

Washington State Register

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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 June 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.

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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
97-11	Apr 23	May 7	May 21	Jun 4	Jun 24
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97-17	Jul 23	Aug 6	Aug 20	Sep 3	Sep 23
97-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7
97-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21
97-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4
97-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25
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;

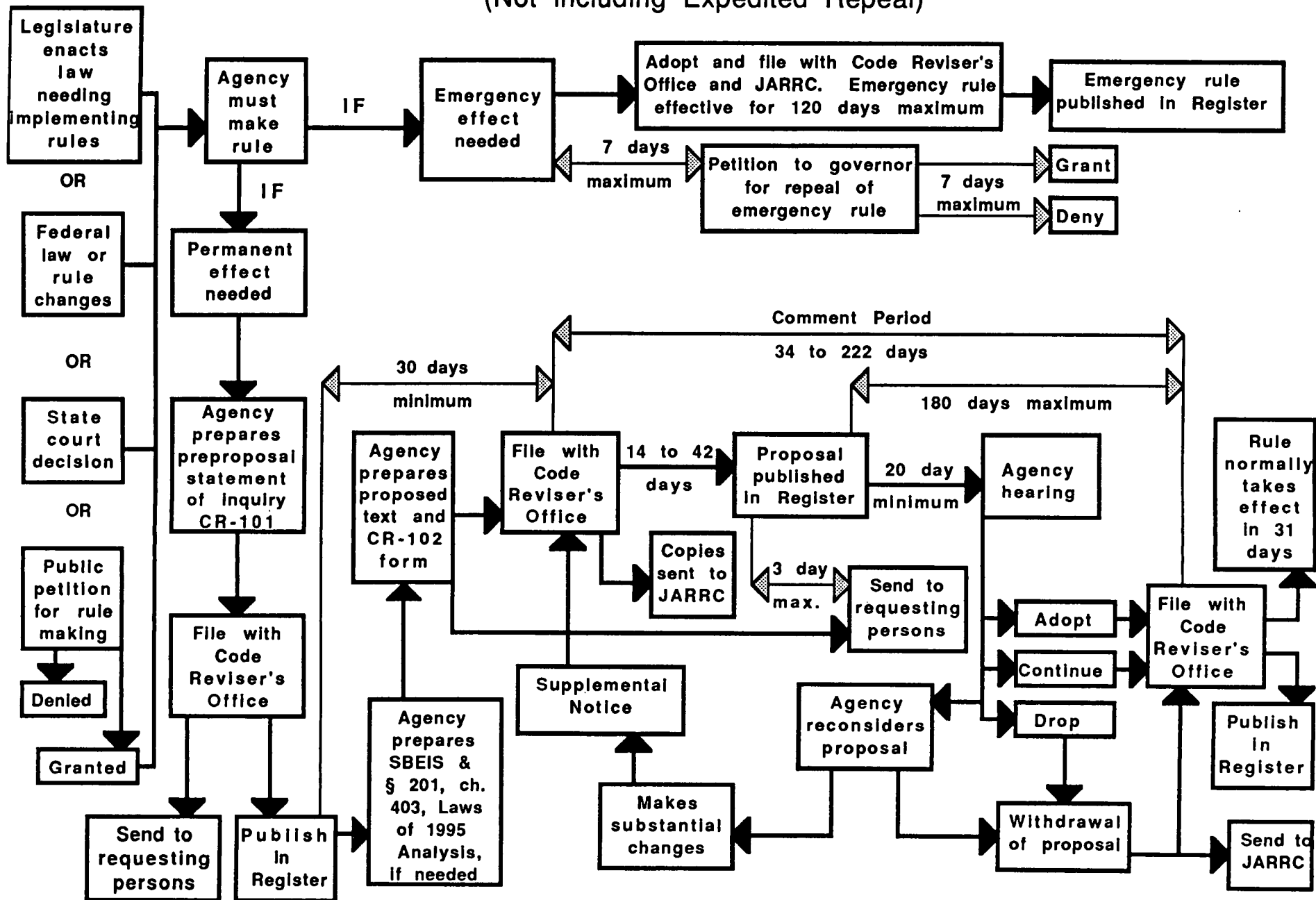
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 97-11-002
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
 [Filed May 7, 1997, 4:05 p.m.]

April 23, 1997
 Charles Butros
 Chairman of the Board

Subject of Possible Rule Making: Procedural rules regarding the revocation and restoration of driving privileges of those found to be an habitual traffic offender under chapter 46.65 RCW, including rules regarding the right to a hearing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 46.65 RCW and RCW 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Necessary in order to give notice of procedures used in determining habitual traffic offender status and to give procedures for requesting and conducting hearings held under chapter 46.65 RCW.

