grant payment; and failure to assign support rights resulted in the caretaker relative being sanctioned by excluding their needs from the grant payment.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104A, Lacey, WA 98503, on March 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Manager, by March 11, 1997.

Submit Written Comments and Identify WAC Numbers to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by March 25, 1997.

Date of Intended Adoption: No sooner than March 26, 1997.

February 19, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-215-1400 Support enforcement—Assignment of support rights—Cooperation with ~~((office))~~ division of child support ~~((enforcement))~~. (1) As a condition of eligibility, each client of ~~((AFDC))~~ TANF shall assign to the ~~((office))~~ division of child support ~~((enforcement))~~ any rights to support in his or her own behalf or in behalf of the other assistance unit members, and any rights to support which has accrued prior to the time assignment is made.

(a) The department shall require the client to promptly remit to the ~~((office))~~ division of child support ~~((enforcement))~~ any support received directly after assignment is made.

(b) The department shall consider the client's signed application as an assignment of support rights. The client's acceptance of ~~((an AFDC))~~ a TANF payment shall constitute an agreement to the assignment of support rights.

(c) If a family member with whom the child lives fails to assign support rights as required in this section, the department shall deny assistance to the entire assistance unit.

(2) As a condition of eligibility, the department shall require each ~~((AFDC))~~ (TANF) client to cooperate with the ~~((office))~~ division of child support ~~((enforcement))~~ as specified under WAC 388-14-200 unless the department has established good cause as specified under WAC ~~((388-215-1440. Department IV-A staff shall base the determination of client cooperation on all evidence in its possession))~~ 388-215-1400 through 388-215-1490. The IV-D agency, division of child support, shall determine client cooperation.

(3) If the caretaker relative with whom the child lives fails to ~~((empty))~~ cooperate with the ~~((requirements in this section))~~ division of child support, the department shall ~~((deny eligibility to that relative and provide any))~~ reduce the assistance ~~((payment))~~ paid to the ~~((child is eligible for by protective payment as described under WAC 388-265-1350))~~ child's assistance unit by twenty-five percent of what the assistance unit would otherwise be eligible to receive.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-265-1350 Protective payment—AFDC clients sanctioned for failure or refusal to cooperate with the office of support enforcement.

WSR 97-05-072 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services)

(Public Assistance)

[Filed February 19, 1997, 11:07 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: WAC 388-215-1660 Unmarried minor parents required to live with adult relative or legal guardian.

Purpose: To comply with the federal requirement in Public Law 104-193 that temporary assistance for needy families (TANF) be denied to unmarried minor parents who are not living with an adult relative or in an appropriate adult-supervised setting as determined by the department.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Statute Being Implemented: Public Law 104-193, Section 103 (a)(1).

Summary: Federal rules for the temporary assistance for needy families (TANF) cash assistance program require that TANF benefits be denied to unmarried minor parents who are not living with an adult relative or in an appropriate adult-supervised setting as determined by the department.

Reasons Supporting Proposal: To qualify for federal funding under the TANF program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, Division of Income Assistance, (360) 413-3093.

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

Rule is necessary because of federal law, Public Law 104-193, Section 103 (a)(1).

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-215-1660 Unmarried minor parents required to live with adult relative or legal guardian, to comply with the federal requirement in Public Law 104-193 regarding denial of TANF to unmarried minor parents who are not living with an adult relative or in an appropriate adult-supervised setting as determined by the department, in order to qualify for federal TANF funding.

Proposal Changes the Following Existing Rules: Prior to this rule change, unmarried minor parents were not required to live in an adult-supervised setting as a factor of eligibility for assistance.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses. It only affects applicants and recipients of temporary assistance for needy families.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104A, Lacey, WA 98503, on March 25, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut, Manager, by March 11, 1997, (360) 902-8317, or TTY (360) 902-8324.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292.

Date of Intended Adoption: No sooner than March 26, 1997.

February 19, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-215-1660 Unmarried minor parents required to live with adult relative or legal guardian. (1) The department shall deny assistance to an unmarried minor parent, by excluding the needs of that individual in determining the need and payment amount of the assistance unit, if that individual and that individual's child do not reside in one of the adult-supervised living situations described in subsection (2) of this section, unless the department determines that it is in the best interest of the minor child to waive the requirement.

(2) An unmarried minor parent and the minor parent's child must live in either:

(a) The home of a parent, legal guardian, or other adult relative of the minor parent; or

(b) A second-chance home that provides a supportive and supervised living arrangement requiring residents to learn parenting skills (child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their

children), or a maternity home, or other appropriate adult-supervised living arrangement, as determined by the department after considering the needs and concerns of the minor parent, if:

(i) The minor parent has no living parent, legal guardian, or other adult relative that can be located, or if the parent, legal guardian, or other adult relative does not meet applicable state criteria to act as the individual's guardian; or

(ii) The minor parent or minor parent's child is being or has been subjected to serious physical, emotional or sexual harm, abuse or exploitation in the home of the parent, legal guardian, or other adult relative; or

(iii) Substantial evidence exists of an act or failure to act by the parent, legal guardian, or other adult relative that presents an imminent or serious harm to the minor parent or minor parent's child if they resided there.

(3) The income of a minor parent who is denied benefits under this section shall be allocated under WAC 388-218-1640 as if the minor parent were ineligible due to sanction or noncooperation.

**WSR 97-05-075
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)
(Wildlife)**

[Filed February 19, 1997, 11:30 a.m.]

Continuance of WSR 96-21-150 and 96-21-151.

Preproposal statement of inquiry was filed as WSR 96-18-079.

Title of Rule: Personal use rules.

Purpose: Amend personal use rules.

Other Identifying Information: This continuance is for the adoption hearing of all sport rules except WAC 220-56-240.

Statutory Authority for Adoption: RCW 75.08.080 and 77.12.040.

Statute Being Implemented: RCW 75.08.080 and 77.12.040.

Summary: See WSR 96-21-150 and 96-21-151.

Reasons Supporting Proposal: See above.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, WA, 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, WA, 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, WA, 902-2925.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See WSR 96-21-150 and 96-21-151.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect sport fishing only.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Date of Intended Adoption: March 10, 1997.

February 19, 1997

Evan Jacoby

Rules Coordinator

WSR 97-05-076
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 19, 1997, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-02-097.

Title of Rule: Medical aid rules updates.

Purpose: Update payment rates to medical providers.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Statute Being Implemented: RCW 51.04.020(4) and 51.04.030.

Summary: (1) Change conversion factor used to calculate reimbursement levels for services payable through the resource based relative value scale (RBRVS) fee schedule; (2) change conversion factor used to calculate reimbursement for anesthesia services; and (3) increase the physical and occupational therapy daily maximum rates.

Reasons Supporting Proposal: Update reimbursement rates.

Name of Agency Personnel Responsible for Drafting: Marilyn Gisser, Tumwater, Washington, (360) 902-6801; Implementation and Enforcement: Joseph G. Bell, Assistant Director, Tumwater, Washington, (360) 902-6696.

Name of Proponent: [Department of Labor and Industries], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The three changes increase reimbursement to affected medical providers. The purpose and anticipated effect of these proposed changes are to: (1) Change the conversion factor used to calculate maximum reimbursement levels for services reimbursed under the resource based relative values scale (RBRVS) fee schedule. The proposed change adjusts the conversion factor to accommodate changes in the service codes and relative value units which are used to calculate reimbursement levels and grants a 4.22% cost-of-living increase to RBRVS providers; (2) change the conversion factor used to calculate maximum reimbursement for anesthesia services. The proposed change adjusts the conversion factor to accommodate changes in the anesthesia base values that are used to calculate reimbursement and grants a 3.74% cost-of-living increase to anesthesia providers; and (3) apply a 4.22% cost-of-living increase to the maximum daily rate for physical and occupational therapy services.

Proposal Changes the Following Existing Rules: In WAC 296-20-135(2), increase the RBRVS conversion factor from \$45.02 to \$46.21; in WAC 296-20-135(3), increase the anesthesia conversion factor from \$1.87 to \$1.94; and in

WAC 296-23-220 and 296-23-230, increases the maximum daily rate for physical and occupational therapy services from \$73.70 to \$76.81.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Regulatory Fairness Act, chapter 19.85 RCW, requires that a small business economic impact statement be prepared if a proposed rule has the potential of placing a proportionately higher economic impact on small businesses. Since the proposed amendments will result in a average increase in payments to the affected industries, the department is not required to prepare a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The amendment is not a significant change to existing department policy. It is a routine rate adjustment.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way, Tumwater, WA, on March 27, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Marilyn Gisser by March 20, 1997, (360) 902-6801.

Submit Written Comments to: Marilyn Gisser, FAX (360) 902-4249, by April 4, 1997.

Date of Intended Adoption: April 28, 1997.

February 19, 1997

Gary Moore
Director

AMENDATORY SECTION (Amending WSR 96-19-060, filed 9/16/96, effective 10/17/96)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of ((~~\$45.02~~)) \$46.21. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of ((~~\$1.87~~)) \$1.94 per minute. The base units and payment policies can be found in the fee schedules.

(4) Services that do **not** use a conversion factor to establish reimbursement levels have dollar values, not relative values listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 96-10-086, filed 5/1/96, effective 7/1/96)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$73.70)~~) \$76.81 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 96-10-086, filed 5/1/96, effective 7/1/96)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$73.70)~~) \$76.81 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of

therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

PROPOSED

WSR 97-05-002
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)

[Filed February 5, 1997, 2:35 p.m.]

Date of Adoption: February 5, 1997.

Purpose: Consider as income, for food stamp program purposes, state-defined energy allowances in refugee assistance grants.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-49-470.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: 7 U.S.C. 2014 (d) and (k).

Adopted under notice filed as WSR 97-02-034 on December 24, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 1, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 5, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-22-100, filed 11/6/96, effective 12/7/96)

WAC 388-49-470 Income—Exclusions. (1) The department shall exclude the following income:

(a) Money withheld from an income source to repay a prior overpayment from that same income source except for money withheld to recoup an intentional noncompliance overpayment from a federal, state, or local means-tested program;

(b) Income specifically excluded by any federal statute from consideration as income in the food stamp program;

(c) The earned income of household members who are:

(i) Seventeen years of age or under; and

(ii) Attending elementary or secondary school at least half time.

(d) Infrequent or irregular income, received during a three-month period by a prospectively budgeted household, that:

(i) Cannot be reasonably anticipated as available; and

(ii) Shall not exceed thirty dollars for all household members.

(e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;

(f) Nonrecurring lump sum payments;

(g) Income used for the cost of producing self-employment income;

(h) Educational assistance financed in whole or in part with Title IV funds or issued by the Bureau of Indian Affairs;

(i) Educational assistance to the extent such assistance is earmarked by the school or actually paid by the student for the following educational expenses:

(i) Tuition;

(ii) Mandatory fees, including rental or purchase of equipment, materials, and supplies related to pursuing the course of study;

(iii) Books;

(iv) Supplies;

(v) Transportation; and

(vi) Miscellaneous personal expenses.

(j) Reimbursements for past or future expenses to the extent the reimbursements do not:

(i) Exceed the actual expense; and

(ii) Represent a gain or benefit to the household.

(k) Any gain or benefit not in money;

(l) Vendor payments as defined in WAC 388-49-020;

(m) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;

(n) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;

~~(o) ((Energy allowances included in refugee assistance grants-~~

~~(p)))~~ Support payments owed to a household member, but specified by the support court order or other legally binding written support or alimony agreement to go directly to a third-party beneficiary rather than to the household;

~~((q)))~~ (p) Support payments on behalf of a household member, not required by the support court order or other legally binding written support or alimony agreement and paid directly to a third party rather than to the household;

~~((r)))~~ (q) Payments from the individual and family grant program;

~~((s)))~~ (r) Public assistance payments:

(i) Over and above the regular warrant amount;

(ii) Not normally a part of the regular warrant; and

(iii) Paid directly to a third party on behalf of the household.

~~((t)))~~ (s) From Jobs Training Partnership Act programs:

(i) Allowances; and

(ii) Earnings from on-the-job training by household members under parental control and eighteen years of age and younger.

~~((u)))~~ (t) Cash donations based on need:

(i) Received directly by the household;

(ii) From one or more private, nonprofit, charitable organizations; and

(iii) Not exceeding three hundred dollars in any federal fiscal year quarter.

~~((v)))~~ (u) Earned income credit;

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((~~(*)~~)) (v) Governmental foster care payments received by households with foster care individuals who are considered to be boarders under WAC 388-49-020(10).

(2) When earnings or amount of work performed by a household member described in subsection (1)(c) of this section, cannot be differentiated from the earnings or work performed by other household members, the department shall:

(a) Prorate the earnings equally among the working members; and

(b) Exclude the household member's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the department shall exclude:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household; or

(b) The lesser of:

(i) The actual amount used from a single payment for the care of a person outside the household; or

(ii) A pro rata share of the single payment when the single payment does not identify the portion intended for the care of the person outside the household.

WSR 97-05-003

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed February 5, 1997, 3:03 p.m.]

Date of Adoption: February 5, 1997.

Purpose: To establish a fee for sampling a spectrophotometric analysis of hops without determination of moisture content.

Citation of Existing Rules Affected by this Order: Amending WAC 16-218-02001.

Statutory Authority for Adoption: RCW 22.09.790.

Adopted under notice filed as WSR 96-23-067 on November 20, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 5, 1997

Jim Jesernig

Director

AMENDATORY SECTION (Amending WSR 93-15-069, filed 7/16/93, effective 8/16/93)

WAC 16-218-02001 Schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder. The following is the schedule of charges for chemical analyses of hops, hop extract, hop pellets or hop powder:

(1) Official samples of hops drawn by department personnel shall be composited either from the cores drawn for grade analysis, or from cores specifically drawn on a schedule for brewing value only. Charges for analysis are: Thirty-five cents per bale, with a minimum charge of thirty dollars for the ASBC spectrophotometric with moisture, thirty cents per bale, with a minimum charge of thirty dollars for the ASBC spectrophotometric without moisture, and ASBC or EBC conductometric methods. An official brewing value certificate shall be used.

(2) Extra time and mileage charges. If through no fault of the inspection service, lots of hops cannot be sampled at the time such sampling has been requested by the applicant or there is an undue delay in making a lot of hops available for sampling, extra time and mileage charges shall be assessed. Fees for hourly wages shall be charged at the current established sampler hourly rate and mileage shall be charged at the rate established by the state office of financial management.

To be considered available for sampling and certification, each and every bale in the lot of hops shall be readily accessible so that each bale may be properly stenciled and samples drawn from those bales selected by the inspector.

(3) The following fees shall be charged by the department for samples submitted to the chemical and hop laboratory for analysis:

- (a) ASBC spectro \$30.00
- (b) ASBC conducto \$30.00
- (c) EBC conducto \$30.00
- (d) EBC conducto (Wollmer, Zurich, Mebak, Verzele, Ganzlin and hard and/or soft resins) \$60.00
- (e) Spectro of tannins, Wollmer, etc. \$55.00
- (f) Methylene chloride \$80.00
- (g) Tannin \$55.00
- (h) Ash \$20.00
- (i) SO₂ \$25.00
- (j) H₂O \$10.00
- (k) HPLC \$100.00
- (l) Oil \$25.00
- (m) Wort test, particle size \$10.00

(4) A fee shall be charged by the department for any other analysis not listed in this section such as isoconversion products from alpha and beta resins and possible adulterants such as residues. Fees shall be based on labor costs, laboratory equipment costs, chemical and material costs, administrative and overhead costs.

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WSR 97-05-008
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed February 7, 1997, 10:54 a.m.]

Date of Adoption: January 24, 1997.

Purpose: Clarification and addition of investigative priorities, factors to be considered in issuing discipline orders and broad categories of acts or omissions of misconduct.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 97-01-011 on December 6, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 2, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 7, 1997

Larry Davis

Executive Director

NEW SECTION

WAC 180-86-080 Factors to be considered prior to issuing orders. Prior to issuing any disciplinary order under this chapter the superintendent of public instruction or designee shall consider, at a minimum, the following factors to determine the appropriate level and range of discipline:

- (1) The seriousness of the act(s) and the actual or potential harm to persons or property;
- (2) The person's criminal history including the seriousness and amount of activity;
- (3) The age and maturity level of participant(s) at the time of the activity;
- (4) The proximity or remoteness of time in which the acts occurred;
- (5) Any activity that demonstrates a disregard for health, safety or welfare;
- (6) Any activity that demonstrates a behavioral problem;
- (7) Any activity that demonstrates a lack of fitness;
- (8) Any information submitted regarding discipline imposed by any governmental or private entity as a result of acts or omissions;
- (9) Any information submitted that demonstrates aggravating or mitigating circumstances;
- (10) Any information submitted to support character and fitness; and
- (11) Any other relevant information submitted.

NEW SECTION

WAC 180-86-116 Investigative priorities—Levels of acts or omissions of misconduct. (1) The superintendent of public instruction or designee shall prioritize the investigation of alleged certificated individual misconduct, lack of fitness or unprofessional conduct in the following descending order:

(a) Level I. Level I actions shall have the highest investigative priority and are those allegations, if proven true, for which permanent mandatory revocation shall be the appropriate disciplinary action. They include the following convictions for which permanent revocation of a certificate is mandatory under RCW 28A.410.090:

(i) Physical neglect of a child under chapter 9A.42 RCW;

(ii) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW);

(iii) Sexual exploitation of a child under chapter 9.68A RCW;

(iv) Sexual offenses under chapter 9A.44 RCW where a minor is the victim;

(v) Promoting prostitution of a minor under chapter 9A.88 RCW;

(vi) The sale or purchase of a minor child under RCW 9A.64.030; or

(vii) Violation of similar laws of another jurisdiction.

(b) Level II. Level II actions shall have the next investigative priority and are those allegations, if proven true, for which revocation may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Sexual activity with children and/or students;

(ii) Engaging in acts of violence leading to bodily injury;

(iii) Selling and/or manufacturing illegal drugs; or

(iv) Other activity that if convicted would result in a felony conviction.

(c) Level III. Level III actions shall have the next investigative priority and are those allegations, if proven true, for which suspension may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Illegal drug possession and/or use;

(ii) Threats related to persons or property;

(iii) Alcohol abuse;

(iv) Reckless conduct where no bodily injury results;

(v) Engaging in unauthorized corporal punishment;

(vi) Verbal or physical sexual harassment of students;

(vii) Engaging in activity that demonstrates poor professional judgment; or

(viii) Other activity that if convicted would result in a misdemeanor conviction.

(d) Level IV. Level IV actions shall have the next investigative priority and are those allegations, if proven true, for which a reprimand may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Practicing with a lapsed or expired certificate;

(ii) Isolated failure to timely evaluate certificated personnel; or

(iii) Hiring a person for a certificated role who does not possess a valid certificate.

(2) All cases shall be monitored periodically to determine if their priority level should change as a result of information uncovered during the investigation.

(3) Notwithstanding any provision of this section to the contrary, the office of professional practices reserves the right to reprioritize the investigation of complaints based upon the efficient use of available resources and/or the relative urgency or lack of urgency in resolving various complaints in the public interest, and the right to recommend forms of discipline appropriate to the offenses committed.

WSR 97-05-009
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed February 7, 1997, 3:18 p.m.]

Date of Adoption: February 7, 1997.

Purpose: To accommodate recent changes in federal law allowing postponement of election to receive a distribution.

Statutory Authority for Adoption: RCW 41.50.780(1), 41.50.050.

Adopted under notice filed as WSR 97-02-027 on December 23, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 1, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 7, 1997

John Charles
Director

AMENDATORY SECTION (Amending WSR 96-16-020, filed 7/29/96, effective 7/29/96)

WAC 415-512-090 Elections regarding distribution.

Each participant (or in the event of death, each beneficiary other than an organization, an estate, or a trust) shall elect when his/her payout will begin and the payout period.

(1) Election regarding time of payment. The election regarding the ~~((time))~~ date when payment will begin shall be made when a participant separates from service (or dies having separated from service and having previously elected when payment will begin).

Once made, the election regarding when payout will begin is irrevocable as to the participant or beneficiary making the election, unless the participant or beneficiary, more than thirty days prior to the elected date payment is to begin, elects to postpone the original date. Only one such postponement is allowed. The election regarding when payment will begin:

(a) By a participant who separates from service other than by reason of death, must be made not later than sixty days after separation from service. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110;

(b) By a beneficiary, other than an organization, estate or trust, where the participant was not already receiving payments, must be made not later than sixty days after the participant's death. Payment may begin on the central payroll date nearest the twenty-fifth day of the month following the month in which an election is filed with the department on forms provided for that purpose, and payment must begin within the time prescribed by WAC 415-512-110.

(2) Election regarding method of payment. The participant (or beneficiary) who makes an election regarding the date payment will begin, may also elect the period over which payments will be made. The payout period election may be made either at the time he/she elects a beginning date for payout or at any time not later than sixty days prior to the date payout is to begin. Once having made this election, the participant (or beneficiary, other than an organization, estate, or trust) may change the payout period election not later than ~~((sixty))~~ thirty days prior to the date payout is to begin. Such a beneficiary may also make this election where the participant was already receiving payments but, as provided in WAC 415-512-110 (3)(a), must receive distribution at least as rapidly as it was being distributed to the participant. Such a beneficiary must make the payout period election not later than sixty days after the death of the participant and payout will be suspended following the participant's death until the beneficiary either makes a payout period election or begins receiving payment as provided in subsection (4) of this section. Provided, if the participant was receiving payout in the form of an annuity contract, then the successor's right shall be limited by the terms of that contract.

(3) How elections are made. A participant or beneficiary makes elections allowed under this section by completing and filing applicable payment request forms with the department.

(4) Consequences in absence of a timely election regarding time of payment. Absent a timely election regarding when payout is to begin, payout will begin on the central payroll date nearest the twenty-fifth day of the month following the month in which the election period ends, and will be made, in a lump sum if the accumulated deferrals as of the end of the election period are less than twenty-five thousand dollars or, if the accumulated deferrals are twenty-five thousand dollars or more, in equal monthly installments over a period of one hundred twenty months or such lesser period:

(a) As may be necessary under the minimum payout requirements of Section 457 (d)(2)(B)(i)(I) of the Internal Revenue Code, requiring amounts to be paid not later than as determined under Section 401 (a)(9)(G) of the Internal Revenue Code; or

(b) As may be necessary under Section 457 (d)(2)(B)(i)(II) of the Internal Revenue Code, requiring amounts not distributed to the participant during his/her life to be distributed at least as rapidly as they were being distributed as of the participant's death.

(5) Effects of certain employment changes. Transfers from the plan are allowed in the circumstances described in WAC 415-512-015(2).

(6) Consequences in absence of a timely election regarding method of payment. In the absence of a timely election regarding the period of time over which payment will be made, payment will be made in the manner described in subsection (4) of this section.

(7) Payment to an organization, estate, or trust. Any amount payable to an organization, estate, or trust shall be paid in a lump sum as prescribed in WAC 415-512-110(3).

WSR 97-05-012

PERMANENT RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 96-10—Filed February 10, 1997, 9:02 a.m.]

Date of Adoption: February 7, 1997.

Purpose: In 1996 the legislature amended RCW 48.12.160 regarding when a domestic insurance company may take credit on ceded risks reinsured by an insurer not authorized in this state. These rules establish criteria and procedures under which the commissioner can determine that such a credit for reinsurance from alien insurance companies is permitted.

Citation of Existing Rules Affected by this Order: Amending WAC 284-13-520, 284-13-540, 284-13-550, 284-13-560, 284-13-570, and 284-13-590.

Statutory Authority for Adoption: RCW 48.02.060, 48.12.160, section 2, chapter 297, Laws of 1996.

Adopted under notice filed as WSR 97-01-131 on December 19, 1996.