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; and review of comments by interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Clark J. Holloway, Licensing Services Manager, Department of Licensing, P.O. Box 9030, Olympia, WA 98507-9030, (360) 902-3846, FAX (360) 586-8351.

May 6, 1997
 Clark J. Holloway
 Licensing Services Manager

WSR 97-11-004
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF BOILER RULES
 [Filed May 8, 1997, 10:10 a.m.]

Subject of Possible Rule Making: Chapter 296-104 WAC, Boilers and unfired pressure vessels law.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.79.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Scheduled updating for clarifications, reformatting for consistency and rewriting using clear rule-writing principles.

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

Process for Developing New Rule: Board of Boiler Rules study of existing rules for consistency, clarification, and clear rule writing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dick Barkdoll, Chief Boiler Inspector, Secretary to the Board of Boiler Rules, P.O. Box 44410, Olympia, WA 98504-4410, (360) 902-5270, FAX (360) 902-5292.

Board of Boiler Rules regular meeting on May 20, 1997 [1997], at 10:00 a.m., Vancouver L&I Office, 312 S.E. Stonemill Drive, Suite 120.

Public hearing on September 16, 1997, at 10:00 a.m., L&I Building, 7273 Linderson Way S.E., Tumwater.

WSR 97-11-038
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 (Board of Pharmacy)
 [Filed May 15, 1997, 4:19 p.m.]

Subject of Possible Rule Making: Chapter 246-865 WAC, Pharmaceutical services—Extended care facilities, this rule establishes standards for pharmaceutical services in extended care facilities (nursing homes).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.64.005.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The existing rules do not reflect current practice in extended care facilities. Extended care facilities have experienced a dramatic increase in the acuity level of the patients they care for. Updating the rules are needed to protect public health, especially the vulnerable patients in these facilities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Social and Health Services, Division on Aging and Adult Services, also sets standards for nursing homes. The Department of Social and Health Services has reviewed existing rules and provided comments. The department will continue to work with the Department of Social and Health Services.

Process for Developing New Rule: Public meetings, mailings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa Salmi, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504, phone (360) 753-6834, FAX (360) 586-4359.

April 29, 1997
 D. H. Williams
 Executive Director

WSR 97-11-043
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Adult Services Administration)
 (Public Assistance)
 [Filed May 16, 1997, 10:00 a.m.]

Subject of Possible Rule Making: The department would like to adopt a rule to allow providers who contract with the department to provide assisted living services, enhanced adult residential care, and adult residential care, the option of having their caregiving staff take a challenge test in lieu of attending required caregiver training class. This revision would amend WAC 388-110-110 Caregiver education and training requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 74.39A RCW, Long-term care services

options—Expansion; specifically RCW 74.39A.010 and 74.39A.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Many of the providers Aging and Adult Services Administration (AASA) contract with have staff who are knowledgeable and/or experienced caregivers. AASA's required caregiver training classes may not be very beneficial for these caregivers. This rule would exempt caregivers who take and pass AASA's challenge test from having to complete the required class. This rule will assist providers to target training resources more effectively.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies directly regulate the training requirements of caregivers who work in boarding homes that contract with AASA to provide assisted living services, enhanced adult residential care, and adult residential care. The Department of Health (DOH) licenses boarding homes, and AASA will confer with DOH on this rule.

Process for Developing New Rule: AASA encourages interested parties to comment. See contact person and address below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. At the time the notice of proposed rule making is filed, interested parties will be notified of the scheduled hearing on the proposed rule and how to submit comments for consideration. If you wish to comment in the development process, please contact Stacy Winokur, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 407-0505 or 1-800-422-3263, FAX (360) 438-7903, e-mail swinokur@dshs.wa.gov.

May 15, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-11-051

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed May 20, 1997, 10:50 a.m.]

Subject of Possible Rule Making: Mechanical power-transmission apparatus, WAC 296-24-205 through 296-24-20533.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.040, [49.17.]050, [49.17.]060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current rules are technologically outdated and confusing. In a cooperative project with federal OSHA, the department proposes to consolidate similar requirements, clarify current enforcement practice, and ensure that the rule is relevant for current technology by rewriting the requirements using clear rule-writing techniques.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal OSHA also regulates this subject. The department will work directly with federal rulemakers to develop one set of rules that will be adopted at both the state

and the federal level. This will ensure that we maintain "at-least-as-effective-as" status for these rules.

Process for Developing New Rule: The department will hold meetings with affected customers. The department will conduct public hearings and receive oral and written testimony to arrive at a balanced rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tracy Spencer, Standards Manager, Standards, P.O. Box 44620, Olympia, WA 98504-4620, office phone (360) 902-5530, FAX (360) 902-5529.

May 20, 1997

Gary Moore
Director
by M. Watson

WSR 97-11-057

PREPROPOSAL STATEMENT OF INQUIRY LOTTERY COMMISSION

[Filed May 20, 1997, 12:29 p.m.]

Subject of Possible Rule Making: Amendments to chapter 315-34 WAC, 6 of 49 Lotto rules and chapter 315-06 WAC, General lottery rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering enhancements to existing sections, and adding new sections, to the rules regarding Lotto (chapter 315-34 WAC). The lottery is also considering amending existing sections to chapter 315-06 WAC which, consistent with RCW 67.70.100 as modified during the 1997 session of the legislature, will permit Lotto winners to assign their prizes to a third party.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Aoki-Kramer, Rules Coordinator, at (360) 586-6583, FAX (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

May 19, 1997

Merritt D. Long
Director

WSR 97-11-059

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed May 20, 1997, 1:17 p.m.]

Subject of Possible Rule Making: Increase real estate appraiser application, certification, and renewal fees to defray costs of administering the real estate appraiser program, WAC 308-125-120 (1), (4), (5), (6), (7), (9), and (10).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.140.050, 43.24.086.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under provision of RCW 43.24.086, the cost of each professional licensing program shall be borne by the members of that profession. The director of the Department of Licensing is charged with setting fees at a level sufficient to defray the costs of administering the program.

Projected revenue for the 1997-99 biennium from licensing fees is not sufficient to cover projected operating costs for the real estate appraiser program. An increase in original license applications anticipated as a result of mandatory licensing legislation has not been realized. In addition, many licensees have opted not to renew due to market conditions and perceptions regarding the value of certification or licensing.

Current resources are needed, at a minimum, to maintain program effectiveness. Program workload has shifted from primarily an application review process to include an emphasis on the enforcement of practice standards. Consumer complaints are technical in nature, related enforcement involves increased staff training, investigation and legal support costs.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cleotis Borner, Jr., Real Estate Appraiser Program, Department of Licensing, P.O. Box 9015, Olympia, WA 98507-9015, phone (360) 753-1062, FAX (360) 586-0998.

May 20, 1997
Cleotis Borner, Jr.
Program Manager

WSR 97-11-066

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed May 21, 1997, 9:49 a.m.]

Subject of Possible Rule Making: Commercial parking companies.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To define a commercial parking company and to provide commercial parking companies a means of obtaining vehicle owner information for collection of owed parking fees or fines.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties are invited to participate in this rule making. Please contact Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3773, FAX (360) 664-0831, TDD (360) 664-8885. Comments are requested by July 7, 1997.

May 21, 1997

Nancy Kelly, Administrator
Title and Registration Services

WSR 97-11-070

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed May 21, 1997, 10:50 a.m.]

Subject of Possible Rule Making: Transport tag fees.
Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 114, Laws of 1997.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislature has delegated authority to set transport tag fees for black bear and cougar, or to eliminate fees altogether. Rules are needed for these fees.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dave Brittell, Assistant Director, Wildlife Management, 600 Capitol Way North, Olympia, WA 98504, (360) 902-2504. Contact by July 15, 1997.

Expected Proposal Filing: July 23, 1997.

May 21, 1997
Evan Jacoby
Rules Coordinator

WSR 97-11-071

PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Filed May 21, 1997, 11:00 a.m.]

Subject of Possible Rule Making: Possible exemption of prepaid calling card services from billing requirements. See WAC 480-120-106. Docket No. UT-961295.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Existing rules require a form of bill for all telecommunication services. The rule does not contemplate prepaid calling card services and its requirements are not appropriate for such services.

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; and the commission will call for written comments, and may provide the opportunity for additional written comments. The commission will schedule an informal workshop with interested persons in a manner designed to develop consensus regarding any rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities

and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, (360) 753-6451, FAX (360) 586-1150.

Written Comments: Written comments from persons interested in the subject matter of this proposed rule making may be filed with the commission secretary, referencing Docket No. UT-961295, not later than **June 6, 1997**. All commenters are asked, but not required, to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 51. [5.1], 6.0 or 6.1, labeled with the commenter's name and type of software used. Interested persons may also file additional written comments and attend and participate in any workshops, to be announced by written notice to all commenters and to other persons specifically asking to receive notice in this rule-making proceeding.

Notice of Workshop: A workshop will be held on **June 13, 1997**, beginning at 1:30 p.m., in Room 207 of the Commission's Headquarters Office, 1300 South Evergreen Park Drive S.W., Olympia, WA.

May 16, 1997
Terrence Stapleton
for Steve McLellan
Secretary

WSR 97-11-075
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
(Public Assistance)

[Filed May 21, 1997, 11:10 a.m.]

Subject of Possible Rule Making: WAC 388-500-0005, 388-503-0310, 388-505-0520, and chapter 388-510 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.05.057, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Implement portions of federal and state legislation concerning welfare reform, implementation of TANF and immigrant reform as it impacts eligibility for medical programs.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Coordination with economic services.