Changes Other than Editing from Proposed to Adopted Version: A sentence was added to WAC 284-13-505 to make this section only apply to contracts entered into after December 31, 1996. WAC 284-13-520(2) was amended to indicate the amount of trust funds held in this type of trust would be based upon the obligations before and after August 1, 1995. Several references to the Uniform Customs and Practices for Documentary Credits of the International Chamber of Commerce Publication 400 in WAC 284-13-560 was to Publication 500 and successor publications to update the reference.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 5, amended 6, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 7, 1997

Greg J. Scully

Chief Deputy

Insurance Commissioner

NEW SECTION

WAC 284-13-505 Actual reinsurance. Ceding insurers, have at times, entered into reinsurance agreements primarily as financing arrangements which have the principle purpose of producing increased surplus for the ceding insurer, typically on a temporary basis, but which provide little or no indemnification of insurance risks by the reinsurer. Credit for reinsurance shall not be allowed in any accounting or financial statement of the ceding insurer in respect to any so-called reinsurance contract unless, in such contract, the reinsurer undertakes to indemnify the ceding insurer, not only in form but in fact, against all or a part of the loss or liability arising out of the original insurance. This section shall only apply to those reinsurance contracts entered into after December 31, 1996.

NEW SECTION

WAC 284-13-515 Qualified United States financial institution. A qualified United States financial institution means an institution that:

(1) Is organized or, in the case of a U.S. office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(2) Is regulated, supervised, and examined by U.S. federal or state authorities having regulatory authority over banks and trust companies;

(3) Has been designated by the Securities Valuation Office of the National Association of Insurance Commissioners as meeting its credit standards for issuing or confirming letters of credit; and

(4) Is not affiliated with the assuming company.

AMENDATORY SECTION (Amending Order R 93-6, filed 9/1/93, effective 10/2/93)

WAC 284-13-520 Credit for reinsurance—Certain reinsurers maintaining trust funds. (1) Pursuant to RCW 48.12.160 (1)(a), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer described in subsection (2) of this section which, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in an amount prescribed below in a qualified United States (~~bank~~) financial institution as provided in (~~RCW 48.12.160~~) WAC 284-13-515, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in

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interest. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

(2) The trust fund for a group of insurers that includes ~~((individual))~~ incorporated and unincorporated underwriters shall consist of:

(a) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after August 1, 1995, funds in trust in an amount not less than the group's ~~((aggregate))~~ several liabilities attributable to business ~~((written in the United States))~~ ceded by United States domiciled insurers to any member of the group;

(b) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this regulation, funds in trust in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States; and((:))

(c) In addition, the group shall maintain a trusteed surplus of which one hundred million dollars shall be held jointly and exclusively for the benefit of the United States ceding insurers of any member of the group for all years of account. The group shall make available to the commissioner annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.

(3) ~~((The trust under RCW 48.12.160 (1)(a) or (b)(i) shall be established in a form approved by the commissioner and complying with that statute and this section. The trust instrument shall provide that:~~

~~(a) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty days after entry of the final order of any court of competent jurisdiction in the United States.~~

~~(b) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.~~

~~(c) The trust shall be subject to examination as determined by the commissioner.~~

~~(d) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.~~

~~(e) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.~~

~~(f) No amendment to the trust shall be effective unless reviewed and approved in advance by the commissioner.))~~ The credit allowed for reinsurance shall not be greater than the amount of funds held in trust.

(4) The trust established shall comply with WAC 284-13-535.

NEW SECTION

WAC 284-13-530 Credit for reinsurance—Certain alien reinsurers maintaining trust funds. (1) Under RCW 48.12.160 (1)(b), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to a single assuming alien insurer which, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in an amount not less than the assuming alien insurer's liabilities attributable to reinsurance ceded by United States domiciled insurers plus maintain a trusteed surplus of not less than twenty million dollars, and the assuming alien insurer maintaining the trust fund has received a registration from the commissioner. The assuming alien insurer shall report on or before February 28 to the commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund. To be registered the assuming alien insurer must:

(a) File a properly executed Form AR-1 under WAC 284-13-595 as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records under chapter 48.03 RCW.

(b) File with the commissioner a certified copy of a letter or a certificate of authority or of compliance issued by the assuming alien insurer's alien domiciliary jurisdiction and the domiciliary jurisdiction of its United States reinsurance trust.

(c) File with the commissioner within sixty days after its financial statements are due to be filed with its domiciliary regulator, a copy of the assuming alien insurer's annual financial report converted to United States dollars, and a copy of its most recent audited financial statement converted to United States dollars.

(d) File annually with the commissioner on or before February 28, a statement of actuarial opinion in conformance with the NAIC's annual statement and instructions attesting to the adequacy of the reserves for United States liabilities which are backed by the trust fund. Unless the commissioner notifies the assuming alien insurer otherwise, the opinion may be given by an actuary of the assuming alien insurer, who is duly qualified to provide actuarial opinions in the domiciliary jurisdiction of the assuming alien insurer.

(e) File and maintain with the commissioner a list of the assuming alien insurer's United States reinsurance intermediaries.

(f) File and maintain with the commissioner copies of service and management agreements, including binding authorities, entered into by the assuming alien insurer.

(g) File annually with the commissioner a holding company registration statement containing the information required by RCW 48.31B.025 (2)(a) through (e) in the form proscribed in WAC 284-18-920.

(h) File annually with the commissioner the assuming alien insurer's account and report which reports the overall business of the assuming alien insurer in United States dollars.

(i) File other information, financial or otherwise, which the commissioner reasonably requests.

(2) If the commissioner determines that the assuming alien insurer has failed to meet or maintain any of these qualifications, the commissioner may, consistent with

chapters 48.04 and 34.05 RCW, revoke the registration of the assuming insurer maintaining the trust fund. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded after December 31, 1997, if the assuming alien insurer's registration under this section has been denied or revoked by the commissioner.

(3) The required amount of the trust shall be based upon the gross United States liabilities, including incurred but not reported claims (IBNR), of the assuming alien insurer reduced only for those liabilities for which specific collateralization has been provided to individual ceding companies, with such adjustments, if any, as the commissioner may from time to time consider appropriate.

(4) The credit allowed for reinsurance shall not be greater than the amount of funds held in trust.

(5) The trust established shall comply with WAC 284-13-535.

NEW SECTION

WAC 284-13-535 Trust fund requirements. The trust under RCW 48.12.160 (1)(a), (b) or (c)(i) shall be established in a form filed with and approved by the commissioner and complying with that statute and this section. The trust instrument shall provide that:

(1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty days after entry of the final order of any court of competent jurisdiction in the United States.

(2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.

(3) The trust shall be subject to examination as determined by the commissioner.

(4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.

(5) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(6) Furnish to the commissioner a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter.

(7) At least sixty days, but not more than one hundred twenty days, prior to termination of the trust, written notification of termination shall be delivered by the trustee to the commissioner.

(8) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by RCW 48.12.160, WAC 284-13-520 and 284-13-530 or if the grantor(s) of the trust has been declared insolvent or placed in receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of

competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund. The assets shall be applied in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of insurance companies. If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor(s) of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(9) No amendment to the trust shall be effective unless:

(a) It has been reviewed and approved in advance by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust; and

(b) It has been filed with the commissioner and it has not been disapproved within thirty days of its receipt by the commissioner.

(10) The form of the trust and any amendments to the trust shall also be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.

AMENDATORY SECTION (Amending Order R 93-6, filed 9/1/93, effective 10/2/93)

WAC 284-13-540 Credit for reinsurance ceded to an assuming insurer that does not have a certificate of authority. Pursuant to RCW 48.12.160 (1)((b)) (c), the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer ((not meeting the requirements of RCW 48.12.160 (1)(a))) in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall not be ((#)) greater than the amount of funds or other assets that are of the types and amounts that are authorized under chapter 48.13 RCW, held subject to withdrawal by and under the control of the ceding insurer, including funds or other such assets held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be held in ((the)) a qualified United States financial institution as defined in WAC 284-13-515 subject to withdrawal solely by, and under the exclusive control of, the ceding insurer ((or, in the case of a trust, held in a qualified United States financial institution as defined in RCW 48.12.160 (1)(b)(ii))). This security may be in the form of:

(1) Deposits or funds that are assets of the types and amounts that are authorized under chapter 48.13 RCW; or

(2) Clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in ((RCW 48.12.160 (1)(b)(ii))) WAC 284-13-515, effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing

institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of WAC ((284-13-550 or)) 284-13-560 are met.

AMENDATORY SECTION (Amending Order R 93-6, filed 9/1/93, effective 10/2/93)

WAC 284-13-550 Trust agreements qualified under WAC 284-13-540. (1) As used in this section:

(a) "Beneficiary" means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(b) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the assuming alien insurer not holding a certificate of authority for that kind of business.

(c) "Obligations," as used in subsection ((3)) (2)(k) of this section, means:

(i) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

(ii) Reserves for reinsured losses reported and outstanding;

(iii) Reserves for reinsured losses incurred but not reported; and

(iv) Reserves for allocated reinsured loss expenses and unearned premiums.

(2) Required conditions.

(a) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee which shall be a qualified United States financial institution as defined in ((RCW 48.12.160 (1)(b))) WAC 284-13-515.

(b) The trust agreement shall create a trust account into which assets shall be deposited.

(c) All assets in the trust account shall be held by the trustee at the trustee's office in the United States(~~, except that a bank may apply for the commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in (d)(i) of this subsection must also be presentable, as a matter of legal right, at the trustee's principal office in the United States~~)).

(d) The trust agreement shall provide that:

(i) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

(ii) No other statement or document is required to be presented in order to withdraw assets, except that the

beneficiary may be required to acknowledge receipt of withdrawn assets;

(iii) It is not subject to any conditions or qualifications outside of the trust agreement; and

(iv) It shall not contain references to any other agreements or documents except as provided for under (k) of this subsection.

(e) The trust agreement shall be established for the sole benefit of the beneficiary.

(f) The trust agreement shall require the trustee to:

(i) Receive assets and hold all assets in a safe place;

(ii) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

(iii) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

(iv) Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;

(v) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

(vi) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

(g) The trust agreement shall provide that at least thirty days, but not more than forty-five days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(h) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(i) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

(j) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct, or lack of good faith.

(k) Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this regulation, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

(i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the

assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

(ii) To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

(iii) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in ((RCW 48-12-160(2))) WAC 284-13-515 apart from its general assets, in trust for such uses and purposes specified in (k)(i) and (ii) of this subsection as may remain executory after such withdrawal and for any period after the termination date.

(l) Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering life, annuities, and disability risks, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

(i) To pay or reimburse the ceding insurer for:

(A) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and

(B) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement.

(ii) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

(iii) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in WAC 284-13-515 apart from its general assets, in trust for such uses and purposes specified in (l)(i) and (ii) of this subsection as may remain executory after such withdrawal and for any period after the termination date.

(m) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subsection (4)(a)(ii) of this section, so long as these required conditions are included in the trust agreement.

(n) Notwithstanding any other provision in the trust instrument, if the grantor(s) of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight or other designated receiver all of the assets of the trust fund. The assets shall be applied in accordance with the priority statutes and laws of the state in which the trust is domiciled applicable to the assets of insurance companies in liquidation. If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy claims of the United States ceding insurers of the grantor(s) of the trust, the assets or any part thereof shall be returned to the trustee for distribution in accordance with the trust agreement.

(3) Permitted conditions.

(a) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(b) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

(c) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subsection (4)(a)(ii) of this section.

(d) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

(e) The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(4) Additional conditions applicable to reinsurance agreements.

(a) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

(i) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

(ii) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by Title 48 RCW or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary, or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, then the trust agreement may contain the provisions described by this paragraph in lieu of including such provisions in the reinsurance agreement;

(iii) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

(iv) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

(v) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(A) To pay or reimburse the ceding insurer for:

(I) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

((B) To reimburse the ceding insurer for) (II) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

((C) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses, and unearned premium reserves; and

~~(D) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.~~ (III) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(B) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(b) The reinsurance agreement may also contain provisions that:

(i) Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

(A) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

(B) After withdrawal and transfer, the market value of the trust account is no less than one hundred two percent of the required amount.

The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

(ii) Provide for(±

~~(A) The~~) return of any amount withdrawn in excess of the actual amounts required for (a)(v)((A), (B), and (C))) of this subsection ~~((or in the case of (a)(v)(D) of this subsection any amounts that are subsequently determined not to be due;)), and~~

~~((B))~~ for interest payments(±) at a rate not in excess of the prime rate of interest(±) on the amounts held pursuant to (a)(v)((C)) of this subsection.

(iii) Permit the award by any arbitration panel or court of competent jurisdiction of:

(A) Interest at a rate different from that provided in (b)(ii)((B)) of this subsection;

(B) Court or arbitration costs;

(C) Attorney's fees; and

(D) Any other reasonable expenses.

(c) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming alien insurer in financial statements required to be filed with ~~((this department))~~ the insurance commissioner in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(d) Existing agreements. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to December 31, ~~((1993))~~ 1996, will continue to be acceptable until December 30, ~~((1994))~~ 1997, at which time the agreements will have to be in full compliance with this regulation for the trust agreement to be acceptable.

(e) The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (1)(a) of this

section shall not be construed to affect any actions or rights which the commissioner may take or possess pursuant to the provisions of the laws of this state.

AMENDATORY SECTION (Amending Order R 93-6, filed 9/1/93, effective 10/2/93)

WAC 284-13-560 Letters of credit qualified under WAC 284-13-540. (1) The letter of credit must be clean, irrevocable, and unconditional and issued or confirmed by a qualified United States financial institution as defined in ~~((RCW 48.12.160 (1)(b)(iii)))~~ WAC 284-13-515. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents, or entities, except as provided in subsection (8)(a)~~((iii)(A))~~ of this section. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

(2) The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(3) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty days' notice prior to expiry date or nonrenewal.

(5) The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication ~~((400))~~ 500, or any successor publication), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(6) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication ~~((400))~~ 500, or any successor publication), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication ~~((400))~~ 500, or any successor publication occur.

(7) The letter of credit shall be issued by a qualified United States financial institution authorized to issue letters of credit, pursuant to RCW 48.12.160 (1)(b)(ii).

(8) Reinsurance agreement provisions.

(a) The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions which:

(i) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

(ii) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(A) To pay or reimburse the ceding insurer for:

(I) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies; and

~~((B) To reimburse the ceding insurer for))~~ (II) The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement;

~~((C) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred, and unearned premium reserves); and~~

~~(D) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.))~~ (III) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

(B) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the specific reinsurance remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States financial institution as defined in WAC 284-13-515 apart from its general assets, in trust for such purposes specified in (a)(ii)(A) of this subsection as may remain after withdrawal and for any period after the termination date.

(iii) All of the foregoing provisions of (a) of this subsection should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(b) Nothing contained in (a) of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

PERMANENT

(i) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to (a)(ii)(~~(C)~~) of this subsection; and

(ii) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or (~~in the case of (a)(ii)(D) of this subsection~~) any amounts that are subsequently determined not to be due.

(c) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities, and disability, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of (a)(ii) of this subsection, require that the parties enter into a "trust agreement" which may be incorporated into the reinsurance agreement or be a separate document.

~~((9) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.))~~

AMENDATORY SECTION (Amending Order R 93-6, filed 9/1/93, effective 10/2/93)

WAC 284-13-570 Other security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control. The credit shall not be greater than the funds held.

AMENDATORY SECTION (Amending Order R 93-6, filed 9/1/93, effective 10/2/93)

WAC 284-13-590 Contracts affected. All new and renewal reinsurance transactions entered into after December 1, ~~((1993))~~ 1996, shall conform to the requirements of this regulation if credit is to be given to the ceding insurer for such reinsurance.

NEW SECTION

WAC 284-13-595 Form AR-1.

FORM AR-1
CERTIFICATE OF ASSUMING ALIEN INSURER

I, _____,
(name of officer) (title of officer)
of _____,
(name of assuming insurer)

the assuming alien insurer under a reinsurance agreement with one or more insurers domiciled in Washington, hereby certify that

(name of assuming insurer) ("Assuming Insurer"):

1. Submits to the jurisdiction of any court of competent jurisdiction in the State of Washington for the adjudication

of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of the State of Washington as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of the State of Washington to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in the State of Washington reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer)

(title of officer)

**WSR 97-05-040
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed February 14, 1997, 4:50 p.m.]

Date of Adoption: February 12, 1997.

Purpose: To provide further clarification of the rules regarding transfer of assets and the establishment of a period or periods of ineligibility for an institutionalized person.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1365.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.04.057.

Other Authority: RCW 74.09.585, § 17 of the Social Security Act.

Adopted under notice filed as WSR 97-02-032 on December 24, 1996.

Changes Other than Editing from Proposed to Adopted Version: Clarifies that a gift or donation of \$1000 or under in any month is not considered as the transfer of an asset.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal

Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 12, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3818, filed 12/28/94, effective 1/28/95)

WAC 388-513-1365 Transfer of assets. (1) The terms in this section shall have the following definitions:

(a) "**Assets**" means all income and resources of a client and the client's spouse, including such income or resources the person is entitled to but does not receive because of action by:

(i) The client or the client's spouse;

(ii) A person, court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse; or

(iii) A person, court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(b) "**Community spouse**" means the person married to an institutionalized client.

(c) "**Fair market value (FMV)**" means the price the asset may reasonably sell for on the open market at the time of transfer or assignment. A transfer of assets for love and affection is not considered a transfer for FMV.

(d) "**Institutional services**" means a level of care provided in a nursing facility, equivalent nursing facility in a medical institution, or in a home-based or community-based program under WAC 388-515-1505 or 388-515-1510.

(e) "**Institutional spouse**" means a client who meets the requirements of subsection (1)(f) of this section and is married to a spouse who is not:

(i) In a medical institution;

(ii) In a nursing facility; or

(iii) Receiving home-based or community-based services under WAC 388-515-1505 or 388-515-1510.

(f) "**Institutionalized client**" means a person who is:

(i) An inpatient in a nursing facility;

(ii) An inpatient in a medical institution where the payment is made for a level of care provided in a nursing facility; or

(iii) In need of the level of care provided in a nursing facility or medical institution, but receiving home-based or community-based services under WAC 388-515-1505 or 388-515-1510; and

(iv) Expected to be in ~~((the))~~ a nursing facility, in a medical institution, or receiving home-based or community-based services under WAC 388-515-1505 or 388-515-1510 for thirty consecutive days or more.

(g) "**Transfer**" means any act or omission to act, by a client or a nonapplying joint tenant, whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person, including but not limited to:

(i) Delivery of personal property;

(ii) Bills of sale, deeds, mortgages, and pledges; or

(iii) Any other instrument conveying or relinquishing an interest in property.

(h) "**Uncompensated value**" means the FMV of an asset at the time of transfer minus the value of compensation the person receives in exchange for the resource.

(i) "**Undue hardship**" means the client's inability to meet shelter, food, clothing, and health needs.

(j) "**Value of compensation received**" means the consideration the purchaser pays or agrees to pay. Compensation includes:

(i) All money, real or personal property, food, shelter, or services the person receives under a legally enforceable agreement whereby the eligible client shall transfer the resource; and

(ii) The payment or assumption of a legal debt the client owes in exchange for the resource.

(2) The department shall not impose any penalty for the transfer of any exempt asset for less than FMV except as specified under subsection ~~((9))~~ (11) of this section when the client transfers the client's home.

(3) The department shall determine whether the client or the client's spouse transferred an asset within a look-back period of the following duration:

(a) Thirty months when determining eligibility for services received:

(i) On or before September 30, 1993; or

(ii) On or after October 1, 1993, with respect to transfers of assets on or before August 10, 1993;

(b) Thirty-six months when determining eligibility for services on or after October 1, 1993, with respect to transfers of assets on or after August 11, 1993; or

(c) Sixty months when determining eligibility for services received on or after October 1, 1993, and all or part of the transferred assets are placed in a trust established on or after August 11, 1993, and all or part of the assets are deemed transferred as described under WAC 388-505-0595.

(4) The department shall consider the look-back period as the number of months described under subsection (3) of this section but not including any month before August, 1993 in the case of subsections (3)(b) and (3)(c) of this section, before the first day of the month the client:

(a) Becomes an institutionalized person, if the client is eligible for medical assistance on that date; or

(b) Applies for institutional care when the client is not eligible for medical assistance as of the date the client initially became institutionalized.

(5) The department shall calculate a period of ineligibility for nursing facility services, equivalent nursing facility services in a medical institution, and services described under WAC 388-515-1505 and 388-515-1510, for the institutionalized client when the client or the client's spouse

transfers an asset for less than FMV during or after the look-back periods as described under subsections (3) and (4) of this section.

(6) When the client or the client's spouse has transferred assets, the department shall establish a period of ineligibility:

(a) Under subsection (7) of this section for assets transferred on or before August 10, 1993; ~~((and))~~

(b) Under subsection (8) of this section for assets transferred on or after August 11, 1993 and on or before February 28, 1997; and

(c) Under subsection (9) of this section for assets transferred on or after March 1, 1997.

(7) With respect to transfers of assets on or before August 10, 1993, and in any month within the applicable look-back period, ~~((such))~~ the department shall establish a period of ineligibility ~~((shall))~~ which:

(a) Begins the first day of the month in which the assets were transferred;

(b) ~~((Be))~~ Is the lessor of:

(i) Thirty months; or

(ii) The number of whole months found by dividing the total uncompensated value of the assets transferred in the month by the state-wide average monthly cost of nursing facility services to a private patient at the time of the application; and

(c) Runs concurrently when transfers of assets have been made in multiple months during the look-back period.

(8) With respect to transfers of assets on or after August 11, 1993 and on or before February 28, 1997, and in any month within the applicable look-back period occurring on or after August 11, 1993, ~~((such))~~ the department shall establish a period of ineligibility ~~((shall))~~ as follows:

(a) ~~For such transfers during the look-back period ~~((except for a transfer made during a period of ineligibility established under this section))~~:~~

(i) The period of ineligibility shall begin on the first day of the month ~~((in the look-back period))~~ in which such assets were transferred; and

(ii) Equal the number of whole months found by dividing the total, cumulative uncompensated value of all such assets transferred during the look-back period by the state-wide average monthly cost of nursing facility services to a private patient at the time of application.

(b) For such transfers of assets made while receiving medical assistance as an institutionalized client, or for such transfers made during a period of ineligibility established under this section:

(i) The period of ineligibility shall begin on the first day of the month in which such assets were transferred, or after the expiration of all other periods of ineligibility established under this section, whichever is later; and

(ii) Equal the number of whole months found by dividing the total, uncompensated value of such transferred assets by the state-wide average monthly cost of nursing facility services to a private patient at the time of application.

(9) With respect to transfers of assets on or after March 1, 1997 and in any month within the applicable look-back period occurring on or after August 11, 1993, the department shall:

(a) For a single transfer or multiple transfers within a single month during the look-back period:

(i) Add the value of all transferred assets;

(ii) Divide the total value of all transferred assets by the statewide average monthly cost of nursing facility services to a private patient at the time of application; and

(iii) Establish a period of ineligibility:

(A) Equal to the number of whole months as established under subsection (9)(a)(i) and (ii) of this section; and

(B) Which begins on the first day of the month of transfer.

(b) For multiple transfers during multiple months during the look-back period:

(i) Treat assets transferred in each month as a separate event with its own period of ineligibility;

(ii) Divide the total value of assets transferred in a month by the statewide average monthly cost of nursing facility services to a private patient at the time of application; and

(iii) Establish multiple periods of ineligibility:

(A) Equal to the number of whole months as established under subsection (9)(b)(i) and (ii) of this section; and

(B) Which begin the latter of:

(I) The first day of the month of each transfer; or

(II) The first day of the month following the expiration of a previously computed period of ineligibility.

(10) The department shall not consider gifts or donations totaling one thousand dollars or under in any month as transfers of assets under subsections (7), (8), or (9) of this section.

(11) The department shall not find the institutionalized client ineligible for institutionalized services when the transferred asset was a home and the home was transferred to the client's:

(a) Spouse; or

(b) Child who is:

(i) ~~((Aged;))~~ Blind, or permanently and totally disabled;

or

(ii) Twenty years of age or under.

(c) Sibling who has:

(i) Equity in the home; and

(ii) Lived in the home for at least one year immediately before the client became institutionalized.

(d) Child, other than described under subsection (11)(b) of this ~~((sub))~~section~~((;))~~ who:

(i) Lived in the home for two years or more immediately before the client became institutionalized; and

(ii) Provided care to the client to permit the client to remain at home.

~~((+0))~~ (12) The department shall not find the institutionalized client ineligible for institutionalized services if the asset other than the home was transferred:

(a) To the client's spouse or to another person for the sole benefit of the client's spouse;

(b) From the client's spouse to another person for the sole benefit of the client's spouse;

(c) To the client's blind or permanently and totally disabled child, or to a trust established solely for the benefit of such child; or

(d) To a trust established solely for the benefit of a person sixty-four years of age or younger who is disabled according to SSI criteria.

~~((+1))~~ (13) The department shall only consider a transfer of assets or trust established under subsection (12)

of this section for the sole benefit of the named person when:

(a) The transfer or trust document provides for the expenditure of funds for the benefit of the person; and

(b) Such expenditures must be on a basis that is actuarially sound, based on the life expectancy of the person.

(14) The department shall consider a transfer of asset or trust established under subsection (12) of this section which does not meet the criteria found under subsection (13) of this section under subsection (7), (8), or (9) of this section.

(15) The department shall not find a person ineligible under this section when the client can satisfactorily show the department that:

(a) The client intended to transfer the asset at FMV or other valuable consideration; ((or))

(b) The client transferred the asset exclusively for a purpose other than to qualify for medical assistance;

(c) All assets transferred by the client for less than FMV have been returned to the client; or

(d) The client's denial of eligibility would cause an undue hardship.

(((12))) (16) The department shall not impose a period of ineligibility on a client unless the client is subject to a period of ineligibility, as calculated under this section, with respect to any month for which eligibility for institutional services is sought.

(17) A client or the spouse of such a client, the department determines ineligible under this section, may request a hearing to appeal the determination of ineligibility. The procedure for the hearing is described under chapter 388-08 WAC.

(((13))) (18) The department shall:

(a) Exempt cash received from the sale, transfer, or exchange of an asset to the extent that the cash is used for an exempt asset within the same month, except as specified under WAC 388-511-1160; and

(b) Consider any cash remaining as an available asset.

(((14))) (19) When the transfer of an asset has resulted in a period of ineligibility for one spouse, the department shall not impose a period of ineligibility for the other spouse for the transfer of the same asset.

(20) The department shall disregard the transfer of assets to a family member when:

(a) The family member has received the assets for providing care to the client which keeps the client out of a nursing facility;

(b) The client and the family member initiated a written agreement at the time the care began; and

(c) The written agreement states:

(i) The fair market value of the care; and

(ii) That the care is to be paid from the assets of the client.

(21) When the fair market value of the care described under subsection (20) of this section is less than the value of the transferred asset, the department shall consider the difference as the transfer of an asset without adequate consideration.

(22) The department shall consider the transfer of an asset in exchange for care given by a family member without a written agreement as described under subsection (20) of this section as a transfer of an asset without adequate consideration.

(23) When the transfer of an asset includes the right to receive a stream of income received on a regular basis which has been transferred to a spouse, to the extent the income is not derived from a transferred resource, the department shall consider such a transfer under WAC 388-513-1330(6).

(24) When the transfer of an asset includes the right to receive a stream of income received on a regular basis which has been transferred to a person other than a spouse, to the extent the income is not derived from a transferred resource, the department shall:

(a) Add the total amount of income expected to be transferred during the person's lifetime, based on an actuarial projection of the person's life expectancy to the extent the income is not derived from a transferred resource; and

(b) Divide the total value of the transferred income by the statewide average monthly cost of nursing facility services to a private patient at the time of application; and

(c) Establish a period of ineligibility:

(i) Equal to the number of whole months as established under subsection (24)(a) and (b) of this section; and

(ii) Which begins the latter of:

(A) The first day of the month the person transferred the income stream; or

(B) The first day of the month following the expiration of a previously computed period of ineligibility.

WSR 97-05-048

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed February 18, 1997, 11:09 a.m.]

Date of Adoption: February 14, 1997.

Purpose: Standardize terminology used to refer to criminal history record information. Amendments should lessen possible confusion when dealing with criminal record information stored at the state patrol identification and criminal history section.

Citation of Existing Rules Affected by this Order: Amending chapters 446-16 and 446-20 WAC.

Statutory Authority for Adoption: Chapters 10.97 and 43.43 RCW.

Adopted under notice filed as WSR 97-01-056 on December 12, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 18, repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 18, repealed 3.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 18, repealed 3; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 14, 1997
Annette M. Sandberg
Chief

finding or release is based on an order of a court, the applicant shall furnish a certified or xeroxed copy of the court order.

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-010 Definitions. For the purposes of these rules, the following words and phrases shall have the following meanings:

(1) "Criminal (~~offender~~) history record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal (~~offender~~) history record information" shall not include intelligence, analytical or investigative reports and files.

(2) "Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

(3) "Disposition" shall mean that result which is reached at a determination of criminal proceedings against an individual at any stage in the criminal justice system and resulting in the culmination or final disposal of the criminal charge.

(4) "Section" shall mean the section on identification of the Washington state patrol established in RCW 43.43.700, et seq.

AMENDATORY SECTION (Amending WSR 92-15-014, filed 7/6/92, effective 8/6/92)

WAC 446-16-025 Expungement of arrest records.

(1) A person desiring the destruction of his fingerprints and/or other identifying data, pursuant to RCW 43.43.730, shall make his request therefor on a form furnished by the Washington state patrol (~~section on identification. The request shall be mailed or delivered to the central office of the section located at 3310 Capitol Boulevard, Tumwater, Washington~~) identification and criminal history section.

(2) The request shall be completed, signed by the person whose record is sought to be expunged and his signature witnessed. It shall include the address of the applicant, the printed name and the address of the witness to the applicant's signature and such other information requested on the application as identifies the applicant and the offense for which the request of expungement is made.

(3) The request shall include reasonable proof that the person making the request for expungement is the same person whose fingerprints or other identifying data are sought to be expunged. Such proof shall include fingerprints of the applicant if requested by the section.

(4) The request shall include reasonable proof that the person making the request has no prior criminal record and that he has been found not guilty of the offense for which the fingerprints and/or other identifying data were taken or was finally released without a conviction for such offense having been obtained or has other lawful grounds for expungement. Such proof shall include the furnishing of all details pertaining to the finding of not guilty or release without conviction of such criminal charges. Where the

AMENDATORY SECTION (Amending WSR 92-15-014, filed 7/6/92, effective 8/6/92)

WAC 446-16-030 Inspection by the subject of their record. (1) Any person desiring to inspect criminal (~~offender~~) history record information which refers to himself may do so at the central office of the Washington state (~~identification section located at 3310 Capitol Boulevard, Tumwater, Washington~~) patrol identification and criminal history section, between the hours of 8 a.m. and 5 p.m., Monday through Friday, excepting legal holidays.

(2) Any person desiring to inspect criminal (~~offender~~) history record information pertaining to himself shall first permit their fingerprints to be taken by the section for identification purposes if requested to do so. The section, in their discretion, may accept other identification in lieu of fingerprints.

(3) A reasonable period of time, not to exceed 15 minutes, shall be allowed each individual to examine criminal (~~offender~~) history record information pertaining to themselves.

(4) No person shall be allowed to retain or reproduce any criminal (~~offender~~) history record information pertaining to themselves except for the purpose of challenge or correction of entries of arrests by submitting law enforcement agencies of the state of Washington. Visual examination only shall be permitted of such information unless the individual asserts their belief that criminal (~~offender~~) history record information from a submitting law enforcement agency of the state of Washington concerning them is inaccurate, incomplete or maintained in violation of the law; and unless they request correction or completion of the information on a form furnished by the section, or requests expungement pursuant to WAC 446-16-025.

(5) If any person who desires to examine criminal (~~offender~~) history record information pertaining to himself is unable to read or is otherwise unable to examine same because of a physical disability, they may designate another person of their own choice to assist them. The person about whom the information pertains shall execute, with their mark, a form provided by the section consenting to the inspection of criminal (~~offender~~) history record information pertaining to himself by another person for the purpose of it being read or otherwise described to them. Such designated person shall then be permitted to read or otherwise describe or translate the criminal (~~offender~~) history record information to the person about whom it pertains.

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-070 Report contents—General. The report of disposition shall be made on forms provided by the section. The name of the subject about which the report is made, the designated fingerprints of the subject, the name of the original contributor of the fingerprint or arrest record, and the original arrest number shall be entered on the disposition report exactly the same as they appear on the fingerprint card or arrest record previously forwarded to the

section. The ((~~section~~)) state identification number should be indicated on the disposition report if known.

AMENDATORY SECTION (Amending WSR 92-15-014, filed 7/6/92, effective 8/6/92)

WAC 446-16-080 Report time limitations. All of the information requested on the disposition report shall be completed and the report mailed to the Washington state patrol identification and criminal history section, ((~~PO Box 42633, Olympia, Washington 98504-2633,~~)) within 10 days of the date that a disposition becomes effective.

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-100 Prosecutorial agencies—Reporting responsibilities. (1) The prosecutor or city attorney shall complete the disposition report if he determines not to ((~~press~~)) file charges or the case is not otherwise acted upon by a judicial body. In such cases, the prosecutor or city attorney shall mail the completed disposition report to the section within 10 days from the date that it is determined no further judicial action will be taken on the charges.

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-110 Courts—Reporting responsibilities. Where the disposition of criminal charges occurs as a result of action taken by or within the jurisdiction of any court in the state of Washington, the disposition of such charges shall be reported to the identification and criminal history section pursuant to rules of the supreme court of the state of Washington on forms approved by the supreme court and supplied by the section.

AMENDATORY SECTION (Amending Order 1, filed 2/11/74)

WAC 446-16-120 Audit of reporting compliance. The identification and criminal history section shall administer a compliance audit procedure at least once annually to insure that all disposition reports have been received and added to the criminal ((~~offender~~)) history record information. The identification and criminal history section shall prepare listings of all criminal ((~~offender~~)) history record information for which no disposition report has been received and has been outstanding for more than 9 months since the date of arrest. Each criminal justice agency shall be furnished with a list of outstanding disposition reports for criminal ((~~offender~~)) history record information of persons who were arrested or against whom charges were filed by that agency. Within 30 days of receipt of such list, each criminal justice agency shall provide the identification and criminal history section with a current disposition report or status report for each person for whom a disposition report is overdue.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 446-16-040

Reporting of persons detained in custody.

WAC 446-16-050

Report by social and health services on change of parole status—Other changes—Requirements.

AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-050 Criminal justice agencies. (1) The following agencies shall be considered criminal justice agencies for the purpose of chapter 10.97 RCW and these regulations.

(a) The Washington state patrol, including the state identification section;

(b) Foreign, federal, state, and local governmental law enforcement agencies;

(c) The adult corrections division of the department of social and health services or the department of corrections as specified in chapter 72.02 RCW, including institutions as specified in chapter 72.01 RCW and probation and parole services as specified in chapter 72.04A RCW;

(d) The board of prison terms and paroles;

(e) Courts at any level, if they exercise criminal jurisdiction, for the administration of criminal justice.

(2) Only that subunit of the following agencies which detects, prosecutes, or that work under the direction of the courts shall be considered criminal justice agencies for the purpose of chapter 10.97 RCW and these regulations:

(a) Federal, state and local prosecutorial, correctional programs, agencies or departments;

(b) The liquor control board as specified in RCW 66.44.010 (enforcement division);

(c) The department of labor and industries as specified in chapter 7.68 RCW (victims of crime compensation);

(d) The state fire marshal as specified in RCW 48.48.060(2);

(e) An agency or portion thereof that has been certified as a criminal justice agency pursuant to WAC 446-20-060.

AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-090 Inspection of record by the subject of record. (1) Any person desiring to inspect criminal history record information which pertains to himself may do so at the central records keeping office of any criminal justice agency or at the ((~~state identification section located at 3310 Capitol Boulevard, Tumwater, Washington~~)) Washington state patrol identification and criminal history section, during normal business hours, Monday through Friday, excepting legal holidays.

(2) Any person desiring to inspect criminal history record information pertaining to himself shall first permit his fingerprints to be taken by the criminal justice agency for identification purposes, if requested to do so. The criminal justice agency in its discretion may accept other identification in lieu of fingerprints.

(3) A reasonable period of time, not to exceed thirty minutes, shall be allowed each individual to examine criminal history record information pertaining to himself.

PERMANENT

(4) Visual examination only shall be permitted of such information unless the individual asserts his belief that criminal history record information concerning him is inaccurate, or incomplete; and unless he requests correction or completion of the information on a form furnished by the criminal justice agency, or requests expungement pursuant to RCW 10.97.060. Retention or reproduction of nonconviction data is authorized only when it is the subject of challenge.

(5) If any person who desires to examine criminal history record information pertaining to himself is unable to read or is otherwise unable to examine same because of a physical disability, he may designate another person of his own choice to assist him. The person about whom the information pertains shall execute, with his mark, a form provided by the criminal justice agency consenting to the inspection of criminal history information pertaining to himself by another person for the purpose of it being read or otherwise described to him. Such designated person shall then be permitted to read or otherwise describe or translate the criminal history record information to the person about whom it pertains.

(6) Each criminal justice agency shall develop procedures to ensure that no individual improperly retains or mechanically reproduces nonconviction data during the process of inspection.

AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-100 Inspection—Timeliness and manner of agency response. (1) A criminal justice agency not maintaining criminal history record information of the individual requesting inspection shall not be obligated to further processing of inspection request.

(2) A criminal justice agency maintaining criminal history record information of the individual requesting inspection shall respond in the manner following and as soon as administratively convenient, but in no event later than ten business days from the date of the receipt of the request.

(a) If the criminal history record information concerns offenses for which fingerprints were not submitted to the ~~((identification))~~ Washington state patrol identification and criminal history section, the agency shall respond by disclosing the identifiable descriptions and notations of arrests, charges, and dispositions that are contained in the files of the agency.

(b) If the criminal history record information concerns offenses for which fingerprints were submitted to the identification section, the agency upon request of the subject of the record, shall forward the request to the ~~((identification))~~ Washington state patrol identification and criminal history section for processing.

(c) At the ~~((identification))~~ Washington state patrol identification and criminal history section the request shall cause a copy of all Washington state criminal history record information in the files of the ~~((identification))~~ Washington state patrol identification and criminal history section relating to the individual requester to be forwarded to the criminal justice agency submitting the request.

(d) Upon receipt by the criminal justice agency of the requester's criminal history record information from the ~~((identification))~~ Washington state patrol identification and

criminal history section, the agency shall notify the requester at his designated address or telephone number that the requested information is available for inspection. The subject of the criminal history record information must appear at the agency during its normal business hours for purpose of inspecting the record.

AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-170 Secondary dissemination. (1) Criminal justice agencies that receive state ~~((rap sheets))~~ criminal history record information from the identification section of the Washington state patrol may disseminate them further, "but only to the same extent to which the identification section itself would be authorized to make a dissemination in the first instance." Nonconviction data based on an incident that arose in the jurisdiction of that agency about to make the dissemination is not subject to this restriction, if the agency is otherwise authorized to disseminate such information.

(2) Noncriminal justice agencies certified to receive criminal history record information from whatever source may use it only for the specific purpose for which the agency is certified and shall not disseminate it further.

(3) Use of criminal history record information contrary to chapter 10.97 RCW or chapter 446-20 WAC may result in suspension or cancellation of certification.

AMENDATORY SECTION (Amending Order 91-004, filed 12/4/91, effective 1/4/92)

WAC 446-20-280 Employment—Conviction records. (1) A ~~((transcript of a))~~ conviction record will be furnished consistent with the provisions of RCW 43.43.815, upon the submission of a written or electronic request of any employer, accompanied by fingerprints and other identifying data of the employee or prospective employee.

(2) Fingerprints shall be submitted on cards of the type specified by the ~~((identification))~~ Washington state patrol identification and criminal history section, and shall contain a certification by the employer that the information is being disseminated to and will be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated, that the record will be used only as necessary for the purposes enumerated in this section, and that the request for conviction data is for one of the following purposes:

(a) Securing a bond required for any employment;

(b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or

(c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

AMENDATORY SECTION (Amending WSR 92-15-015, filed 7/6/92, effective 8/6/92)

WAC 446-20-285 Employment—Conviction records—Child and adult abuse information. After January 1, 1988, certain child and adult abuse conviction information will be furnished by the state patrol upon ~~((the submission of a))~~ written or electronic request of any applicant, business or organization, the state board of education, or the department of social and health services. This information will consist of the following:

(1) Convictions of crimes against children or other persons as defined in RCW 43.43.830(6), and as amended by chapter 9A.44 RCW;

(2) Department of health disciplinary authority final decisions of specific findings of physical or sexual abuse or exploitation of a child and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary authority final decision; for the businesses and professions defined in chapter 9A.44 RCW; and

(3) Civil adjudications of child abuse, as amended by chapter 9A.44 RCW.

~~((This))~~ Criminal history information will be furnished from the Washington state patrol, consistent with the provisions of RCW 43.43.830 through 43.43.840, ~~((on an approved request for criminal history information form available from the Washington State Patrol, Identification and Criminal History Section, PO Box 42633, Olympia, Washington, 98504-2633))~~ upon receipt of a written or electronic request.

School districts, the superintendent of public instruction, educational service districts and their contractors will also receive conviction information under RCW 10.97.030 and 10.97.050 pursuant to chapter 159, Laws of 1992.

The state patrol shall also furnish any similar records maintained by the Federal Bureau of Investigation or records in custody of the National Crime Information Center, if available, subject to their policies and procedures regarding such dissemination.

(a) The business or organization making such request shall not make an inquiry to the Washington state patrol or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(b) For positive identification, the request for criminal history information form may be accompanied by fingerprint cards of a type specified by the Washington state patrol identification and criminal history section, and shall contain a certification by the business or organization; the state board of education; or the department of social and health services, that the information is being requested and will be used only for the purposes as enumerated in RCW 43.43.830 through 43.43.845.

(c) In the absence of fingerprint cards, the applicant may provide a right thumb fingerprint impression in the area provided on the request for criminal history information form. In the event of a possible match, where the applicant's name and date of birth as submitted varies from that of the record contained by the ~~((identification))~~ Washington state patrol identification and criminal history section, the right thumb fingerprint impression will be used for identifi-

cation verification purposes only. An **exact name and date of birth match** will be required for dissemination of conviction information in the absence of a fingerprint card or thumbprint impression for positive identification or verification of record.

(d) After processing a properly completed request for criminal history information form, if the conviction record, disciplinary authority final decision, adjudication record, or equivalent response from a federal law enforcement agency shows no evidence of crimes against persons, an identification declaring the showing of no evidence shall be issued to the ~~((applicant))~~ business or organization by the ~~((state patrol))~~ Washington state patrol identification and criminal history section within fourteen working days of receipt of the request. Possession of such identification shall satisfy future record check requirements for the applicant for a two-year period.

(e) The business or organization shall notify the applicant of the state patrol's response within ten calendar days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(f) The business or organization shall be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

AMENDATORY SECTION (Amending Order 91-005, filed 9/24/91, effective 10/25/91)

WAC 446-20-500 Sex offender registration. RCW 9A.44.130 requires any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense to register with the county sheriff for the county of that person's residence. The sheriff is required to forward the registration information to the section within five working days. The Washington state patrol is mandated to maintain a central registry of sex offenders consistent with chapters 10.97, 10.98, and 43.43 RCW. The following regulations implement the provisions of this act.

AMENDATORY SECTION (Amending Order 91-005, filed 9/24/91, effective 10/25/91)

WAC 446-20-510 History retention. Sex offender registration information will be maintained in the offender's criminal history file according to retention periods outlined in RCW 9A.44.140. Once an offender is registered, a notation of "registered sex offender" shall be printed on the ~~((rap sheet))~~ transcript of record for that individual.

AMENDATORY SECTION (Amending WSR 92-15-015, filed 7/6/92, effective 8/6/92)

WAC 446-20-520 Photographs. Photographs should be of the polaroid type and in color. These are not to be file photos. A new photo is required.

On the reverse side of the photo, write full name, date of birth, and SID number. Paperclip (no staples please) the photo to the fingerprint card with the registration information completed and forward to Washington state patrol, identification and criminal history section (~~((PO Box 42633, Olympia, WA 98504-2633))~~).

AMENDATORY SECTION (Amending Order 91-004, filed 12/4/91, effective 1/4/92)

WAC 446-20-530 Refundable fee. Agencies are to bill the Washington state patrol identification and criminal history section for the actual registration cost not to exceed thirty-two dollars for each registration which shall include photographs and fingerprints submitted pursuant to RCW 9A.44.130. This fee will further ensure that direct and indirect costs at the county level associated with the provisions of this chapter are refunded by the Washington state patrol identification and criminal history section on a monthly basis upon receipt of an invoice from the county sheriff indicating the number of registrations submitted.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 446-20-110 Deletion—Notification.

WSR 97-05-054

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Order 6015—Filed February 19, 1997, 8:35 a.m.]

Date of Adoption: February 17, 1997.

Purpose: Improve the marketing of fresh asparagus by upgrading the Washington consumer pack grade standards.

Citation of Existing Rules Affected by this Order: Amending chapter 16-409 WAC.

Statutory Authority for Adoption: Chapter 15.17 RCW, Standards of grades and packs.

Adopted under notice filed as WSR 97-02-098 on January 2, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 17, 1997

Jim Jesernig

Director

AMENDATORY SECTION (Amending Order 6008, filed 12/17/96, effective 1/17/97)

WAC 16-409-020 Washington standards—Grades.

(1) Washington extra fancy shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, well trimmed, fairly straight, not wilted, and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means. Stalks shall have at least eighty-five percent green color.

(b) Stalks within individual containers shall meet one of the following designated sizes: Jumbo, large, or standard.

(2) Washington extra fancy tips shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, well trimmed, fairly straight, not wilted, and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means. Stalks shall be all green.

(b) Stalks within the individual containers shall meet one of the following designated sizes: Jumbo, large, standard, or small.

(3) Washington fancy shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, fairly well trimmed, not wilted and not badly misshapen, and which are free from decay and serious damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall have at least eighty-five percent green color.

(b) Each stalk shall have a diameter of not less than four-sixteenths inch.

(4) Washington consumer pack shall consist of:

(a) Clean, fresh stalks of asparagus (~~and may be of random length~~), fairly uniform in length, fairly well trimmed, which are fairly straight, not wilted and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall (~~show not more than one and one-half inches of white~~) have at least eighty-five percent green color.

(b) Each stalk shall have a diameter of not less than four-sixteenths inch.

(5) Culls.

(a) Asparagus which is not graded in conformity with Washington extra fancy, Washington extra fancy tips, Washington fancy, Washington consumer pack, or U.S. No. 1, or U.S. No. 2 shall be designated as "culls."

(b) Culls shall not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

(6) Any lot of fresh asparagus, including "culls" marketed within the state of Washington, shall have not more than ten percent of stalks with white in excess of two inches, nor more than ten percent of stalks which are less than four-sixteenths inch in diameter.

WSR 97-05-056

PERMANENT RULES

GAMBLING COMMISSION

[Filed February 19, 1997, 9:16 a.m., effective July 1, 1997]

Date of Adoption: February 14, 1997.

Purpose: This amendment allows a wider variation of bingo balls to be used, facilitating different types of bingo games taking place at the same time.

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-240.

Statutory Authority for Adoption: RCW 9.46.070 (1), (4), (20).

Adopted under notice filed as WSR 96-24-005 on November 21, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

February 18, 1997

David D. Shaw

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 218 [293], filed 11/26/90 [6/18/96], effective 12/27/90 [7/19/96])

WAC 230-20-240 Bingo equipment to be used. The conduct of bingo must include the following required items:

(1) A mechanical device that uses air flow for mixing and randomly withdrawing balls to determine the letters and numbers or symbols to be called must be utilized by all Class D and above operators. This device shall be constructed in the following manner:

(a) It will allow participants full view of the mixing action of the balls; and

(b) The operation cannot be interrupted to change the random placement of the balls at the exit receptacle of the device, except when the device is shut off as allowed by WAC 230-20-246;

(2) A set of seventy-five balls bearing the numbers one through seventy-five and the letters B, I, N, G, or O. Provided, That the letters B, I, N, G, O need not appear if the balls are used for speed or hidden face bingo games. The following additional requirements regarding bingo balls must be met:

(a) The entire set of balls shall be available for inspection by the players before a bingo session begins to determine that all are present and in operating condition;

(b) Each numbered ball shall be the same weight as each of the other balls and free from any defects; and

(c) Each set of balls in play must be distinguishable from all other sets of balls in play;

(3) Flashboards shall be utilized to display numbers called at all Class D and above bingo games. They must be visible to all players and clearly indicate all numbers that have been called: *Provided, That malfunctions occurring during a bingo occasion need not be repaired during that occasion, but must be repaired before use on any other occasion;*

(4) Bingo cards must be preprinted, manufactured cards that meet the following standards:

(a) Have twenty-five spaces, one of which may be a free space, arranged in five even columns headed with the letters B, I, N, G, and O, and except for the free space, imprinted with numbers and symbols: *Provided, That bingo cards used for conducting player selection games are exempt from the requirements of this subsection if the requirements of WAC 230-20-241 are followed;*

(b) Be manufactured by a licensed manufacturer: *Provided, That electronically generated bingo cards authorized by WAC 230-20-106 may be produced by the operator using a printer interfaced with an electronic data base system: Provided further, That cards used in player selection games may be manufactured by unlicensed manufacturers if:*

(i) The primary activity of such manufacturer is producing nongambling products;

(ii) Cards must meet the requirements of WAC 230-20-192 and 230-20-241. The licensee that initially purchases such cards from the unlicensed manufacturer shall assume responsibility for compliance with all commission requirements;

(iii) In addition to the requirements set out in WAC 230-08-024 and 230-08-040, the invoice transferring these cards must include the beginning card number. If an operator purchases such cards directly from an unlicensed manufacturer, the operator shall assume responsibility for compliance with this requirement.

(c) All disposable bingo cards must meet the requirements of WAC 230-20-192; and

(d) Electronically generated cards and supporting equipment must meet the requirements of WAC 230-20-106;

(5) Effective January 1, 1997, all Class F and above bingo licensees shall conduct bingo games using disposable bingo cards or electronically generated cards. All income must be receipted for by using the audit system required by WAC 230-20-192 in conjunction with appropriate receipting system required by WAC 230-20-106, 230-20-107, or 230-20-108;

(6) Duplicate cards, as defined in WAC 230-20-192, are prohibited in the operation of bingo games conducted by Class D or above licensees. Operators are advised that conducting games using cards manufactured by different manufacturers may result in duplicate cards being placed in play and that the majority of cards in the "1 to 9000 series" are duplicate, regardless of the manufacturer. Duplicate card violations that result from use of cards from different manufacturers shall be the responsibility of the operator: *Provided, That this section shall not apply to braille cards, authorized by WAC 230-20-246(4), if the operator takes steps to prevent duplicate cards and informs players regarding limitations to prizes when winners have duplicate cards because braille cards are being played;*

(7) If duplicate cards are inadvertently sold at bingo games conducted by Class D or above licensees, the following procedures and restrictions apply:

(a) If all winners with duplicate cards are paid the entire prize amount that would be due if there were no duplicate cards, the licensee shall not be deemed to be in violation of this section;

(b) The amount of the prize for games with winners having duplicate cards shall be computed and paid using the following guidelines:

(i) Games that provide a bonus for a single winner - If all winners have duplicate cards then all winners shall be paid the bonus;

(ii) Games that result in multiple winners, some of which are players with duplicate cards - The split of the prize pool will be computed by counting all duplicate card winners as one. After the prize pool split is computed using this method, all winners will be paid according to the computed prize split;

(iii) If the prize pool contains noncash or merchandise prizes, the amount added to the prize pool for computing the split shall be the licensee's cost or retail value, whichever is posted in the game schedule: *Provided*, That manufacturers shall not be responsible for increases to the prize pool required by this subsection; and

(iv) If the prize is greater than one thousand dollars, the operator shall not be required to increase the total prize pool by more than fifty percent or five thousand dollars, whichever is less: *Provided*, That this limitation shall only be authorized once within a twelve-month period. If this limitation has been used within the last twelve months, the full prize amount shall be paid to all holders of duplicate cards;

(c) Increases to prize pools as a result of duplicate card errors, for which the manufacturer is responsible, may be deducted from prize payouts for computing compliance with WAC 230-20-064;

(d) Details of circumstances that resulted in duplicate cards being sold shall be documented and maintained as a part of the daily bingo record for the session;

(e) The commission shall be notified within forty-eight hours after discovery of a duplicate card error if:

(i) Caused by manufacturer printing, packaging, or collation errors; or

(ii) Any player winning with a duplicate card was not paid the entire prize amount;

(f) Licensees shall pursue reimbursement of all prizes paid due to errors from the manufacturer responsible for such errors.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

WSR 97-05-061
PERMANENT RULES
GAMBLING COMMISSION

[Filed February 19, 1997, 9:31 a.m., effective July 1, 1997]

Date of Adoption: February 14, 1997.

Purpose: This requires keno prizes greater than ten dollars to be documented in addition to requiring the retention of keno winning cards and cash register receipts for any tier prize.

Citation of Existing Rules Affected by this Order:
Amending WAC 230-20-247.

Statutory Authority for Adoption: RCW 9.46.0205 and 9.46.070 (1), (8), (11), (14), (20).

Adopted under notice filed as WSR 96-24-005 on November 21, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 1, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

February 18, 1997

David Shaw

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 298, filed 7/16/96 [7/17/96], effective 8/1/96)

WAC 230-20-247 Keno bingo—Definitions and requirements. Beginning August 1, 1996, Bingo licensees may play "keno bingo" games in which the players compete for portions of a prize pool based on matching the player selected bingo numbers with a specified number of balls called. The following definitions and requirements apply to keno bingo games:

(1) **Definitions:**

(a) A "way" is defined as a grouping of the numbers selected by players and documented on a single keno bingo card. Each "way" is a different possible winning combination;

(b) "Low tier prizes" are prizes worth fifty dollars or less;

(c) "Middle tier prizes" are prizes worth more than fifty dollars, but not more than \$1,000; and

(d) "High tier prizes" are prizes worth more than one thousand dollars.

(e) A "player selection form" is a single copy of a keno bingo card which displays all seventy-five numbers. The player utilizes this form to select their numbers. In no case shall the player selection form be substituted for a completed keno bingo card.

(2) **Keno bingo card requirements:**

(a) Keno bingo cards must be printed on two-part, self-duplicating paper that provides for an original and a duplicate copy;

(b) The standards for disposable bingo cards as defined in WAC 230-20-192 are followed; and

(c) Cards must have seventy-five spaces numbered one to seventy-five.

(3) **Operational restrictions:**

(a) Licensees may offer a maximum of six different priced keno bingo card sets for play at any one time;

(b) Keno bingo players may play a maximum of five "ways" per card. Each way must be clearly distinguishable and noted by an alphabetical reference. Each number picked cannot be used in more than two ways.

(c) Players must pick a minimum of two and a maximum of eight numbers per card;

(d) Maximum price per way is three dollars; and

(e) Maximum total price per keno bingo card is fifteen dollars.

(4) **Receipting requirements((-):** The licensee must use combination receipting as set forth in WAC 230-20-108 (3) and (4), in addition to the following requirements:

(a) The time and date of sale must be recorded on the cash register receipt;

(b) Voided keno bingo cards must have the word "void" stamped or written on the bingo card and must be signed by a bingo worker and the bingo manager and retained with the daily keno bingo records for that keno bingo session; and

(c) If electronically-generated bingo cards are used, the electronic bingo card must include the time and date the card was issued.

(d) All receipting records shall be totaled and closed out before starting sales for the next keno bingo game.

(5) **Manner of conducting keno bingo:**

(a) Players shall mark the numbers they select on a player selection form. The player selection form shall be given to a bingo worker along with the dollar amount of the card purchased. A bingo worker shall complete a keno bingo card using the numbers selected on the player selection form. The original bingo card shall then be placed in a separate lock box designated for that series. The duplicate copy shall be returned to the player along with the corresponding cash register receipt. Upon receiving the keno bingo card from the bingo worker, the player shall be responsible for determining the accuracy of the card.

(b) At least five minutes before the drawing of the keno bingo number, card sales shall cease and cash registers shall be subtotaled. The bingo licensee shall make an announcement notifying players when sales have been closed for each game. The time sales are closed and the cash register subtotaled shall be recorded immediately on the daily keno bingo record for each keno bingo game.

(c) All keno bingo cards shall be placed in a lock box before the first keno bingo number is drawn. The gambling manager shall then close the box and record the time on the daily bingo record for the keno bingo session.

(d) Operators shall draw twenty of the seventy-five bingo balls.

(e) Refunds shall not be allowed: *Provided*, that a one-for-one exchange may be made by the operator in cases where errors are discovered before the lock box is closed. The procedures to be followed when making such exchanges include:

(i) The player must initial the card; and

(ii) The operator must follow the voided card requirements.

(6) **Determining winners, awarding and receipting prizes:** Upon determination of a winning card, the player shall present their duplicate copy of the original winning card and the cash register receipt to a bingo worker. The original bingo card shall be retrieved from the lock box and reviewed to determine if it is a winner. Upon determination

of a winner, the prize shall be computed and the winner positively identified as set forth under WAC 230-20-246 (14)(b). Winning cards must be presented and prizes paid as follows:

(a) Prize payouts may not exceed amounts listed on a director approved keno bingo payout schedule available from any commission office upon request.

(b) Low tier prizes shall be paid before the end of the keno bingo session. An announcement shall be made notifying players of their last opportunity to turn in winning low tier cards.

(c) All middle and high tier prizes shall be claimed before the start of the next game and paid before the end of the keno bingo session. The licensee shall set a time limit for middle and high tier winners to present their winning cards and cash register receipts in order to determine whether the maximum total prize pool will be exceeded. An announcement shall be made notifying players of their last opportunity to turn in winning middle and high tier cards.

(d) The maximum total middle and high tier prizes that may be awarded per game is twenty thousand dollars. If this limit is exceeded, middle and high tier winners shall divide the prize as provided by WAC 230-20-246(9).

(e) A prize receipt shall be prepared and issued for all prizes awarded over ten dollars.

(f) Prize winners shall print their name and date of birth on all winning cards and the bingo worker shall initial the card.

(g) All high tier winning cards shall be verified by a neutral player and a licensed gambling manager. Upon verification, the manager and neutral player shall sign the winning card.

(7) **Keno bingo record keeping requirements:** A separate bingo daily record shall be maintained for keno bingo games. In addition to the requirements of WAC 230-08-080, the licensee must also:

(a) Maintain a call record for every game which includes the time the first number was drawn, the numbers called, and the sequence numbers were called;

(b) Make a separate deposit for keno bingo receipts. The deposit receipt shall be maintained with keno bingo session records;

(c) Use a separate series of prize receipts that indicate keno bingo and meet the requirements of WAC 230-20-102;

(d) Retain ~~((+H))~~ winning cards and cash register receipts for all prizes awarded ~~((for middle and high tier prizes))~~; and

(e) If a shift change is made during a keno bingo session, a bank reconciliation must be performed and signed by the workers.

(8) **Required disclosures to players:** Operators shall develop and post house rules that disclose at a minimum the following information:

(a) A keno bingo schedule, including when the keno bingo session begins and ends;

(b) Time limits on claiming prizes, including what constitutes the end of the session;

(c) That the player is responsible to ensure the accuracy of the numbers recorded on their card;

(d) That the player is responsible to ensure cards are purchased before the start of the game; and

(e) Prizes offered and prize limitations.

(f) The player selection forms shall include the players' responsibility to ensure the accuracy of the numbers recorded on the bingo card and all house rules relating to keno bingo.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 97-05-066
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES**

[Filed February 19, 1997, 10:31 a.m., effective January 1, 1998]

Date of Adoption: February 15, 1997.

Purpose: This rule removes land from the Department of Natural Resources fire protection, assigns responsibility for protection to King County Fire Protection District 28 and Pierce County Fire Protection Districts 6, 18, 22 and 24, and removes fire protection assessment from lands transferred to the fire protection districts.

Citation of Existing Rules Affected by this Order: Amending WAC 332-24-720 and 332-24-730.

Statutory Authority for Adoption: RCW 76.04.165.

Adopted under notice filed as WSR 97-02-029 on December 24, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 2, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 0.

Effective Date of Rule: January 1, 1998.

February 18, 1997
Kaleen Cottingham
Supervisor

AMENDATORY SECTION (Amending Order 632, filed 1/4/96, effective 1/1/97)

WAC 332-24-720 Forest protection zone—Pierce County. (1) It is determined that some forest lands within Pierce County are best protected by fire protection districts. Therefore, the forest lands, situated in the following fire protection districts, are removed from the department's forest protection zone and become the protection responsibility of the district:

(a) Fire Protection District 6. All forest lands, except state and federal forest lands within the legal description as follows: Township 18 North, Range 3 East W.M., Sections 1, 2, 3, 4, 10, 11, 12, 13, 14, 23, 24, 45; Township 19 North, Range 3 East W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27,

28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 52, 53; Township 19 North, Range 4 East W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, f19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 35, N 1/2 SW 1/4 of Section 36, Section 38; Township 20 North, Range 3 East W.M., Sections 11, 13, 14, 23, 24, 25, 26, 27, 31, 34, 35, 36, 39, 41; Township 20 North, Range 4 East W.M., Sections 19, 29, 30, 31, 32.

(b) Fire Protection District 18. All forest lands, except state and federal forest lands within the legal description as follows: Township 18 North, Range 4 East, W.M., NE 1/4, S 1/2 Section 1, 12; Township 18 North, Range 5 East, W.M., Sections 5, 6, 7, Section 8 West of Orville Road, Section 17 west of Orville Road; Township 19, Range 4 East, W.M., S 1/2 SE 1/4 Section 1, Sections 12, 13, 24, NE 1/4, E 1/2 NW 1/4, NE 1/4 NW 1/4, SE 1/4 Section 25, Section 26, SE 1/4 NE 1/4, E 1/2 SE 1/4 Section 36, Sections or Claim Numbers 37, 38; Township 19 North, Range 5 East, W.M., S 1/2 S 1/2 Section 6, N 1/2 NE 1/4, SW 1/4 NE 1/4, W 1/2 Section 7, W 1/2 Section 18, W 1/2 SE 1/4 West of Carbon River in Section 19, south of Carbon River in Section 30, Sections 31, 32, Sections or Claim Numbers 37, 38, 40.

(c) Fire Protection District 21. All forest lands, except state and federal forest lands within the legal description as follows: Township 17 North, Range 3 East, W.M., Sections 1, 2, 11, 12; Township 17 North, Range 4 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15; Township 17 North, Range 5 East, W.M., Sections 4, 5, 6, 7; Township 18 North, Range 3 East, W.M., Sections 13, 14, 23, 24, 25, 26, 27, 34, 35, 36; Township 18 North, Range 4 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36; Township 18 North, Range 5, East W.M., Sections 18, 19, 20, 29, 30, 31, 32, 33; Township 19 North, Range 4 East, W.M., Sections 28, 29, 30, 31, 32, 33, 34.

~~((b))~~ (d) Fire Protection District 22. All forest lands, except state and federal forest lands within the legal description as follows: Township 20 North, Range 5 East, W.M., S 1/2 S 1/2 SW 1/4 west of the top of the westerly bluff of the White River Gorge in Section 2, SW 1/4 NE 1/4, NW 1/4, S 1/2 Section 3, Sections 4, 5, E 1/2 Section 7, Sections 8, 9, 10, Section 11 west of the top of the westerly bluff of the White River Gorge, SW 1/4 SW 1/4 Section 13, Section 14 west of the top of the westerly bluff of the White River Gorge, Sections 15, 16, 17, NE 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4 Section 18, N 1/2, SE 1/4 SW 1/4, SE 1/4 Section 20, Sections 21, 22, 23, NW 1/4 NW 1/4, S 1/2 NW 1/4, SW 1/4 Section 24, and N 1/2 NE 1/4, N 1/2 NW 1/4 Section 29.

(e) Fire Protection District 24. All forest lands, except state and federal forest lands within the legal description as follows: Township 19 North, Range 5 East, W.M., Sections 3, 4, NE 1/4, E 1/2 SW 1/4, SW 1/4 SW 1/4 north of Rhodes Lake Road, SE 1/4 Section 5, Section 8 north of Rhodes Lake Road, E 1/2, NW 1/4 north of Rhodes Lake Road Section 9, Section 10, S 1/2 Section 11, North 1/2 Section 14.

(f) Fire Protection District 27. All forest lands, except state and federal forest lands on Anderson Island.

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(2) Forest lands removed from the forest protections zone will not be assessed under RCW 76.04.610 or 76.04.630.

(3) The exchange of fire protection responsibility involving Fire Protection District 21 will be effective January 1, 1994.

(4) The exchange of fire protection responsibility involving Fire Protection District 27 will be effective January 1, 1997.

(5) The exchange of fire protection responsibility involving Fire Protection Districts 6, 18, 22, and 24 will be effective January 1, 1998.

AMENDATORY SECTION (Amending Order 613, filed 6/25/93, effective 7/26/93)

WAC 332-24-730 Forest protection zone—King County. (1) It is determined that some forest lands within King County are best protected by fire protection districts. Therefore, the forest lands, situated within the following fire protection districts, are removed from the department's forest protection zone and become the protection responsibility of the district:

(a) Fire Protection District 10. All forest lands, except King County, state and federal (~~owned~~) forest lands, within the legal description as follows: Township 23 North, Range 5 East, W.M., the N 1/2 NW 1/4 and the SE 1/4 NW 1/4 of Section 1, the NW 1/4 and the S 1/2 of Sections 2, 3, 10, 11, 12, 13; Township 24 North, Range 5 East, W.M., Sections 13, 14, 23, 24, 25, 26, 27, 34, the NW 1/4 NW 1/4 and the SW 1/4 SW 1/4 of Section 35; Township 23 North, Range 6 East, W.M., E 3/4 of Sections 3, 6, 7, 8, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 36; Township 24 North, Range 6 East, W.M., the S 1/2 NW 1/4 and the N 1/2 SW 1/4 of Section 1, the S 1/2 and the S 1/2 NW 1/4 of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 north of Interstate 90, Section 27 north of Interstate 90, 28, the SE 1/4 and the S 1/2 SW 1/4 and the NE 1/4 SW 1/4 of Section 29, the N 1/2 NE 1/4 and the NE 1/4 NW 1/4 of Section 30, the N 1/4 E 1/2 of Sections 32, 33, 34; Township 25 North, Range 6 East W.M., Sections 26, 27, 28, 32, 33, 34, the N 1/2 NW 1/4 and the SW 1/4 NW 1/4 of Section 35; Township 26 North, Range 6 East, W.M., Sections 25, 26, 35, 36; Township 23 North, Range 7 East, W.M., Sections 3, 4, 10; Township 24 North, Range 7 East, W.M., Sections 18, 19, the S 1/2 of Sections 29, 30, 32, the W 3/4 of Section 33; Township 25 North, Range 6 East, W.M., Sections 1, 12; Township 25 North, Range 7 East, W.M., that portion of the SW 1/4 west of the Tolt River of Section 1, the W 1/2 SW 1/4 of Sections 3, 4, 5, 6, 7, 8, 9, the W 3/4 and the E 1/2 SE 1/4 of Section 10, the SE 1/4 SW 1/4 and that portion of the E 1/2 west of the Tolt River of Section 11, that portion of the NW 1/4 west of the Tolt River of Section 12, the N 3/4 W 1/2 E 1/2 and the E 1/2 W 1/2 and the SW 1/4 SW 1/4 of Section 14, the W 1/2 and the S 1/2 SE 1/4 of Sections 15, 16, 17, 20, 21, 22, the W 1/4 of Section 23, the SE 1/4 and the NW 1/4 and the NE 1/4 SW 1/4 of Section 26, the N 1/4 and the W 1/4 of Sections 27, 28, 29, 30, 32, 33, that portion west of Griffin Creek of Section 34; Township 26 North, Range 7 East, W.M., the SW 1/4 and the S 1/2 SE 1/4 of Sections 26, 27, 31, 32, 33, the W 1/4 and the

N 3/4 E 1/2 W 1/2 of Section 34, the N 1/2 and the E 3/4 N 1/2 S 1/2 of Sections 35, 36.

(b) Fire Protection District 28. All forest lands, except state and federal forest lands within the legal description as follows: Township 19 North, Range 6 East, W.M., Section 1 north of the White River; Township 19 North, Range 7 East, W.M., Section 6 NE 1/4, NW 1/4, SW 1/4 north of the White River, SE 1/4; Township 20 North, Range 5 East, W.M., Section 13 east of the White River, and Section 24 east of the White River; Township 20, Range 6 East, Section 1, E 1/2 Section 8, Sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, Section 19 north of the White River, Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, Section 29 north of the White River, Section 30 north of the White River, Section 32 north of the White River, Section 33 north of the White River, Section 34 north of the White River, Section 35 north of the White River, Section 36 north of the White River, Section or Claim Number 37; Township 20, Range 7 East, W.M., Sections 6, 7, 18, 19, 30, 31.

(c) Fire Protection District 27. All forest lands except state and federal (~~owned~~) forest lands, within the legal description as follows: Township 24 North, Range 6 East, W.M., Section 12; Township 24 North, Range 7 East, W.M., Sections 3, 4, the E 1/4 and the N 1/2 NW 1/4 of Section 5, the N 3/4 E 1/2 W 1/2 and the W 1/2 E 1/2 and the NE 1/4 NE 1/4 and the SE 1/4 SE 1/4 of Section 6, the N 1/2 of Sections 7, 8, 9, 10, 11, 13, 14, 15, the NE 1/4 and the N 1/2 SE 1/4 and the NW 1/4 of Section 16, the E 1/2 NE 1/4 of Sections 17, 18, 19, the NE 1/4 of 22, the N 1/2 of Section 23, the N 1/2 and the N 1/2 SE 1/4 of Section 24; Township 25 North, Range 7 East, W.M., Section 30, the E 3/4 and the N 3/4 W 1/4 of Section 31, the SW 1/4 and the E 1/2 SE 1/4 of Sections 32, 33, 34; Township 24 North, Range 8 East, W.M., the W 1/2 NW 1/4 of Section 19.

~~((e))~~ (d) Fire Protection District 38. All forest lands, except state and federal (~~owned~~) forest lands, within the legal description as follows: Township 23 North, Range 7 East, W.M., Section 1; Township 24 North, Range 7 East, W.M., Section 36; Township 23 North, Range 8 East, W.M., Sections 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 35; Township 24 North, Range 8 East, W.M., Sections 17, 18, 19, 20, 21, south 3/4 of Section 26, that portion of the SE 1/4 of Section 27 as bounded by 428th Avenue SE on the west and north and section line on the east and south, the N 1/2 and the SW 1/4 of Sections 28, 29, 30, 31, 32, 33, the E 1/2 and the S 3/4 of the W 1/2 of Sections 34, 35; Township 23 North, Range 9 East, W.M., Sections 7, 17, 18, 19, 30.

~~((d))~~ (e) Fire Protection District 43. All forest lands, except state and federal (~~owned~~) forest lands, within the legal description as follows: Township 22 North, Range 5 East, W.M., Section 12; Township 23 North, Range 5 East, W.M., Section 24; Township 22 North, Range 6 East, W.M., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, that portion of the SE 1/4 of Section 25 as bounded by 268th Avenue SE on the west, SE 264th Street on the north and section line on the east and south, Sections 27, 28, 29, 30, 31, 32, 33, 34, 35, that portion of the NE 1/4 of Section 36 as bounded by 268th Avenue SE on the west, SE Ravensdale Way on the south, Landsburg Road SE on the west and section line on the north; Township 23 North, Range 6 East, W.M., Sections 19,

29, 30, 31, 32, 33, 34, 35, 36; Township 22 North Range 7 East, W.M., Sections 5, 6, 7, 8, 18, 19, 32.

(2) Forest lands removed from the protection zone will not be assessed under RCW 76.04.610 or 76.04.630.

(3) The exchange of fire protection responsibility involving Fire Protection Districts 10, 27, 38, 43 will be effective January 1, 1994.

(4) The exchange of fire protection responsibility involving Fire Protection Districts 18, 22, and 24 will be effective January 1, 1998.

**WSR 97-05-074
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION
(Wildlife)**

[Filed February 19, 1997, 11:25 a.m.]

Date of Adoption: February 1, 1997.

Purpose: To adopt WAC 232-28-266 Landowner damage hunts.

Statutory Authority for Adoption: RCW 77.12.020, 77.12.030, 77.12.040, 77.32.220.

Adopted under notice filed as WSR 97-01-114 on December 19, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.
February 18, 1997

Lisa Pelly
Chair

NEW SECTION

WAC 232-28-266 1997-98, 1998-99, 1999-2000

Landowner damage hunts.

LANDOWNER DAMAGE HUNTS

Deer:

Tag Required: Deer hunter must have a current valid, unaltered, unnotched deer tag on his/her person.

Hunting Method: Any legal weapon.

Season Framework:

<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>
August 1- March 31	August 1- March 31	August 1- March 31

Location: Statewide

Legal Deer: Antlerless Only

Kill Quota: 600 Statewide

Elk:

Tag Required: Elk hunter must have a current valid, unaltered, unnotched elk tag on his/her person.

Hunting Method: Any legal weapon

Season Framework:

<u>1997-1998</u>	<u>1998-1999</u>	<u>1999-2000</u>
August 1- March 31	August 1- March 31	August 1- March 31

Location: Statewide

Legal Elk: Antlerless Only

Kill Quota: 100 Statewide

Special Notes: A landowner with deer/elk damage will enter into a Cooperative Agreement with WDFW and establish a boundary for deer/elk hunt, season dates within the framework and number of animals to be removed. Landowner agrees not to claim damage payments and will allow access to hunters during the general hunting seasons. Landowner selects hunters. A landowner damage access permit provided by the landowner will authorize the hunter to use an unused general deer/elk tag to hunt and kill a legal animal during the prescribed damage hunt season.

PERMANENT

**WSR 97-05-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

(Fisheries)

[Order 97-15—Filed February 7, 1997, 3:37 p.m.]

Date of Adoption: February 7, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-56-31000N; and amending WAC 220-56-310.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary for crawfish conservation and will cover the interim period until the permanent rule takes effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 7, 1997
Bern Shanks
Director

**WSR 97-05-025
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

(Fisheries)

[Order 97-17—Filed February 10, 1997, 2:45 p.m.]

Date of Adoption: February 10, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07300Q; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of green sea urchins remain in Sea Urchin Districts 3 and 4.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 10, 1997
Dirk Brazil
for Bern Shanks
Director

EMERGENCY

NEW SECTION

WAC 220-56-31000P Shellfish—Daily limits. Notwithstanding the provisions of WAC 220-56-310, effective immediately until further notice it is unlawful to fish for or possess crawfish in those waters of Clallam, Island, Jefferson, King, Kitsap, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston and Whatcom Counties.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-31000N Shellfish—Daily limits.
(96-91)

NEW SECTION

WAC 220-52-07300R Sea urchins. Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) **Green sea urchins:** Sea Urchin Districts 3 and 4 are open only on February 12 and 13, 1997 The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(2) It is unlawful for any person to dive for any purpose from a commercially-licensed fishing vessel, designated for use with a sea urchin fishery license, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on the following dates: February 10 and 11, 1997.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300Q Sea urchins (97-14)

WSR 97-05-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)

[Order 97-19—Filed February 12, 1997, 10:35 a.m.]

Date of Adoption: February 12, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-52-046 and 220-52-040.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The closures in this emergency rule are necessitated by federal court order. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. For Areas 26B, 26C, and 26D there is no agreement to commercial non-Indian crabbing and therefore it must remain closed until compliance with federal court orders or until an agreed plan addresses the area. For other areas in this emergency order, agreed plans with applicable tribes have been entered as required by the court order. Such plans have the effect of a federal court order, 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such plans may result in contempt of federal court or failure of all commercial crab fishing in a given region addressed by a plan. These rules are temporary until the permanent rules take effect. This regulation will allow groundlines to continue to be used, has industry support, and will improve Washington Department of Fish and Wildlife's ability to enforce pot limits. Because groundlines are often used in areas of heavy marine traffic, this configuration will make the gear more visible and less likely to be damaged and/or lost. The buoy brand certificate program is very costly to administer and is no longer considered an effective method to help ensure shellfish pot limit compliance.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 12, 1997
Dirk Brazil
for Bern Shanks
Director

NEW SECTION

WAC 220-52-04600T Crab fishery—Seasons, areas and gear restrictions. Notwithstanding the provisions of WAC 220-52-046, it is unlawful to fish for Dungeness crab for commercial purposes in Puget Sound except during the times and in the areas provided for in this section.

(1) All Puget Sound Marine Fish/Shellfish Management and Catch Reporting Areas are open until 11:59 p.m., April 15, 1997, except Areas 25C, 27A, 27B, 27C, 28A, 28B, 28C, and 28D and the closures provided for in this section.

(2) The following areas are closed to non-Indian commercial crab fishing:

(a) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point are closed March 1 through April 15, 1997.

(b) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 20A in Lummi Bay east of a line projected from the entrance buoy at Sandy Point to Gooseberry Point.

(c) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder at Point Francis to the pilings at Stevie's Point.

(d) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24A east of lines projected north from the most westerly tip of Skagit Island and south to the most westerly tip of Hope Island thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

(e) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24B inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayak Point, thence east to shore.

(f) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24B north of a line projected true west from Kayak Point and south and west of a line from Kayak Point to Barnum Point.

(g) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 25A west of a line from the new Dungeness Light to the mouth of Cooper Creek have a 30 pot per vessel limit.

(h) Those waters of Marine Fish/Shellfish Management and Catch Reporting Areas 26B, 26C, and 26D.

(i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25D within a line from the Point Hudson Marina entrance to the northern tip of Indian Island, thence to Kala Point, and thence following the shoreline to the point of origin.

(3) The following areas are closed to commercial crab fishing during the periods indicated:

(a) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24C inshore of the 400 foot depth contour within an area bounded by parallel lines projected northeasterly from Sandy Point and the entrance to the marina at Langley are closed March 1 through April 15, 1997.

(b) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 26A in Useless Bay north and east of a line from Indian Point to a point on shore 1.5 miles northeast of Double Bluff are closed March 1 through April 15, 1997.

(c) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21B inside lines from Oyster Creek to the fisheries monument on Samish Island and from Oyster Creek to Point Williams are closed shoreward of the ten fathom contour March 1 through April 15, 1997.

(d) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cap Sante Marina to the northern end of the easternmost oil dock are closed March 1, through April 15, 1997.

(4) The following areas are closed to commercial crab fishing until further notice:

(a) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24A within a line projected .4 nautical miles due northwest from Rocky Point, thence to the red number 2 buoy, thence to Brown Point.

(b) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 24D south of a line from Dines Point to the point just north of Beverly Beach.

(c) Those waters of Marine Fish/Shellfish Management and Catch Reporting Areas 24B and 26A inside lines projected from the five-meter tower between Gendey Island and Priest Point to the north tip of Jetty Island and from the five-meter tower to the tower at Pigeon Creek No. 1.

(d) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 26A within a line from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point thence following the 200 foot contour to a point due east from the Glendale Dock.

(e) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Oyster Creek to the fisheries management monument on Samish Island.

(f) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.

(g) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 20A in Birch Bay east of a line projected from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance to the Birch Bay Marina.

(h) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 21A shoreward of the ten-fathom (MLLW) contour in Chuckanut Bay.

(i) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Blind Bay south of a line projected due west from Point Hudson to Shaw Island.

(j) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(k) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.

(l) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22A in Mud Bay south of a line projected from Lopez Island through Crab and Fortress Islands to Lopez Island.

(m) Those waters of Marine Fish/Shellfish Management and Catch Reporting Area 22B in Padilla Bay within a line projected from the northern end of the easternmost oil dock to the red number 2 buoy, thence southeasterly to the red number 8 buoy, thence west to shore.

(n) All waters in the San Juan Islands Marine Preserve Area.

(5) In all open areas as provided for in this section, it is unlawful to pull or set commercial crab gear from one-half hour after sunset to one-half hour before sunrise.

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

NEW SECTION

WAC 220-52-0400D Crab fishery—Lawful and unlawful. Notwithstanding the provisions of WAC 220-20-010 and WAC 220-52-040, effective immediately until further notice:

(1) It is unlawful for any person to take or fish for Dungeness crabs for commercial purposes in Puget Sound licensing district with more than 20 pots per groundline, and it shall be unlawful to use or operate a groundline unless such gear meets the following requirements:

(a) A buoy, staff, flag and radar reflector must be attached at each end of the groundline;

(b) Flags attached at each end of the groundline must be orange in color;

(c) Buoys attached at each end of the groundline must be marked in a visible and legible manner with the Department of Fish and Wildlife approved and registered buoy brand issued to the license;

(d) Buoys attached at each end of the groundline must be marked with the number of pots attached to the groundline;

(e) Staffs with attached flags at each end of the groundline must be at least four feet above the water surface.

(2) A current Puget Sound crab pot/buoy brand certificate is not required to fish for Dungeness crab in Puget Sound.

WSR 97-05-039
EMERGENCY RULES
DEPARTMENT OF ECOLOGY

[Order 97-05—Filed February 14, 1997, 2:20 p.m.]

Date of Adoption: February 11, 1996 [1997].

Purpose: Revise forest practices rules definitions of Type 2 and 3 streams to protect riparian and related areas and water quality upstream of fish hatchery intakes. Forest practices rule changes (WAC 222-16-030) are incorporated by reference, pursuant to WAC 173-202-020 Washington forest practices rules and regulations to protect water quality.

Citation of Existing Rules Affected by this Order: Amending WAC 173-202-020.

Statutory Authority for Adoption: RCW 90.48.420 and 76.09.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Recent studies show many streams are incorrectly typed. Management requirements are based in part on stream types and as a result, fish and other aquatic resources are inadequately protected. Emergency rule will correct that deficiency and provide needed protection as required by federal and state law. Immediate amendment of this rule is necessary for general public welfare and observing notice/comment requirements as in a permanent rule would be contrary to public interest. Developed by TFW policy to be copromulgated by the Forest Practices Board and the department.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 11, 1997

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending WSR 94-17-011, filed 8/8/94, effective 9/8/94)

WAC 173-202-020 Certain WAC sections adopted by reference. The following sections of the Washington Administrative Code existing on (~~September 15, 1994~~)

November 19, 1996, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

WAC 222-08-035—Continuing review of forest practices regulations.

WAC 222-12-010—Authority.

WAC 222-12-040—Alternate plans.

WAC 222-12-045—Adaptive management.

WAC 222-12-046—Cumulative effect

WAC 222-12-070—Enforcement policy.

WAC 222-12-090—Forest practices board manual.

WAC 222-16-010—General definitions.

WAC 222-16-030—Water typing system.

WAC 222-16-035—Wetland typing system.

WAC 222-16-050 (1)(a), (1)(e), (1)(h), (1)(i), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(n), (3)(o), (3)(p), (4)(c), (4)(d), (4)(e), (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(h), (5)(n)—Classes of forest practices.

WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.

WAC 222-22-010—Policy.

WAC 222-22-020—Watershed administrative units.

WAC 222-22-030—Qualification of watershed resource analysts, specialists, and field managers.

WAC 222-22-040—Watershed prioritization.

WAC 222-22-050—Level 1 watershed resource assessment.

WAC 222-22-060—Level 2 watershed resource assessment.

WAC 222-22-070—Prescription recommendation.

WAC 222-22-080—Approval of watershed analysis.

WAC 222-22-090—Use and review of watershed analysis.

WAC 222-22-100—Application review prior to watershed analysis.

WAC 222-24-010—Policy.

WAC 222-24-020 (2), (3), (4), (6)—Road location.

WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.

WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9)—Road construction.

WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.

WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.

WAC 222-24-050—Road maintenance.

WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.

WAC 222-30-010—Policy—Timber harvesting.

WAC 222-30-020 (2), (3), (4), (5), (7)(a), (7)(e), (7)(f), (8)(c)—Harvest unit planning and design.

WAC 222-30-025—Green-up: Even-aged harvest size and timing.

WAC 222-30-030—Stream bank integrity.

WAC 222-30-040—Shade requirements to maintain stream temperature.

WAC 222-30-050 (1), (2), (3)—Felling and bucking.

WAC 222-30-060 (1), (2), (3), (5)(c)—Cable yarding.

WAC 222-30-070 (1), (2), (3), (4), (5), (7), (8), (9)—Tractor and wheeled skidding systems.

WAC 222-30-080 (1), (2)—Landing cleanup.

- WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.
- WAC 222-34-040—Site preparation and rehabilitation.
- WAC 222-38-010—Policy—Forest chemicals.
- WAC 222-38-020—Handling, storage, and application of pesticides.
- WAC 222-38-030—Handling, storage, and application of fertilizers.
- WAC 222-38-040—Handling, storage, and application of other forest chemicals.

WSR 97-05-041
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 97-16—Filed February 14, 1997, 4:55 p.m.]

Date of Adoption: February 14, 1997.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-33-04000C; and amending WAC 220-33-040.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sufficient smelt are present for one day of additional fishing in the Columbia River and mainstem tributaries. There is insufficient time to promulgate permanent rules and allow for smelt harvest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 14, 1997
 Dirk Brazil
 for Bern Shanks, Ph.D.
 Director

NEW SECTION

WAC 220-33-04000D Smelt seasons—Lower Columbia River and tributaries. Notwithstanding the provisions of WAC 220-33-040, effective immediately until further notice it is unlawful to commercially fish for smelt in the Lower Columbia River as defined in WAC 220-16-400 except as provided for in this section:

- (1) Lower Columbia River tributaries are open only:
6:00 a.m. February 18 through 6:00 p.m. February 19, 1997
- (2) The mainstem of the Lower Columbia River is open only:
6:00 a.m. February 20 through 6:00 p.m. February 21, 1997.
- (3) Except for the seasons provided for in this section, all other provisions of WAC 220-33-040 remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-04000C Smelt seasons—Lower Columbia River and tributaries (97-12)

WSR 97-05-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 97-18—Filed February 14, 1997, 4:57 p.m.]

Date of Adoption: February 14, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of sturgeon are available. This season is consistent with actions of the February 14, 1997, Columbia River Compact hearing, and will allow a directed sturgeon fishery while providing protection for salmon. There is insufficient time to promulgate permanent rules in order to access the commercial sturgeon allocation and maximize economic benefits.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 14, 1997
Dirk Brazil
for Bern Shanks
Director

- (b) Elokomin-A
- (c) Cowlitz
- (d) Kalama-A
- (e) Lewis-A
- (f) Washougal
- (g) Sandy Creek

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

NEW SECTION

WAC 220-33-01000N Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except as provided in the following subsections:

FISHING PERIODS

- (1) Noon February 17 to 6:00 p.m. February 18, 1997.

GEAR

(2) It is unlawful to fish for salmon, shad or sturgeon with gill net gear that:

- (a) exceeds 1,500 feet in length along the corkline;
- (b) is constructed of monofilament webbing;
- (c) has webbing of a mesh size less than 8-3/4 inches or greater than 9-3/4 inches; or
- (d) has lead or weight on the leadline that exceeds two pounds in any one fathom, measurement to be taken along the corkline of the net.

MISCELLANEOUS

- (3) It is unlawful to gaff sturgeon
- (4) White sturgeon less than 48 inches or greater than 60 inches in length may not be retained for commercial purposes and must be returned immediately to the water. The length of a sturgeon is the shortest distance between the tip of the nose to the extreme tip of the tail, measured while the sturgeon is lying on its side on a flat surface with the tail in a normal position.
- (5) Sturgeon must be delivered to fish buyers and wholesale dealers undressed (in the round).
- (6) It is unlawful for a wholesale dealer or fish buyer to possess a sturgeon from which the head and tail have been removed if the remaining carcass is less than 28 inches in length.
- (7) It is unlawful to sell or attempt to sell, barter or attempt to barter, or purchase or attempt to purchase sturgeon eggs that have been removed from the body cavity of a sturgeon prior to the sale of the sturgeon, or any sturgeon eggs taken from a sturgeon caught below Bonneville Dam after February 14, 1997.

SANCTUARIES

- (8) During the season provided for in subsection 1 of this section, the following sanctuaries, as defined in WAC 220-33-005, are closed to fishing:
- (a) Grays Bay

WSR 97-05-052
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services)
(Public Assistance)
[Filed February 18, 1997, 4:40 p.m.]

Date of Adoption: February 18, 1997.

Purpose: This rule changes the food stamp disqualification penalty applied when a person refuses or fails to register for work or participate in the food stamp employment and training program and when a person quits a job; describes workfare; and clarifies food stamp employment and training program policies by creating six new sections.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-360 and 388-49-380; and new sections WAC 388-49-362, 388-49-364, 388-49-366, 388-49-368, 388-49-369, and 388-49-385.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: Section 6 of HR 3734 (Public Law 104-193).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The federal law requires immediate adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 6, amended 2, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 18, 1997
Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3803, filed 10/26/94, effective 11/26/94)

WAC 388-49-360 Work registration and food stamp employment and training (FSE&T) program ((services)) participation. (1) ~~Unless exempt, the department shall register (each individual between eighteen and sixty years of age, for employment at certification and once every twelve months thereafter. The department shall register a child reaching eighteen years of age during a certification period for work during the next recertification process))~~ for work and require participation in the food stamp employment and training (FSE&T) program persons:

- (a) Ages sixteen through fifty-nine with dependents;
 - (b) Ages sixteen and seventeen out of school, not heads-of-households; and
 - (c) Ages fifty-one through fifty-nine with dependents.
- (2) Registration happens at certification and once every twelve months thereafter.

(3) The department shall ((register)) exempt from work registration and participation in the FSE&T program persons who are:

(a) Sixteen and seventeen((year old)) years of age who are not heads of households ((for employment unless the individuals)) who are:

- ~~((a))~~ (i) Attending school; or
- ~~((b))~~ (ii) Enrolled in ((an E&T)) a program under temporary assistance for needy families (TANF), a program under Job Training Partnership Act (JTPA), a program under section 236 of the Trade Act of 1974, or other state or local employment and training programs at least half time.

~~((3))~~ The department shall exempt from work registration a person:

- ~~((a))~~ (b) Physically or mentally unfit for employment;
- ~~((b))~~ (c) Responsible for the care of a dependent child under six years of age or of an incapacitated person((-

If a child's sixth birthday falls within a certification period, apply the exemption until the next recertification));

- ~~((c))~~ (d) Applying for or receiving unemployment compensation (UC);

~~((d))~~ Subject to and participating in any work program under Titles IV A and IV C of the Social Security Act, as amended, or other E&T program;))

- (e) Participating in a program under TANF;
- (f) Employed or self-employed thirty hours or more per week, or receiving weekly earnings equal to the federal minimum wage, multiplied by thirty. This shall include migrant and seasonal farmworkers under contract or agreement with an employer;

~~((f))~~ (g) Enrolled as a student ((half time or more in any recognized school, training program, or institution of higher education provided the students enrolled in higher education meet the eligibility conditions under WAC 388-49-020)) as defined in WAC 388-49-330;

~~((g))~~ (h) Regularly participating in a drug addiction or alcoholic treatment and rehabilitation program((-

(h) Complying with work requirements imposed as a participant in any)).

(4) The department shall work register and exempt from participation in the FSE&T program persons who:

- (a) Participate in a refugee assistance program; ((or

~~(i) Under contract or agreement with an employer as a migrant or seasonal farmworker.~~

~~(4) The department shall register each household member required to be work registered))~~

(b) Reside in an exempt area;

(c) Reside one hour or more travel distance from available FSE&T services;

(d) Do not have a mailing address or message telephone;

(e) Have dependent care needs that exceed the maximum amount payable by the department. The exemption shall continue until:

(i) A suitable program service is available; or

(ii) Circumstances change and monthly dependent care costs no longer exceed the department reimbursement limit.

(f) Have a temporary incapacity expected to have a sixty day or more duration including women in the first or second trimester of pregnancy.

(5) The department shall accept an applicant's statement concerning the employability of each member of the household unless the information is questionable. The department shall verify any claim for exemption the department determines questionable.

~~((6))~~ The department shall:

~~(a) Refer persons to E&T program services, unless the person is exempted by subsection (9) of this section; and~~

~~(b) Provide E&T program services to assigned applicants or recipients, either directly or through a contracted service provider, as specified in the state plan.~~

~~(7) Persons subject to E&T services shall participate in an E&T program service for:~~

~~(a) A minimum level of participation comparable to spending approximately twelve hours a month for two months during:~~

~~(i) An eight week or two four week period or periods, each time an applicant/recipient enters into the food stamp program; or~~

~~(ii) Each twelve months of continuous participation, whichever occurs sooner.~~

~~(b) A maximum level of participation not to exceed one hundred twenty hours. In any month, hours of participation may include a combination of:~~

~~(i) An E&T program; and~~

~~(ii) Workfare program; and~~

~~(iii) Hours worked for compensation.~~

~~(8) The department shall require persons subject to E&T to:~~

~~(a) Report at a prescheduled time to the department or service provider and participate in an initial assessment interview. The department or service provider shall provide written information regarding:~~

~~(i) An E&T plan developed jointly between the department or service provider and the participant;~~

~~(ii) The grounds for noncompliance;~~

~~(iii) The sanctions for noncompliance without good cause; and~~

~~(iv) Provisions for ending noncompliance.~~

~~(b) Provide supplemental information regarding employment status or availability for work as requested;~~

~~(c) Report when referred to an employer, if the potential employment is suitable;~~

~~(d) Accept a bona fide offer of suitable employment;~~

(e) Complete reports as scheduled on the results of individual participation in all E&T services; and

(f) Appear for follow up interviews.

(9) The department shall exempt from referral for E&T program services applicants or recipients who:

(a) Reside in an exempt county as specified in the state plan;

(b) Reside one hour or more travel distance from the service provider;

(c) Have no mailing address or message telephone; or

(d) Have a temporary incapacity expected to have a sixty day or more duration.

(10) The department shall reimburse participants for expenses incurred in fulfilling E&T requirements as follows:

(a) An allowance of twenty five dollars per participant month for transportation or other costs reasonably necessary and directly related to participation in the E&T program; and

(b) Dependent care costs directly related to participation in the E&T program, up to standards as set forth for the food stamp E&T program.

(i) A participant who is part of an AFDC household and resides in an area with work programs under Titles IV A and IV C of the Social Security Act, as amended, is not eligible for dependent care reimbursement under the E&T program.

(ii) An individual's participation in E&T activities shall be deferred if dependent care costs would exceed the published standards for E&T dependent care. Deferment shall continue until:

(A) A suitable component is available; or

(B) Circumstances change and monthly dependent care costs no longer exceed the limit.

(iii) Any portion of child care costs reimbursed may not be claimed as an expense and used in calculating the child care deduction.

(11) If a household member fails to comply with work registration or E&T program requirements without good cause, the department shall:

(a) Disqualify the entire household if the noncompliant member is the household employment representative; or

(b) Disqualify the noncompliant person if that person is not the household employment representative. The department shall treat the disqualified member as an ineligible household member.

(12) The department shall determine whether or not good cause exists before initiating sanction for refusal or failure to register for work or participate in E&T program services. The following circumstances shall constitute good cause for failure to register for work or participate in E&T program services. The following circumstances are not inclusive:

(a) Illness of the participant;

(b) Illness of another household member requiring the presence of the member;

(c) A household emergency;

(d) The unavailability of transportation; and

(e) Lack of adequate child care for children who reached six years of age, but are under twelve years of age.

(13) Within ten days of a determination of failure to comply the department shall determine whether good cause exists and, if not, provide notice to the household that contains:

(a) The particular act of noncompliance;

(b) The proposed period of disqualification;

(c) Notification that the individual or household may re-apply at the end of the disqualification period; and

(d) Information describing the action the individual or household may take to end or avoid the sanction.

(14) The disqualification period for noncompliance shall be for two months or until the noncompliant member moves from the household, becomes exempt for reasons other than subsection (3)(e) and (d) of this section, or complies, whichever is earlier.

(a) If the noncompliant member moves from the household, the household may resume participation.

(b) If the noncompliant member moves from the household and joins another household:

(i) As the household employment representative, the entire new household is ineligible for the remainder of the disqualification period; or

(ii) As other than the household employment representative, the department shall consider the noncompliant individual as an ineligible household member of the new household for the remainder of the disqualification period.

(c) If a new person, who has not committed a violation joins a sanctioned household:

(i) As the household employment representative, the period of ineligibility ends; or

(ii) As other than the household employment representative, the disqualification continues.

(15) The department shall consider a household member subject to work requirements of Titles IV A or IV C of the Social Security Act, as amended, or UC work registration and participation requirements, who fails to comply with such requirements, the same as under E&T program service requirements if the requirements were comparable. If a comparable E&T program service requirement does not exist, the household member shall lose exemption status as referenced under subsection (3)(d) of this section and shall register for work.

(16) At the end of the two month disqualification period, a household may apply to re-establish eligibility. The individual may re-establish eligibility during the disqualification period if the reason for disqualification is corrected.

(17) Persons subject to reporting requirements who lose exemption status due to any reportable change of circumstance shall be work registered by the department when the case is processed.

(18) Persons who lose their exemption status due to a nonreportable change in circumstance shall be work registered at their next recertification.

(19) A registrant moving out of the jurisdiction of the department's local office where the registrant is registered shall reregister at the department local office in the new location.

(20) The household shall be held liable for any overissuances resulting from erroneous information given by the household member or the household's authorized representative.

(21) Each household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to:

(a) A determination of nonexempt status; or

(b) Failure to comply with work registration and employment and training program requirements; or

~~(e) Determination of noncompliance with a comparable work program under Titles IV-A and IV-C of the Social Security Act, as amended, or UC requirement.~~

~~(22) The department of social and health services shall administer the program and may contract E&T services through other agencies.))~~

NEW SECTION

WAC 388-49-362 Food stamp employment and training program responsibilities. The department shall require persons in the FSE&T program to:

- (1) Comply with FSE&T program service requirements;
- (2) Report to the department or service provider and participate as required;
- (3) Provide information regarding employment status or availability for work as requested;
- (4) Report when referred to an employer;
- (5) Accept a bona fide offer of suitable employment.

NEW SECTION

WAC 388-49-364 Food stamp employment and training program services. (1) The department of social and health services shall administer the FSE&T program and provide FSE&T program services either directly or through a contracted service provider.

(2) Persons required to participate in the FSE&T program may receive one or more of the following services:

- (a) Job search activities;
 - (b) General education development (GED) services; or
 - (c) English as a second language (ESL) services.
- (3) A maximum level of participation shall not exceed one hundred twenty hours in a month. Hours of participation may include a combination of FSE&T services and hours worked for compensation (in cash or in kind).

(4) The department shall provide written information to FSE&T participants regarding:

- (a) The FSE&T program;
- (b) The grounds for disqualification;
- (c) The disqualification penalties; and
- (d) The provisions for ending a disqualification.

NEW SECTION

WAC 388-49-366 Food stamp employment and training good cause. (1) The department shall determine if a person has good cause for refusing or failing to:

- (a) Register for work;
- (b) Participate in the FSE&T program.

(2) The department may determine that a person has good cause for reasons including, but not limited to:

- (a) Illness of the person;
- (b) Illness of another household member requiring the presence of the member;
- (c) A household emergency;
- (d) The unavailability of transportation;
- (e) Lack of adequate child care for children who reach six years of age, but are under twelve years of age.

NEW SECTION

WAC 388-49-368 Food stamp employment and training disqualifications. (1) If a person refuses or fails to comply with work registration and participate in the FSE&T program without good cause as found in WAC 388-49-366(2), the department shall disqualify the noncompliant person. The department shall treat the disqualified person as an ineligible household member.

(2) Within ten days of a determination of failure to comply the department shall determine whether good cause exists and, if not, provide notice to the person that contains:

- (a) The particular act of noncompliance;
- (b) The proposed period of disqualification;
- (c) Notification that the person may re-apply at the end of the disqualification period; and
- (d) Information describing the action the person may take to end the disqualification.

(3) The disqualification period shall be:

- (a) For the first failure to comply, one month and until the failure to comply ceases;
- (b) For the second failure to comply, three months and until the failure to comply ceases;
- (c) For the third or subsequent failure to comply, six months and until the failure to comply ceases.

(4) If a person becomes exempt under WAC 388-49-360(4), a disqualification ends when a person:

- (a) Has served the one, three, or six month portion of the disqualification penalty; and
- (b) Is registered for work.

(5) The department shall consider a household member subject to work requirements of TANF, or UC work registration and participation requirements, the same as under FSE&T program service requirements if the requirements were comparable. If a comparable FSE&T program service requirement does not exist, the household member shall lose exemption status as referenced under section WAC 388-49-360 (3)(ii) and shall register for work.

(6) At the end of a disqualification period, a person may apply to re-establish eligibility.

(7) Each person has a right to a fair hearing to appeal a denial, reduction, or termination of benefits regarding:

- (a) A determination of nonexempt status;
- (b) Failure to comply with:
 - (i) Work registration;
 - (ii) FSE&T program;
 - (iii) A comparable program to the FSE&T program.

NEW SECTION

WAC 388-49-369 Food stamp employment and training payments. The department shall pay for a person's actual expenses, up to the department limit, that are necessary for the person to participate in the FSE&T program. A person may receive payment for:

- (1) Transportation related costs; and
 - (2) Dependent care costs for each dependent;
- (a) Reimbursement shall not be made for a dependent age thirteen or older unless the dependent is:
- (i) Physically and/or mentally incapable of caring for himself or herself; or
 - (ii) Under court order.

(b) Reimbursement shall not be made when any member in the food stamp household provides the dependent care service.

(c) Any portion of dependent care payments may not be claimed as an expense and used in calculating the dependent care deduction.

AMENDATORY SECTION (Amending Order 3803, filed 10/26/94, effective 11/26/94)

WAC 388-49-380 Voluntary quit. (1) A ~~((household where the household employment representative))~~ person who voluntarily quits his or her most recent job without good cause shall be ineligible if:

(a) The employment involved twenty hours or more per week or provided weekly earnings equivalent to twenty times the minimum wage;

(b) The quit occurred within sixty days prior to application or any time thereafter; ~~((and))~~

(c) At the time of the voluntary quit, the ~~((household employment representative))~~ person was ~~((, at the time of the voluntary quit,))~~ required to register for work as provided under WAC 388-49-360 (with exception of subsection (3)(d) and (e) of this section); and

(d) An employee of the federal, state, or local government who participates in a strike against such government and is dismissed from his or her job because of participation in the strike.

(2) Good cause for voluntarily quitting employment includes the following:

(a) Circumstances included under WAC ~~((388-49-360(12)))~~ 388-49-366(2);

(b) The employment is unsuitable as defined under WAC 388-49-370;

(c) Discrimination by an employer based on age, race, sex, color, ~~((handicap,))~~ religious belief, national origin, ~~((or))~~ political belief, marital status, or the presence of any sensory, mental, or physical disability or other reasons in RCW 49.60.180;

(d) Work demands or conditions rendering continued employment unreasonable, such as working without being paid on schedule;

(e) Acceptance by the ~~((household employment representative))~~ person of employment or enrollment of at least half time in any recognized school, training program, or institution of higher education including fulfillment of the provisions under WAC 388-49-330, requiring the ~~((household employment representative))~~ person to leave employment;

(f) Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program, or institution of higher education in another county or similar political subdivision requiring the household to move thereby requiring ~~((the household employment representative))~~ any other member to leave employment;

(g) Resignations by persons under sixty years of age recognized by the employer as retirement;

(h) Acceptance of a bona fide offer of employment of twenty hours or more a week or where the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the

control of the ~~((household employment representative))~~ person, subsequently either does not materialize or results in employment of twenty hours or less a week or weekly earnings of less than the federal minimum wage multiplied by twenty hours; and

(i) Leaving a job in connection with patterns of employment where workers frequently move from one employer to another, such as migrant farm labor or construction work.

(3) A household where ~~((the household employment representative))~~ a person voluntarily ~~((quit their))~~ quits his or her most recent job shall not be ineligible if the circumstances of the employment involve:

(a) Changes in employment status resulting from reduced hours of employment while working for the same employer;

(b) Termination of a self-employment enterprise; or

(c) Resignation from a job at the demand of an employer.

(4) An employee of the federal government or of a state or local government who participates in a strike against the government and is subsequently dismissed because of participation in the strike, shall be considered to have voluntarily quit a job without good cause.

(5) The person shall have primary responsibility for providing verification of good cause for voluntary quit. If the household and the department are unable to obtain verification, the department shall not deny the household access to the program.

(6) If a quit was without good cause, the ~~((department shall:))~~

(a) Deny a household's application for a period of ninety days beginning with the day of quit; or

(b) For participating households, disqualify the household for three months. The disqualification shall start the first of the month following the adverse action period.

(6) The household shall have primary responsibility for providing verification. If the household and the department are unable to obtain verification, the department shall not deny the household access to the program.) person is disqualified.

(a) For the first quit, one month and until the person complies with subsection (8) of this section;

(b) For the second quit, three months and until the person complies with subsection (8) of this section;

(c) For the third or subsequent quit, six months and until the person complies with subsection (8) of this section.

(7) For persons residing in exempt areas under WAC 388-49-360(4), a disqualification ends when a person:

(a) Has served the one, three, or six month portion of the disqualification penalty; and

(b) Complies with subsection (8)(a) of this section.

(8) The ~~((household))~~ person may re-establish eligibility ~~((during))~~ after the disqualification, if otherwise eligible, and the person who caused the disqualification:

(a) Secures new employment:

(i) Comparable in monthly salary to the job the person quit; or

(ii) Of a lesser monthly salary ~~((, that is expected to improve the person's future employment prospects)).~~

(b) ~~((Leaves the household))~~ In nonexempt areas, is participating in the food stamp employment and training program;

~~(c) ((Becomes exempt from work registration for reasons other than under WAC 388-49-360 (3)(e) and (d); or (d) Complies with requirements to correct the disqualification)) Is participating in workfare; or (d) Becomes exempt other than under WAC 388-49-360 (3)(d) and (e).~~

~~((8)) (9) If the ((noncompliant member)) person moves from the household and joins another household((:~~

~~(a) As the household employment representative, the entire new household is ineligible for the remainder of the disqualification period; or~~

~~(b) As other than the household employment representative), the department shall consider the ((noncompliant individual)) person as an ineligible household member of the new household for the remainder of the disqualification period.~~

~~((9) If a new person who has not committed a violation joins a sanctioned household:~~

~~(a) As the household employment representative the period of ineligibility ends; or~~

~~(b) As other than the household employment representative, the disqualification continues.))~~

NEW SECTION

WAC 388-49-385 Food stamp workfare. (1) Workfare is a program available to persons eighteen through fifty years of age without dependents, that gives persons the opportunity to maintain eligibility for food stamp benefits.

(2) Workfare consists of:
(a) For the first month, job search activities or unpaid work with a public or private nonprofit agency; and
(b) Subsequent months, unpaid work with a public or private nonprofit agency.

(3) The department determines the hours that a person must participate in unpaid work with a public or private nonprofit agency.
(4) Workfare hours when added to compensated hours worked may not exceed thirty hours a week.

(5) The department shall pay for a person's actual expenses, up to the department limit, that are necessary for the person to participate in workfare.

WSR 97-05-062
EMERGENCY RULES
GAMBLING COMMISSION
[Filed February 19, 1997, 9:32 a.m.]

Date of Adoption: February 14, 1997.
Purpose: This rule establishes how progressive prizes are made, how progressive jackpots accrue, and the method for calculating the required percentage payout.

Citation of Existing Rules Affected by this Order: Amending WAC 230-30-025.

Statutory Authority for Adoption: RCW 9.46.070 (1), (2), (4), (8), (11), (14).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Changes to the previous rule were immediately needed to prevent the possibility of operators continuously pulling the game without letting the jackpot be won and to ensure that the minimum prize payout percentage of all pull tab games was applied correctly.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 1, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

February 18, 1997

David Shaw

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 305, filed 11/21/96)

WAC 230-30-025 Progressive jackpot pull tab ~~((games)) series - Definitions - Restrictions - ((Manner of conducting - Record keeping - Approval)) Operating procedures.~~ The Commission finds that the preservation of the public general welfare, and prevention of fraud against the player and gambling industry necessitates the immediate adoption of the following requirements.

For purposes of this title, the following definitions, restrictions, operating procedures, and record keeping requirements apply to ~~((such devices)) progressive jackpot pull tab series.~~

(1) Definitions:

(a) Progressive jackpot ~~((prize)) - A ((minimum)) prize that is comprised of a starting jackpot amount ((prize)) which increases by ((plus the accumulation of)) a predetermined ((dollar)) amount ((of)) for each pull tab ((sale)) sold ((- The jackpot shall increase for each pull tab sale)) until a player redeems the winning jackpot tab.~~

(b) Jackpot accrual rate - The rate at which a jackpot accrues. This rate shall determine the amount of each pull tab sold which will be added to the starting jackpot.

(c) Accrued portion of the progressive jackpot - The progressive jackpot at the time the game is pulled, less the starting jackpot amount.

(d) Bank system - a ~~((set)) group of ((up to ten))~~ dispensing devices networked together. These devices shall be linked to a computer system capable of calculating total sales and the accumulation of the progressive jackpot ~~((prize)).~~

What are the operating conditions governing dispensing devices used for progressive jackpot pull tabs?

EMERGENCY

(2) Progressive jackpot pull tab dispensing devices may be operated under the following conditions:

(a) All machines in a bank system must be located ~~((together))~~ in the same physical proximity on the license premises, so that players can observe all tabs in a series;

(b) Each bank system must be linked to a computer system which ~~((monitors))~~ records all sales and the accumulation of the progressive jackpot ((prize));

(c) A licensee may have more than one bank system operating at one time, but at no time shall a bank system exceed ten machines; and

(d) ~~((From the effective date of this rule, t))~~ The number of progressive pull tab dispensing devices per location shall be limited to ten machines for commercial stimulant licensees and twenty machines for charitable or nonprofit licensees. The director may approve an increase in the number of machines upon receipt of a written request by the licensee if the director determines that the licensee is in compliance with all regulations and approval would not be detrimental to the interests of the commission and/or the public;

In addition to all other rules governing pull tabs, what additional requirements apply to ((Under what conditions may)) progressive jackpot pull tab series ((games be operated))?

(3) Progressive jackpot pull tab ~~((games))~~ series shall be conducted in the same manner as other pull tab series ((games)). In addition, the following requirements apply:

(a) An owner or licensed commercial or charitable or non-profit gambling manager shall be on the premises at all times during the operation of progressive jackpot pull tab series ~~((games));~~

(b) Tabs shall be stored in secured locations with access limited to ~~((authorized))~~ owners and licensed individuals only;

(c) The licensee shall have sufficient funds available to pay all prizes upon redemption of winning tabs. Failure to have sufficient funds available shall be *prima facie* evidence of defrauding the public in violation of RCW 9.46.190;

(d) The current progressive jackpot ~~((prize))~~ total must be clearly displayed near the bank of machines at all times during the sale of progressive pull tabs; ~~((The maximum jackpot prize amount shall also be disclosed near the bank of machines;))~~

(e) One flare shall be prominently displayed near the bank of machines;

(f) The following are prohibited for use with progressive jackpot pull tab series ~~((games))~~:

(i) Substitute flares;

(ii) Merchandise prizes; and

(iii) Last sale prizes((-));

(f) The operator must disclose the operating procedures regarding playing out a series or carrying over accrued prizes, as set forth in (4)(e) below; and

(g) After the retention period, unopened tabs shall be destroyed in such a manner that unopened winning tabs may not be found and used later.

What are the operating conditions governing prizes ((and the payout regimen))?

(4) The following conditions apply to ~~((the))~~ prizes ~~((and payout regimen))~~ for progressive jackpot pull tab series ~~((games))~~:

(a) The prize pool which includes the starting jackpot amount plus all other winners shall be equal to or greater than forty percent of total gross gambling receipts available from the series; ((Only the minimum possible jackpot prize shall be included in determining the sixty percent payout, as required by WAC 230-30-075;))

(b) The minimum jackpot accrual rate shall be determined by a formula whereby the starting jackpot will accrue to an amount which, when added to all other winners, will reach at least sixty percent of total gross gambling receipts available by the end of the series;

(c) The manufacturer shall determine the ((minimum)) starting jackpot amount and corresponding jackpot accrual rate needed to meet the sixty percent payout requirement in (4)(a) and (b) above. This information shall be packaged with each series;

~~((e))~~ Operators may increase the minimum jackpot amount prior to putting the game in play;))

(d) The ((maximum)) starting jackpot amount plus the accrued portion of the progressive jackpot ((prize)) for an individual series, not including the portion carried over from previous series, shall not exceed five thousand dollars; ((as required by WAC 230-30-075(2)). However, operators may elect to set the maximum jackpot at an amount less than five thousand dollars); and

~~((e))~~ The licensed operator shall set the amount to be added to the jackpot prize for each ticket sold. This amount will remain the same for each pull tab sold from a game; Provided, that the jackpot prize may not exceed the maximum jackpot prize detailed in (4)(d) above;))

(e) Operators shall not remove a progressive jackpot pull tab series from play prior to the progressive jackpot being won: *Provided*, That operators may elect to pull a series from play at the beginning or end of any business day only if the accrued portion of the progressive jackpot is carried over to a new series within twenty-four hours. The accrued portion of the progressive jackpot shall be added to the starting jackpot amount from the new series when it is placed out for play. The minimum starting jackpot of the subsequent series must be equal to or greater than the ending jackpot amount of the previous series.

How must winning tabs be redeemed?

(5) Winning tabs shall be redeemed in the same manner as required by WAC 230-30-070. The following requirements also apply:

(a) For jackpot prizes ~~((one thousand two hundred))~~ six hundred dollars and over, the winner's full name, address, and social security number shall be recorded on a separate form for income tax purposes;

(b) At least the ~~((minimum))~~ starting jackpot ((prize amount)) portion of the progressive jackpot shall be paid by check. The licensee shall record the check number in addition to the information required in WAC 230-30-070 ~~((-))~~(5). These checks may not be cashed on the licensed premises; and

(c) All jackpot winning tabs must be defaced immediately upon receipt ~~((+))~~ instead of within twenty-four hours.

What records must I keep, and for how long must they be retained?

(6) All record keeping requirements outlined in WAC 230-08-010 must be followed, in addition to the following:

(a) All winning tabs and winner information for jackpot prizes, along with the ~~((game))~~ flares, must be retained for one year from the date in which the ~~((games))~~ series were removed from play; and

(b) Licensees shall record progressive jackpot ~~((games))~~ series on a separate monthly record in a format prescribed by the commission. ~~((This format must contain the following i))~~ In addition to the information required by WAC 230-08-010(9), the following must be recorded for each series:

- (i) Starting jackpot amount;
- (ii) Jackpot accrual rate;
- (iii) The ~~((Dollar))~~ amount, stated in currency, of each pull tab sold ~~((sale))~~ which is contributed to the jackpot;
- ~~((ii))~~ Separate prizes paid figures for jackpot prizes and regular prizes; and)
- (iv) Number of tabs sold out of each dispensing device;
- (v) Progressive jackpot amount, if awarded;
- (vi) Ending progressive jackpot amount, if the series was pulled prior to the jackpot being won;
- (vii) Regular prizes awarded; and
- ~~((iii))~~ (viii) Prizes paid by check;

~~((e))~~ Licensees are required to maintain records for each game/bank system detailing:

- (i) The beginning jackpot prize amount;
- (ii) The number of tickets sold out of each dispensing device; and
- (iii) The ending jackpot prize amount;
- ~~((d))~~ The above records must be maintained for a period of not less than three years from the end of the fiscal year for which the records are kept.)

What aspects of a progressive pull tab system require agency approval and what standards are applicable to this approval process?

(7) The director shall approve all progressive jackpot pull tab series, ~~((games and all))~~ progressive jackpot dispensing devices, and ~~((In addition, the director shall approve aH))~~ computer software used to link dispensing devices, accrue jackpot prizes, and store data used in preparing records. Procedures for approval are as follows:

(a) Any costs related to ~~((the))~~ this approval ~~((of progressive jackpot pull tab games, progressive jackpot dispensing devices, and computer software used to link dispensing devices, accrue jackpot prizes, or store data used in preparing records))~~ shall be billed to the persons requesting approval~~((:));~~

~~((a))~~ (b) The following progressive jackpot pull tab series requirements shall be approved prior to sale in Washington:

- ~~((i))~~ (The progressive jackpot dispensing device;
- ~~((ii))~~ The process used to manufacture the progressive jackpot series ~~((games)); and~~
- ~~((iii))~~ (ii) The secondary win code system; and
- ~~((b))~~ (c) Computer software requiring the approval of the ~~((D))~~ director shall be subject to the following standards;

(i) For each game, no person other than the maker of the software shall be able to alter data once it is input into the system; and

~~((ii))~~ The system must stop accruing when the jackpot amount reaches \$5,000 or the maximum amount predetermined by the operator;

~~((iii))~~ (i) A record of transactions for a game must be retained in memory until the transactions have been totaled, printed, and cleared by the operator regardless of whether the units primary power source is interrupted.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

EMERGENCY



WSR 97-05-001
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed February 5, 1997, 2:32 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 1/97 #2 Medical News Bulletin.

Subject: Home health replacement page.

Effective Date: January 1997.

Document Description: This replacement page is being issued due to an incorrect statement issued in the January 1, 1997, edition of the Home Health Billing Instructions. The sentence on page 19 regarding billing MAA's allowed amount versus billing the usual and customary fee has been removed.

To receive a copy of the interpretive or policy statement, contact Anne DeJarnette, Administrative Regulations Analyst, Department of Social and Health Services, Medical Assistance Administration, Division of Client Services, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 664-2320, TDD 1-800-848-5429, FAX (360) 753-7315, e-mail dejarae@dshs.wa.gov.

January 29, 1997
 Steven Wish, Section Head
 Division of Client Services

WSR 97-05-004
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY

(Library Commission)

[Memorandum—February 5, 1997]

Please note the Washington State Library Commission briefing meeting and the Washington State Library Commission quarterly meeting date has been revised as noted below:

DATE: Thursday, March 6, 1997
 TIME: 3:00 p.m. to 5:00 p.m.
 LOCATION: Washington State Library
 Conference Room
 Olympia, Washington

DATE: Friday, March 7, 1997
 TIME: 10:00 to noon
 LOCATION: Timberland Regional Library
 415 Airdustrial Way S.W.
 Olympia, WA 98501

WSR 97-05-005
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Memorandum—February 6, 1997]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 20, 1997, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105, extension 334 for information.

WSR 97-05-016
NOTICE OF PUBLIC MEETINGS
WASHINGTON CITIZENS COMMISSION
ON SALARIES FOR ELECTED OFFICIALS
 [Memorandum—February 10, 1997]

1997 Meeting Schedule

DATE	CITY	PLACE	TIME
Thursday, 2/6/97	Olympia	Work Session 1: Elected Officials Work Session 2: PUBLIC HEARING: Washington State General Administration Building Auditorium, Capitol Campus, 11th and Columbia Streets	2:00 p.m. - 4:30 p.m. 4:45 p.m. - 6:30 p.m. 7:00 p.m. - 8:30 p.m.
Tuesday, 2/25/97	Spokane	Work Session: PUBLIC HEARING: Cavanaugh's River Inn Shoreline A Room North 700 Division	4:30 p.m. - 6:30 p.m. 7:00 p.m. - 8:30 p.m.
Tuesday, 3/11/97	Seattle	Work Session: PUBLIC HEARING: Washington State Housing Finance Commission Board Room; 28th Floor 1000 Second Avenue Building (Between Spring and Madison)	4:30 p.m. - 6:30 p.m. 7:00 p.m. - 8:30 p.m.
Tuesday, 3/25/97	Pasco	Work Session: Red Lion Inn 2525 North 20th, Vineyard Room PUBLIC HEARING: Columbia Basin College Library Building, Lecture Hall, Room #L102; 2600 North 20th	4:30 p.m. - 6:30 p.m. 7:00 p.m. - 8:30 p.m.
Tuesday, 4/8/97	Bellingham	Work Session: PUBLIC HEARING: Breakwater Restaurant Ward Room 2625 Harbor Loop	4:30 p.m. - 6:30 p.m. 7:00 p.m. - 8:30 p.m.
Thursday, 4/24/97	Yakima	Work Session: Veranda Room PUBLIC HEARING: Cavanaugh's at Yakima Center, Upper Terrace Room, 607 East Yakima Avenue	4:30 p.m. - 6:30 p.m. 7:00 p.m. - 8:30 p.m.

Note: All work sessions above include catered meals.

Additional Work Sessions Only

Wednesday, 1/15/97	Seattle	1000 Second Avenue Building WSHFC Board Room, 28th Floor	1:00 p.m. - 3:00 p.m.
Friday, 5/9/97	Seattle	1000 Second Avenue Building WSHFC Board Room, 28th Floor	10:30 a.m.

WSR 97-05-017
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH

(Dental Commission)
[Memorandum—February 10, 1997]

DQAC Meeting Date Change

The DQAC meeting that was scheduled for October 23-25, 1997, has been changed to October 30-31, and November 1, 1997.

WSR 97-05-018
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE

[Memorandum—February 6, 1997]

BOARD OF TRUSTEES
NOTICE OF MEETINGS
TO MEDIA/OTHER

The Edmonds Community College board of trustees may attend the following functions during the month of February:

February 9-11, 1997* Trustees Association of Community and Technical Colleges Winter Conference
Tye Hotel
Olympia, Washington

February 13, 1997 4:30 p.m. EdCC Board of Trustees Meeting
Sno-King Building Boardroom
6600 196th S.W.
Lynnwood, WA

February 15, 1997* 4:00-6:30 p.m. Hospitality Tourism College Graduation Ceremony and Reception
Triton Union Building
20200 68th Avenue West
Lynnwood, WA

February 23-25, 1997* Association of Community College Trustees National Legislative Seminar
Sheraton Washington Hotel
Washington, D.C.

*These events are being scheduled as special meetings, which are study sessions where no action will be taken.

WSR 97-05-019
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE

[Memorandum—February 10, 1997]

Board of Trustees Meeting
February 13, 1997
Sno-King Building
Boardroom 103
4:30 - 5:40

An executive session may be held for any of those items for which an executive session may be held under the Open

Public Meetings Act. Action items as necessary in the discretion of the board as a result of any item properly considered in executive session.

The facilities for this meeting are free of mobility barriers. Interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 97-05-020
RULES COORDINATOR
WASHINGTON STATE UNIVERSITY

[Filed February 10, 1997, 12:33 p.m.]

Pursuant to RCW 28B.10.528, on January 24, 1986, the board of regents passed a resolution which delegated authority to the president to act on behalf of the board of regents in matters pertaining to the management of Washington State University. This delegation included the authority to designate subordinates with appropriate authority.

I hereby designate Richard L. Hutchinson as rules coordinator for the Administrative Procedure Act to appoint hearing officers as appropriate to conduct hearings on administrative rules proposed for review and adoption. This delegation of authority continues as long as you hold the position of rules coordinator for the Administrative Procedure Act at Washington State University or until revoked by me.

Samuel H. Smith
President

WSR 97-05-024
RULES OF COURT
STATE SUPREME COURT

[February 6, 1997]

IN THE MATTER OF THE ADOPTION) ORDER
OF NEW CR 53.4) NO. 25700-A-595

The Washington State Bar Association's Alternative Dispute Resolution Section having redrafted the original proposed new CR 53.4 and the Court's Rules Committee having amended the proposed new rule. The Court determines that the proposed new rule will aid in the prompt and orderly administration of justice and further determines that an emergency exists which necessitates an early adoption; Now, therefore, it is hereby

ORDERED:

(a) That the proposed new rule as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the new rule will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 6th day of February, 1997

Durham, C.J.

Dolliver, J.

Madsen, J.

MISCELLANEOUS

Smith, J.	Talmadge, J.
Guy, J.	Alexander, J.
Johnson, J.	Sanders, J.

CR 53.4

PROCEDURES FOR MANDATORY MEDIATION OF HEALTH CARE CLAIMS [proposed new rule]

(a) **Scope of Rule.** This rule governs the procedure in the superior court in all claims subject to mandatory mediation under RCW 7.70.100 and .110.

(b) **Voluntary Mediation.** The parties may establish a procedure for mediation that differs from this rule provided the procedure and the selection of the mediator are agreed to in writing and signed by all parties.

(c) **Deadlines.** Except as otherwise ordered by the court for good cause shown, mediation under RCW 7.70.100 shall be commenced no later than 30 days before the trial date. Mediation under RCW 7.70.110 shall be commenced no later than 90 days after the selection of the mediator.

(d) **Waiver of Mediation.** Upon petition of any party that mediation is not appropriate, the court shall ~~may~~ order or the mediator may determine that the claim is not appropriate for mediation.

(e) **Appointment of Mediator.** Subject to the conditions in this section, the court shall designate a mediator from the register described in section (g) upon the request of any party. Except upon stipulation in writing signed by all parties, the court shall not make this designation if the parties have agreed in writing to the selection of a mediator as contemplated by section (b) or have obtained a waiver of mediation under section (d). Except upon stipulation in writing signed by all parties, the court shall designate a mediator no sooner than 180 days before trial, or for mediation requested under RCW 7.70.100, no sooner than 180 days after the good faith request for mediation.

(f) **Mediation Procedure.** Promptly upon the designation of a mediator, the plaintiff shall arrange a conference call among the mediator and counsel for each party to discuss the procedural aspects of the mediation. Except to the extent the mediator directs otherwise, the following procedures shall apply:

(1) **Copy of Pleadings.** Upon selection of a mediator, the parties shall provide the mediator with copies of the relevant pleadings.

(2) **Notice of Time and Place.** The mediator shall fix a time and place for the mediation conference, and all subsequent sessions, that is reasonably convenient for the parties and shall give them at least 14 days' written notice of the initial conference. In giving notice the mediator may use a form provided by the court.

(3) **Memoranda.** Each party shall provide the mediator with a confidential memorandum presenting in concise form its contentions relative to both liability and damages. This memorandum shall not exceed 10 pages in length. A copy of the memorandum shall be delivered to the mediator at

least seven days before the mediation conference. Any party may deliver a copy of his or her memorandum to any other party. In addition, each party shall deliver to the mediator a confidential statement of its current offer or demand. Any party may deliver a copy of his or her statement to any other party.

(4) **Attendance and Preparation Required.** The attorney who is primarily responsible for each party's case shall personally attend the mediation conference and any subsequent sessions of that conference. The attorney for each party shall come prepared to discuss the following matters in detail and in good faith:

(A) All liability issues.

(B) All damage issues.

(C) The position of his or her client relative to settlement.

(5) **Attendance of Parties and Insurers.** For purposes of this section, "insurer" shall include "self-insurer." In addition to counsel, all parties and insurers shall attend the mediation in person. In the event a party defendant has provided his or her insurer with full authority to settle, such party's attendance is optional. The mediator may also, at his or her discretion, but only in exceptional cases, excuse a party or insurer from personally attending the mediation conference. Those excused from personal attendance by the mediator shall be on call by telephone during the conference.

(6) **Failure to Attend.** Willful or negligent failure to attend the mediation conference, or to comply with this rule or with the directions of the mediator, shall be reported to the court by the mediator in writing and may result in the imposition of such sanctions as the court may find appropriate.

(7) **Proceedings Privileged.** All proceedings of the mediation conference, including any statement made by any party, attorney or other participant, shall, in all respects, be privileged and not reported, recorded, placed in evidence, used for impeachment, made known to the trial court or jury, or construed for any purpose as an admission. No party shall be bound by anything done or said at the conference unless a settlement is reached, in which event the agreement upon a settlement shall be reduced to writing and shall be binding upon all parties to that agreement.

(8) **Mediator's Suggestions.** The mediator shall have no obligation to make any written comments or recommendations, but may in his or her discretion provide the parties or their counsel with a confidential written settlement recommendation memorandum, but only if all parties agree. No copy of any such memorandum shall be filed with the clerk or made available, in whole or in part, directly or indirectly, either to the court or to the jury.

(g) **Register of Volunteer Mediators.**

(1) **Court to Maintain Register.** The court shall establish and maintain a register of qualified attorneys who have volunteered to serve as mediators. The attorneys so registered shall be selected by the court from lists of qualified attorneys at law who are current members in good standing of the Washington State Bar Association.

(2) **Qualifications.** In order to qualify as a mediator, an attorney shall:

(A) Have been a member of the Washington State Bar Association for at least five years; and

MISCELLANEOUS

(B) Have experience or expertise related to litigating actions arising from injury occurring as a result of health care; and

(C) Have 6 hours of CLE mediator training and acted as a mediator in at least 10 cases, three of which were medical malpractice; or

(D) Be a retired judge having experience or expertise related to actions arising from injury occurring as a result of health care and satisfy the requirements of (2)(C) herein.

~~(h) Mediator's Compensation. Unless otherwise agreed, the mediator shall be paid at the same rate of compensation that arbitrators are paid under RCW 7.06 and the Mandatory Arbitration Rules (MAR). Each party shall pay its proportionate share of the mediator's compensation.~~

Reviser's note: The brackets and enclosed material in the text above occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 97-05-030
PROCLAMATION
OFFICE OF THE GOVERNOR
[February 7, 1997]**

AMENDING PROCLAMATION OF AN EMERGENCY

The severe winter storm which began December 26, 1996 is continuing to cause extensive damage throughout Washington State.

WHEREAS, heavy snowfall and flooding has caused extensive damage to homes, businesses, public utilities, public facilities and infrastructure in Douglas and Franklin, as well as the previously declared Counties;

NOW THEREFORE, I, GARY LOCKE, Governor of the state of Washington as a result of the aforementioned situation and under RCW 43.06 and 38.52, do hereby amend the proclamation of December 26, 1996, and further proclaim that a State of Emergency exists in Douglas and Franklin Counties; and authorize execution of the Washington State Comprehensive Emergency Management Plan.

IN WITNESS WHERE OF, I have hereunto set my hand and caused the Seal of the state of Washington to be affixed at Olympia this 7th day of February, A.D., Nineteen Hundred Ninety-seven.

Gary Locke
Governor of Washington

Attest:

Donald F. Whiting
Assistant Secretary of State

**WSR 97-05-031
INTERPRETIVE STATEMENT
DEPARTMENT OF ECOLOGY
[Filed February 13, 1997, 12:24 p.m.]**

Purpose: In order to comply with section 12(4), chapter 206, Laws of 1996, the Department of Ecology submits the following:

Document Title: Interim Interpretive and Policy Statement—Cleanup of Total Petroleum Hydrocarbons (TPH).

Subject: Interim TPH Policy.

Document Description: This "Interim Policy" provides guidance on setting MTCA Methods B and C cleanup levels for Total Petroleum Hydrocarbons (TPH) as one alternative to Method A. Two exposure pathways are addressed: Human health (direct contact) and soil-to-groundwater. As ongoing research in Washington and elsewhere proceeds, this Interim Policy will be periodically supplemented and eventually replaced.

Effective Date: January 16, 1997.

To receive a copy of the interpretive statement contact Jean Witt, 300 Desmond Drive S.E., Lacey, WA 98513, phone (360) 407-7472, FAX (360) 407-7154, TDD (360) 407-6066, e-mail ecypub@ecy.wa.gov.

Responsible Official:
January 16, 1997
Mary E. Burg
Program Manager
Toxics Cleanup Program

**WSR 97-05-032
INTERPRETIVE STATEMENT
DEPARTMENT OF ECOLOGY
[Filed February 13, 1997, 12:25 p.m.]**

Purpose: In order to comply with section 12(4), chapter 206, Laws of 1996, the Department of Ecology submits the following:

Document Title: Chemical Test Methods for Designating Dangerous Waste.

Subject: Chemical test methods that will comply with the testing requirements of WAC 173-303-090 and 173-303-100.

Document Description: *Chemical Test Methods for Designating Dangerous Waste* is a comprehensive revision of the former *Chemical Testing Methods for Complying with the Dangerous Waste Regulation*, Publication # 93-51. This manual describes acceptable testing procedures for designating characteristic and criteria wastes in the state of Washington under the dangerous waste regulations.

Effective Date: Comment period ends April 7, 1997, 5:00 p.m., effective May 1997.

To receive a copy of the interpretive statement contact Imelda Ang, Department of Ecology, Hazardous Waste and Toxics Reduction, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6117, FAX (360) 407-6715, TDD (360) 407-6006, e-mail iang461@ecy.wa.gov.

MISCELLANEOUS

Responsible Official:
February 6, 1997
Megan White, P.E., Manager
Hazardous Waste and Toxics
Reduction Program

WSR 97-05-034
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—February 12, 1997]

The Washington State Convention and Trade Center (WSCTC) Design Committee will meet on Wednesday, February 19, 1997, from 10:00 a.m. - 1:00 p.m. in Room 201 of the Convention Center, 800 Convention Place, Seattle, WA.

A regular meeting of the Washington State Convention and Trade Center board of directors will also be held on Wednesday, February 19, 1997, at 1:30 p.m. in Room 309 of the Convention Center.

If you have any questions regarding these meetings, please call 447-5000.

WSR 97-05-035
POLICY STATEMENT
DEPARTMENT OF LICENSING
(Board of Registration for Professional
Engineers and Land Surveyors)
[Filed February 14, 1997, 9:47 a.m.]

POLICY STATEMENT

Date: January 28, 1997.

Agency: Board of Registration for Professional Engineers and Land Surveyors, Department of Licensing, Business and Professions Division.

Title of Statement: Policy No. 37 - Late Arrivals for Exam Administration.

Subject Matter: Describes the policy of the Board of Registration for Professional Engineers and Land Surveyors in excluding an exam candidate from entering the exam site and disrupting the work of other candidates.

Effective Date: January 24, 1997.

Contact Person: Shanan Rennaker, Program Coordinator, Board of Registration for Professional Engineers and Land Surveyors, Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, (360) 753-6966.

Shanan Rennaker
Program Coordinator

WSR 97-05-036
POLICY STATEMENT
DEPARTMENT OF LICENSING
(Board of Registration for Professional
Engineers and Land Surveyors)
[Filed February 14, 1997, 9:49 a.m.]

POLICY STATEMENT

Date: January 28, 1997.

Agency: Board of Registration for Professional Engineers and Land Surveyors, Department of Licensing, Business and Professions Division.

Title of Statement: Policy No. 36 - Organization and Function of the Board's Standing Committees.

Subject Matter: Describes the organization and functions of the standing committees of the Board of Registration for Professional Engineers and Land Surveyors. These committees include the Practice Committee, the Exam Qualifications Committee, and the Executive Committee.

Effective Date: January 24, 1997.

Contact Person: Shanan Rennaker, Program Coordinator, Board of Registration for Professional Engineers and Land Surveyors, Department of Licensing, Business and Professions Division, P.O. Box 9649, Olympia, WA 98507-9649, (360) 753-6966.

Shanan Rennaker
Program Coordinator

WSR 97-05-050
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
NATURAL RESOURCES
(Forest Fire Advisory Board)
[Memorandum—February 18, 1997]

The next scheduled meeting of the Forest Fire Advisory Board is Wednesday, March 19, 1997. The meeting will begin at 9:00 a.m. and will be held in Room 682 on the sixth floor of the Natural Resources Building, located at 1111 Washington Street S.E., in Olympia.

Agenda Topics: Status of landowner contingency account; fire program review; smoke management; and legislation and budget request.

WSR 97-05-051
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed February 18, 1997, 4:37 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Maternity Support Services.

Subject: Policy and billing instructions.

Effective Date: February 1, 1997.

Document Description: In cooperation with the Department of Health, this is a manual for providers of maternity support services describing the program and billing procedures.

To receive a copy of the interpretive or policy statement, contact Anne DeJarnette, Administrative Regulations Analyst, Department of Social and Health Services, Medical Assistance Administration, Division of Client Services, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 664-2320, TDD 1-800-848-5429, FAX (360) 753-7315, e-mail dejarae@dshs.wa.gov.

February 13, 1997
Steven Wish, Section Head
Division of Client Services

WSR 97-05-055
NOTICE OF PUBLIC MEETINGS
FAMILY POLICY COUNCIL
[Memorandum—February 12, 1997]

1997
FAMILY POLICY COUNCIL

Meeting Schedule

Location: The Attorney General's Conference Center
4224 6th Avenue S.E.
RoweSix - Building 1
Lacey, WA

Time: 5:00 - 9:00 p.m.
Dates: Tuesday, January 21
Wednesday, February 19
Tuesday, March 18

Time: 1:30 - 5:00 p.m.
Dates: Tuesday, April 15
Wednesday, May 21
Tuesday, June 17
Tuesday, July 15
Wednesday, August 20
Tuesday, September 16
Tuesday, October 21
Tuesday, November 18
Tuesday, December 16

WSR 97-05-063
ATTORNEY GENERAL'S OFFICE
[Filed February 19, 1997, 9:36 a.m.]

NOTICE OF REQUEST
FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by March 12, 1997. This is not the due date by which com-

ments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by March 12, 1997, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

97-02-09 Request by State Representative Joyce Mullikin
13th Legislative District

1. Was the legislative intent of RCW 46.61.582 to allow free parking for unlimited periods of time in any disabled parking spot be it on private or public land?
2. If it is not only for parking spots on public land, could a disabled person park their car in a handicapped spot on a private lot or in front of a private business and leave it there for an unlimited amount of time?
3. If the law is to ensure this free parking for unlimited periods of time, who is responsible for enforcing it? By enforcement I mean, who ensures that a business, such as an airport long-term parking facility, does not charge the disabled person for parking?
4. If this is enforced, how is it done? Does a disabled person have to first pay, if being forced by the parking attendant in order to get out of the lot, and then report the incident to the appropriate law enforcer?

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

WSR 97-05-073
NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD
[Memorandum—February 19, 1997]

Notice of Special Meeting

The Forest Practices Board will hold a special meeting on March 25, 1997, at 12 noon in Room 172 of the Natural Resources Building, Olympia. The board will conduct business regarding marbled murrelet rule proposals, the water type rule proposal, and a water quality module for the Forest Practices Board manual. Also, an executive session will be held.

The agenda will be distributed to the public at least one week before the meeting. To be added to the board's mail list, contact the Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division,

MISCELLANEOUS

P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, FAX (360) 902-1784.

WSR 97-05-077
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT
(Affordable Housing Advisory Board)
[Memorandum—February 14, 1997]

The Affordable Housing Advisory Board (AHAB) will be holding a public hearing to receive testimony on the potential impacts of expiring HUD Section 8 project-based rental subsidies in Washington state.

The hearing is scheduled for 10:00 a.m. on March 11, 1997, in the Washington State General Administration Building, 14th and Columbia, Olympia, Washington.

Comments may also be made in writing to Kurt Creager, Acting Chair, Affordable Housing Advisory Board, P.O. Box 48300, Olympia, WA 98504-8300, or by FAX to (360) 586-5880. All written comments must be received by March 7, 1997.

If you have any questions regarding this hearing or would like more information, please contact Liz Taylor, AHAB Coordinator, at (360) 753-1881.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- X = Expedited repeal

Note: These filings will appear in a special section of Issue 96-14

No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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16-162	PREP	97-04-065	51-32	PREP	97-03-086	132V-12-204	REP-P	97-03-128
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16-230-835	AMD-P	97-02-094	132V-12-003	REP-P	97-03-128	132V-12-210	REP-P	97-03-128
16-230-862	AMD-P	97-02-094	132V-12-006	REP-P	97-03-128	132V-12-213	REP-P	97-03-128
16-409-020	AMD-S	97-02-098	132V-12-009	REP-P	97-03-128	132V-12-216	REP-P	97-03-128
16-409-020	AMD	97-05-054	132V-12-012	REP-P	97-03-128	132V-12-219	REP-P	97-03-128
16-459-010	AMD-E	97-03-063	132V-12-015	REP-P	97-03-128	132V-12-222	REP-P	97-03-128
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16-473-001	NEW-P	97-04-090	132V-12-021	REP-P	97-03-128	132V-12-228	REP-P	97-03-128
16-473-001	NEW-W	97-05-058	132V-12-024	REP-P	97-03-128	132V-12-231	REP-P	97-03-128
16-473-001	NEW-P	97-05-059	132V-12-027	REP-P	97-03-128	132V-12-234	REP-P	97-03-128
16-473-010	NEW-P	97-04-090	132V-12-030	REP-P	97-03-128	132V-12-237	REP-P	97-03-128
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16-473-010	NEW-P	97-05-059	132V-12-036	REP-P	97-03-128	132V-12-243	REP-P	97-03-128
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16-473-015	NEW-P	97-05-059	132V-12-045	REP-P	97-03-128	132V-12-252	REP-P	97-03-128
16-473-020	NEW-P	97-04-090	132V-12-048	REP-P	97-03-128	132V-12-255	REP-P	97-03-128
16-473-020	NEW-W	97-05-058	132V-12-051	REP-P	97-03-128	132V-12-258	REP-P	97-03-128
16-473-020	NEW-P	97-05-059	132V-12-054	REP-P	97-03-128	132V-12-261	REP-P	97-03-128
16-473-025	NEW-P	97-04-090	132V-12-057	REP-P	97-03-128	132V-12-264	REP-P	97-03-128
16-473-025	NEW-W	97-05-058	132V-12-060	REP-P	97-03-128	132V-12-267	REP-P	97-03-128
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16-695-005	NEW-E	97-04-020	132V-12-069	REP-P	97-03-128	132V-12-276	REP-P	97-03-128
16-695-010	NEW-E	97-04-020	132V-12-072	REP-P	97-03-128	132V-12-279	REP-P	97-03-128
16-695-015	NEW-E	97-04-020	132V-12-075	REP-P	97-03-128	132V-12-281	REP-P	97-03-128
16-695-020	NEW-E	97-04-020	132V-12-078	REP-P	97-03-128	132V-12-284	REP-P	97-03-128
16-695-025	NEW-E	97-04-020	132V-12-084	REP-P	97-03-128	132V-12-287	REP-P	97-03-128
16-695-030	NEW-E	97-04-020	132V-12-087	REP-P	97-03-128	132V-12-290	REP-P	97-03-128
16-695-035	NEW-E	97-04-020	132V-12-096	REP-P	97-03-128	132V-12-293	REP-P	97-03-128
16-695-040	NEW-E	97-04-020	132V-12-120	REP-P	97-03-128	132V-12-296	REP-P	97-03-128
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16-695-055	NEW-E	97-04-020	132V-12-150	REP-P	97-03-128	132V-12-305	REP-P	97-03-128
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16-695-075	NEW-E	97-04-020	132V-12-171	REP-P	97-03-128	132V-12-317	REP-P	97-03-128
16-695-080	NEW-E	97-04-020	132V-12-174	REP-P	97-03-128	132V-12-320	REP-P	97-03-128
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Table of WAC Sections Affected

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132V-12-356	REP-P	97-03-128	180-75-055	REP	97-04-088	180-78A-080	NEW	97-04-084
132V-12-359	REP-P	97-03-128	180-75-060	REP	97-04-088	180-78A-135	NEW	97-04-084
132V-12-362	REP-P	97-03-128	180-75-061	REP	97-04-088	180-78A-140	NEW	97-04-084
132V-12-365	REP-P	97-03-128	180-75-065	REP	97-04-088	180-78A-142	NEW	97-04-084
132V-12-368	REP-P	97-03-128	180-75-070	REP	97-04-088	180-78A-145	NEW	97-04-084
132V-12-371	REP-P	97-03-128	180-75-081	DECOD	97-04-082	180-78A-150	NEW	97-04-084
132V-12-374	REP-P	97-03-128	180-75-082	REP	97-04-088	180-78A-155	NEW	97-04-084
132V-12-377	REP-P	97-03-128	180-75-083	DECOD	97-04-082	180-78A-160	NEW	97-04-084
132V-12-380	REP-P	97-03-128	180-75-085	REP	97-04-088	180-78A-165	NEW	97-04-084
132V-12-383	REP-P	97-03-128	180-75-087	REP	97-04-088	180-78A-195	NEW	97-04-084
132V-12-386	REP-P	97-03-128	180-75-088	REP	97-04-088	180-78A-197	NEW	97-04-084
132V-12-389	REP-P	97-03-128	180-75-089	REP	97-04-088	180-78A-201	NEW	97-04-084
132V-12-392	REP-P	97-03-128	180-75-090	REP	97-04-088	180-78A-260	NEW	97-04-084
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137-55-030	NEW	97-03-041	180-77A-030	NEW	97-04-087	180-79-032	REP	97-04-088
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173-491-040	AMD	97-04-012	180-78A-003	NEW	97-04-084	180-79-122	REP	97-04-088
173-491-050	AMD	97-04-012	180-78A-004	NEW	97-04-084	180-79-123	REP	97-04-088
174-116	PREP	97-05-044	180-78A-005	NEW	97-04-084	180-79-124	REP	97-04-088
174-122	PREP	97-05-044	180-78A-006	NEW	97-04-084	180-79-125	REP	97-04-088
174-130	PREP	97-05-044	180-78A-007	NEW	97-04-084	180-79-126	REP	97-04-088
174-133	PREP	97-05-044	180-78A-010	NEW	97-04-084	180-79-127	REP	97-04-088
174-140	PREP	97-05-044	180-78A-012	NEW	97-04-084	180-79-128	REP	97-04-088
174-276	PREP	97-05-044	180-78A-015	NEW	97-04-084	180-79-131	DECOD	97-04-081
180-16-221	AMD	97-04-083	180-78A-025	NEW	97-04-084	180-79-136	DECOD	97-04-081
180-16-222	AMD	97-04-083	180-78A-026	NEW	97-04-084	180-79-140	DECOD	97-04-081
180-16-223	REP	97-04-083	180-78A-028	NEW	97-04-084	180-79-230	REP	97-04-088
180-16-224	REP	97-04-083	180-78A-030	NEW	97-04-084	180-79-236	REP	97-04-088
180-40-260	AMD-P	97-04-067	180-78A-033	NEW	97-04-084	180-79-241	REP	97-04-088
180-40-310	AMD-P	97-04-067	180-78A-037	NEW	97-04-084	180-79-245	REP	97-04-088
180-51-050	AMD-P	97-04-066	180-78A-047	NEW	97-04-084	180-79-247	REP	97-04-088
180-75-003	REP	97-04-088	180-78A-057	NEW	97-04-084	180-79-300	REP	97-04-088
180-75-005	REP	97-04-088	180-78A-060	NEW	97-04-084	180-79-303	REP	97-04-088
180-75-016	REP	97-04-088	180-78A-063	NEW	97-04-084	180-79-305	REP	97-04-088
180-75-017	REP	97-04-088	180-78A-065	NEW	97-04-084	180-79-311	REP	97-04-088
180-75-045	REP	97-04-088	180-78A-068	NEW	97-04-084	180-79-312	REP	97-04-088
180-75-047	REP	97-04-088	180-78A-073	NEW	97-04-084	180-79-315	REP	97-04-088

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
180-79-317	REP	97-04-088	180-79A-220	NEW	97-04-088	180-79A-517	NEW	97-04-088
180-79-320	REP	97-04-088	180-79A-225	NEW	97-04-088	180-79A-520	NEW	97-04-088
180-79-322	REP	97-04-088	180-79A-230	NEW	97-04-088	180-85-025	AMD	97-04-086
180-79-324	REP	97-04-088	180-79A-236	NEW	97-04-088	180-85-030	AMD	97-04-086
180-79-326	REP	97-04-088	180-79A-241	NEW	97-04-088	180-85-110	REP	97-04-086
180-79-328	REP	97-04-088	180-79A-300	NEW	97-04-088	180-85-115	REP	97-04-086
180-79-330	REP	97-04-088	180-79A-302	NEW	97-04-088	180-85-120	REP	97-04-086
180-79-332	REP	97-04-088	180-79A-304	NEW	97-04-088	180-85-135	REP	97-04-086
180-79-333	REP	97-04-088	180-79A-306	NEW	97-04-088	180-85-200	AMD	97-04-086
180-79-334	REP	97-04-088	180-79A-308	NEW	97-04-088	180-85-210	AMD	97-04-086
180-79-336	REP	97-04-088	180-79A-310	NEW	97-04-088	180-85-211	NEW	97-04-086
180-79-338	REP	97-04-088	180-79A-311	NEW	97-04-088	180-85-215	AMD	97-04-086
180-79-340	REP	97-04-088	180-79A-312	NEW	97-04-088	180-86-011	NEW	97-04-082
180-79-342	REP	97-04-088	180-79A-315	NEW	97-04-088	180-86-013	RECOD	97-04-082
180-79-344	REP	97-04-088	180-79A-317	NEW	97-04-088	180-86-014	RECOD	97-04-082
180-79-346	REP	97-04-088	180-79A-320	NEW	97-04-088	180-86-080	NEW	97-05-008
180-79-348	REP	97-04-088	180-79A-322	NEW	97-04-088	180-86-080	NEW-W	97-05-043
180-79-350	REP	97-04-088	180-79A-324	NEW	97-04-088	180-86-086	NEW-W	97-05-043
180-79-352	REP	97-04-088	180-79A-326	NEW	97-04-088	180-86-116	NEW	97-05-008
180-79-354	REP	97-04-088	180-79A-328	NEW	97-04-088	180-86-116	NEW-W	97-05-043
180-79-356	REP	97-04-088	180-79A-330	NEW	97-04-088	180-110	PREP	97-05-027
180-79-358	REP	97-04-088	180-79A-332	NEW	97-04-088	180-115	PREP	97-05-026
180-79-360	REP	97-04-088	180-79A-333	NEW	97-04-088	196-12-010	PREP	97-03-029
180-79-362	REP	97-04-088	180-79A-334	NEW	97-04-088	196-12-020	PREP	97-03-029
180-79-364	REP	97-04-088	180-79A-336	NEW	97-04-088	196-12-030	PREP	97-03-029
180-79-366	REP	97-04-088	180-79A-338	NEW	97-04-088	196-12-050	PREP	97-03-029
180-79-368	REP	97-04-088	180-79A-340	NEW	97-04-088	196-12-060	PREP	97-03-029
180-79-370	REP	97-04-088	180-79A-342	NEW	97-04-088	196-24-030	PREP	97-03-029
180-79-372	REP	97-04-088	180-79A-344	NEW	97-04-088	196-24-040	PREP	97-03-029
180-79-374	REP	97-04-088	180-79A-346	NEW	97-04-088	196-24-050	PREP	97-03-029
180-79-376	REP	97-04-088	180-79A-348	NEW	97-04-088	196-24-085	PREP	97-03-029
180-79-378	REP	97-04-088	180-79A-350	NEW	97-04-088	196-24-100	PREP	97-03-029
180-79-379	REP	97-04-088	180-79A-352	NEW	97-04-088	196-24-105	PREP	97-03-029
180-79-380	REP	97-04-088	180-79A-354	NEW	97-04-088	197-11	PREP	97-03-130
180-79-382	REP	97-04-088	180-79A-356	NEW	97-04-088	204-10-035	NEW	97-03-087
180-79-384	REP	97-04-088	180-79A-358	NEW	97-04-088	204-10-045	PREP	97-03-042
180-79-386	REP	97-04-088	180-79A-360	NEW	97-04-088	204-41-060	PREP	97-03-043
180-79-388	REP	97-04-088	180-79A-362	NEW	97-04-088	204-60	AMD	97-04-054
180-79-390	REP	97-04-088	180-79A-364	NEW	97-04-088	204-60-010	AMD	97-04-054
180-79-392	REP	97-04-088	180-79A-366	NEW	97-04-088	204-60-030	AMD	97-04-054
180-79-394	REP	97-04-088	180-79A-368	NEW	97-04-088	204-90-040	AMD	97-04-055
180-79-396	REP	97-04-088	180-79A-370	NEW	97-04-088	204-91A-060	AMD-S	97-04-053
180-79-398	REP	97-04-088	180-79A-372	NEW	97-04-088	204-91A-060	AMD-E	97-04-056
180-79A-003	NEW	97-04-088	180-79A-374	NEW	97-04-088	204-91A-140	AMD-S	97-04-053
180-79A-005	NEW	97-04-088	180-79A-376	NEW	97-04-088	204-91A-140	AMD-E	97-04-056
180-79A-010	NEW	97-04-088	180-79A-378	NEW	97-04-088	204-95-030	NEW	97-03-127
180-79A-012	NEW	97-04-088	180-79A-379	NEW	97-04-088	204-95-080	NEW	97-03-127
180-79A-013	NEW	97-04-088	180-79A-380	NEW	97-04-088	208-440-030	AMD-W	97-03-074
180-79A-015	NEW	97-04-088	180-79A-382	NEW	97-04-088	208-680D-050	AMD-W	97-04-071
180-79A-020	NEW	97-04-088	180-79A-384	NEW	97-04-088	212-17	PREP	97-05-028
180-79A-022	NEW	97-04-088	180-79A-386	NEW	97-04-088	220-20-020	AMD-P	97-04-080
180-79A-025	NEW	97-04-088	180-79A-388	NEW	97-04-088	220-20-021	AMD-P	97-04-080
180-79A-101	NEW	97-04-088	180-79A-390	NEW	97-04-088	220-32-05100X	NEW-E	97-04-046
180-79A-105	NEW	97-04-088	180-79A-392	NEW	97-04-088	220-32-05100X	REP-E	97-04-046
180-79A-110	NEW	97-04-088	180-79A-394	NEW	97-04-088	220-32-05700U	REP-E	97-03-002
180-79A-115	NEW	97-04-088	180-79A-396	NEW	97-04-088	220-32-05700U	NEW-E	97-03-002
180-79A-117	NEW	97-04-088	180-79A-398	NEW	97-04-088	220-33-01000M	NEW-E	97-04-013
180-79A-120	NEW	97-04-088	180-79A-403	NEW	97-04-088	220-33-01000M	REP-E	97-04-013
180-79A-122	NEW	97-04-088	180-79A-405	NEW	97-04-088	220-33-01000N	NEW-E	97-05-042
180-79A-125	NEW	97-04-088	180-79A-415	NEW	97-04-088	220-33-020	AMD-P	97-04-080
180-79A-126	NEW	97-04-088	180-79A-417	NEW	97-04-088	220-33-04000C	NEW-E	97-04-014
180-79A-130	NEW	97-04-088	180-79A-420	NEW	97-04-088	220-33-04000C	REP-E	97-05-041
180-79A-131	NEW	97-04-088	180-79A-422	NEW	97-04-088	220-33-04000D	NEW-E	97-05-041
180-79A-140	NEW	97-04-088	180-79A-423	NEW	97-04-088	220-52-04000D	NEW-E	97-05-029
180-79A-150	NEW	97-04-088	180-79A-424	NEW	97-04-088	220-52-04600T	NEW-E	97-05-029
180-79A-160	NEW	97-04-088	180-79A-430	NEW	97-04-088	220-52-07300L	REP-E	97-03-045
180-79A-161	NEW	97-04-088	180-79A-433	NEW	97-04-088	220-52-07300M	NEW-E	97-03-045
180-79A-165	NEW	97-04-088	180-79A-435	NEW	97-04-088	220-52-07300M	REP-E	97-03-101
180-79A-170	NEW	97-04-088	180-79A-440	NEW	97-04-088	220-52-07300N	NEW-E	97-03-101
180-79A-200	NEW	97-04-088	180-79A-445	NEW	97-04-088	220-52-07300N	REP-E	97-04-011
180-79A-205	NEW	97-04-088	180-79A-503	NEW	97-04-088	220-52-07300P	NEW-E	97-04-011
180-79A-210	NEW	97-04-088	180-79A-510	NEW	97-04-088	220-52-07300P	REP-E	97-04-049
180-79A-215	NEW	97-04-088	180-79A-515	NEW	97-04-088	220-52-07300Q	NEW-E	97-04-049

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
220-52-07300Q	REP-E	97-05-025	242-02-710	AMD	97-04-008	260-24-360	REP-P	97-04-060
220-52-07300R	NEW-E	97-05-025	242-02-820	REP	97-04-008	260-24-370	REP-P	97-04-060
220-56	AMD-C	97-05-075	242-02-830	AMD	97-04-008	260-24-380	REP-P	97-04-060
220-56-24000F	REP-E	97-03-001	242-02-832	NEW	97-04-008	260-24-390	REP-P	97-04-060
220-56-24000G	NEW-E	97-03-001	242-02-834	NEW	97-04-008	260-24-400	REP-P	97-04-060
220-56-31000N	REP-E	97-05-011	242-02-840	REP	97-04-008	260-24-410	REP-P	97-04-060
220-56-31000P	NEW-E	97-05-011	242-02-850	REP	97-04-008	260-24-420	REP-P	97-04-060
220-56-36000T	NEW-E	97-04-045	242-02-860	REP	97-04-008	260-24-430	REP-P	97-04-060
220-56-36000T	REP-E	97-04-045	242-02-870	REP	97-04-008	260-24-440	REP-P	97-04-060
220-57	AMD-C	97-05-075	242-02-880	AMD	97-04-008	260-24-450	REP-P	97-04-060
220-95-013	AMD-W	97-03-075	242-02-890	AMD-W	97-04-009	260-24-460	REP-P	97-04-060
220-95-018	AMD-W	97-03-075	242-02-892	AMD	97-04-008	260-24-465	REP-P	97-04-060
220-95-022	AMD-W	97-03-075	242-04-050	AMD	97-04-008	260-24-470	REP-P	97-04-060
220-95-032	AMD-W	97-03-075	246-100-207	AMD	97-04-041	260-24-480	REP-P	97-04-060
222-16-030	PREP	97-05-033	246-232-060	AMD-P	97-03-126	260-24-500	NEW-P	97-04-060
230-02-020	AMD	97-03-094	246-235-075	AMD-P	97-03-126	260-24-510	NEW-P	97-04-060
230-02-520	AMD-P	97-03-093	246-321-001	REP	97-03-080	260-24-520	NEW-P	97-04-060
230-04-138	AMD-P	97-03-093	246-321-010	REP	97-03-080	260-24-530	NEW-P	97-04-060
230-08-060	AMD-P	97-03-093	246-321-012	REP	97-03-080	260-24-540	NEW-P	97-04-060
230-12-230	AMD-P	97-03-093	246-321-014	REP	97-03-080	260-24-550	NEW-P	97-04-060
230-20-070	AMD-P	97-05-060	246-321-015	REP	97-03-080	260-24-560	NEW-P	97-04-060
230-20-115	AMD-P	97-03-092	246-321-017	REP	97-03-080	260-24-570	NEW-P	97-04-060
230-20-240	AMD	97-05-056	246-321-018	REP	97-03-080	260-24-580	NEW-P	97-04-060
230-20-247	AMD	97-05-061	246-321-020	REP	97-03-080	260-24-590	NEW-P	97-04-060
230-20-600	AMD-P	97-03-093	246-321-025	REP	97-03-080	260-24-600	NEW-P	97-04-060
230-20-630	AMD-P	97-03-093	246-321-030	REP	97-03-080	260-24-610	NEW-P	97-04-060
230-20-685	AMD-P	97-03-093	246-321-035	REP	97-03-080	260-24-620	NEW-P	97-04-060
230-20-700	AMD-P	97-03-093	246-321-040	REP	97-03-080	260-24-630	NEW-P	97-04-060
230-30-025	AMD-P	97-05-057	246-321-045	REP	97-03-080	260-24-640	NEW-P	97-04-060
230-30-025	AMD-E	97-05-062	246-321-050	REP	97-03-080	260-24-650	NEW-P	97-04-060
230-50-005	NEW	97-03-095	246-321-055	REP	97-03-080	260-24-660	NEW-P	97-04-060
232-12	AMD-C	97-05-075	246-321-990	REP	97-03-080	260-24-670	NEW-P	97-04-060
232-28	AMD-C	97-05-075	246-828-015	NEW	97-04-042	260-24-680	NEW-P	97-04-060
232-28-266	NEW	97-05-074	246-828-990	AMD	97-04-043	260-24-690	NEW-P	97-04-060
232-28-61900A	REP-E	97-04-001	246-838	PREP-W	97-03-066	260-24-700	NEW-P	97-04-060
232-28-61900B	NEW-E	97-03-039	246-838	PREP-W	97-03-067	260-32	PREP	97-04-059
232-28-61900C	NEW-E	97-03-099	246-839	PREP-W	97-03-066	260-48	PREP	97-04-058
232-28-61900C	REP-E	97-03-099	246-839	PREP-W	97-03-067	275-27-023	AMD-E	97-03-033
232-28-61900D	NEW-E	97-03-100	260-24-010	REP-P	97-04-060	275-27-220	AMD-E	97-03-033
232-28-61900D	REP-E	97-03-100	260-24-020	REP-P	97-04-060	275-27-221	REP-E	97-03-033
232-28-61900E	NEW-E	97-04-001	260-24-030	REP-P	97-04-060	275-27-223	AMD-E	97-03-033
236-48-198	AMD	97-04-025	260-24-040	REP-P	97-04-060	275-27-400	AMD-E	97-03-033
242-02-010	AMD	97-04-008	260-24-050	REP-P	97-04-060	284-04	NEW-C	97-03-023
242-02-030	AMD	97-04-008	260-24-060	REP-P	97-04-060	284-04	NEW-C	97-03-120
242-02-040	AMD	97-04-008	260-24-070	REP-P	97-04-060	284-13-505	NEW	97-05-012
242-02-060	AMD	97-04-008	260-24-080	REP-P	97-04-060	284-13-515	NEW	97-05-012
242-02-070	AMD	97-04-008	260-24-090	REP-P	97-04-060	284-13-520	AMD	97-05-012
242-02-074	AMD	97-04-008	260-24-100	REP-P	97-04-060	284-13-530	NEW	97-05-012
242-02-110	AMD	97-04-008	260-24-110	REP-P	97-04-060	284-13-535	NEW	97-05-012
242-02-130	AMD	97-04-008	260-24-120	REP-P	97-04-060	284-13-540	AMD	97-05-012
242-02-210	AMD	97-04-008	260-24-130	REP-P	97-04-060	284-13-550	AMD	97-05-012
242-02-220	AMD	97-04-008	260-24-140	REP-P	97-04-060	284-13-560	AMD	97-05-012
242-02-240	AMD-W	97-04-009	260-24-150	REP-P	97-04-060	284-13-570	AMD	97-05-012
242-02-250	AMD	97-04-008	260-24-160	REP-P	97-04-060	284-13-590	AMD	97-05-012
242-02-260	AMD	97-04-008	260-24-170	REP-P	97-04-060	284-13-595	NEW	97-05-012
242-02-270	AMD	97-04-008	260-24-180	REP-P	97-04-060	284-30-395	NEW-S	97-03-090
242-02-310	AMD	97-04-008	260-24-190	REP-P	97-04-060	284-43-700	NEW-C	97-05-006
242-02-510	AMD	97-04-008	260-24-200	REP-P	97-04-060	284-51-050	PREP	97-04-074
242-02-520	AMD	97-04-008	260-24-210	REP-P	97-04-060	286-13-045	AMD-P	97-04-006
242-02-52001	NEW	97-04-008	260-24-220	REP-P	97-04-060	286-13-085	AMD-P	97-04-006
242-02-52002	NEW	97-04-008	260-24-230	REP-P	97-04-060	286-13-110	AMD-P	97-04-006
242-02-521	AMD	97-04-008	260-24-240	REP-P	97-04-060	286-26-080	AMD-P	97-03-006
242-02-522	AMD	97-04-008	260-24-250	REP-P	97-04-060	286-27-040	AMD-P	97-03-006
242-02-532	AMD	97-04-008	260-24-260	REP-P	97-04-060	286-27-050	REP-P	97-03-006
242-02-533	AMD	97-04-008	260-24-270	REP-P	97-04-060	286-35-030	AMD-P	97-03-006
242-02-550	AMD	97-04-008	260-24-280	REP-P	97-04-060	286-35-040	REP-P	97-03-006
242-02-554	REP	97-04-008	260-24-290	REP-P	97-04-060	286-40-020	AMD-P	97-03-006
242-02-560	AMD	97-04-008	260-24-300	REP-P	97-04-060	292-09-010	AMD-P	97-05-022
242-02-570	AMD	97-04-008	260-24-310	REP-P	97-04-060	292-11-010	NEW-S	97-05-023
242-02-634	AMD-W	97-04-009	260-24-320	REP-P	97-04-060	292-11-020	NEW-S	97-05-023
242-02-650	AMD	97-04-008	260-24-330	REP-P	97-04-060	292-120-010	NEW-P	97-03-133
242-02-660	AMD	97-04-008	260-24-340	REP-P	97-04-060	292-120-020	NEW-P	97-03-133
242-02-670	AMD	97-04-008	260-24-350	REP-P	97-04-060	292-120-030	NEW-P	97-03-133

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
292-120-040	NEW-P	97-03-133	296-400-020	REP-P	97-03-084	315-10-060	AMD	97-04-047
296-20	PREP	97-02-096	296-400-030	REP-P	97-03-084	315-10-062	NEW	97-04-047
296-20-125	PREP	97-02-097	296-400-035	REP-P	97-03-084	315-10-065	NEW	97-04-047
296-20-135	PREP	97-02-097	296-400-045	REP-P	97-03-084	315-10-070	AMD	97-04-047
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