Process for Developing New Rule: The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, Washington 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

May 21, 1997
Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-11-076
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed May 21, 1997, 11:11 a.m.]

Subject of Possible Rule Making: To remove obsolete stop-loss criteria from WAC 388-538-070.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.500, 74.09.530, 70.47.110, 74.09.522, 70.47.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To remove obsolete stop-loss requirements.

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

Process for Developing New Rule: The department will involve all interested members of the public in drafting the rule. Those who wish to participate in the drafting process may contact the Department of Social and Health Services at the address listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Anne E. DeJarnette, Administrative Regulations Analyst, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 664-2320, FAX (360) 753-7315, TDD 1-800-848-5429, e-mail dejarae@wa.gov.

May 20, 1997
Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-11-077
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed May 21, 1997, 11:12 a.m.]

Subject of Possible Rule Making: WAC 388-216-2450 Resources—Exempt or disregarded income which is also exempt as a resource, 388-216-2500 Resources—Exempt as a resource with no ceiling value, 388-216-2650 Resources—Exempt within a ceiling value, and 388-216-2800 Resources—Value.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Public Law 104-193, Section 103 (a)(1); RCW 74.08.090; and RCW 74.04.005 (amended 1997).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To comply with EHB 3901 (RCW 74.04.005) to increase the ceiling value of one used and useful vehicle from \$1,500 to \$5,000, to exempt the entire equity value of a vehicle used to transport a disabled household member and to exempt savings accounts up to \$3,000 for TANF recipients.

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

Process for Developing New Rule: Internal (management) and external (field staff) to review process whereby

draft material is distributed for review and comment. All comments are taken into consideration before the final rule is issued. The department will involve all interested persons in drafting the rule. Those who wish to participate in the drafting process may contact the Department of Social and Health Services at the address listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Anderson, Program Manager, TANF/Refugee Assistance Program Support Section, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5400, phone (360) 413-3095, FAX (360) 413-3495.

May 21, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-11-078
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed May 21, 1997, 11:13 a.m.]

Subject of Possible Rule Making: To change the eligibility review cycle from six months to twelve months.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050; federal and state welfare reform changes.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This will reduce workload in community services offices by increasing the minimally acceptable time frame for reviewing client eligibility from six months to twelve months.

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

Process for Developing New Rule: Internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before the final rule is issued. The agency involves all interested persons in drafting the rule. Those who wish to participate in the drafting process may contact the Department of Social and Health Services at the address listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Virginia H. Paynter, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504, phone (360) 413-3098, FAX (360) 413-3495, e-mail dshsmailto: internet:("payntvh@dshs.wa.gov").

May 21, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-11-079
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed May 21, 1997, 11:14 a.m.]

Subject of Possible Rule Making: WAC 388-218-1210 Exempt and disregarded income—Educational assistance, 388-218-1300 Self-employment income, 388-218-1350 Deductible self-employment expenses, 388-218-1410 Earned income of a child, 388-218-1420 Earned income disregards—General, 388-218-1430 Earned income disregards—Deduction sequence, 388-218-1440 Work expense disregard, 388-218-1450 Thirty dollars and one-third disregard, 388-218-1460 Thirty-dollar disregard, 388-218-1470 Dependent care disregard, 388-218-1480 Circumstances where earned income disregards are not allowed, 388-218-1630 Allocation of assistance unit income for support of legal dependents, 388-218-1710 Income tests, 388-218-1730 One hundred percent of need test, and 388-218-1740 Payment standard test.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Public Law 104-193, Section 103 (a)(1); EHB 3901 (1997); RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To comply with EHB 3901 to implement a gross earned income disregard of one-half of the client's monthly earned income and to disregard the earned income of a full-time student or a part-time student carrying at least half the normal school load and working fewer than thirty-five hours per week. Enactment of EHB 3901, section 308, removes reference to the \$30 & 1/3 and \$30 income disregards.

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

Process for Developing New Rule: The department will involve all interested persons in drafting the rule. Those who wish to participate in the drafting process may contact the Department of Social and Health Services at the address listed below. Internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before the final rule is issued.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Anderson, Program Manager, TANF/Refugee Assistance Program Support Section, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5400, phone (360) 413-3095, FAX (360) 413-3495.

May 21, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

WSR 97-11-080
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed May 21, 1997, 11:15 a.m.]

Subject of Possible Rule Making: Allowing the waiver of retroactive case overpayments for temporary assistance to needy families who timely report a change in recurrent income.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050; federal and state welfare reform changes.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This will make it more beneficial for TANF recipients to enter the work force.

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

Process for Developing New Rule: Internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before the final rule is issued. The department involves all interested persons in drafting the rule. Those who wish to participate in the drafting process may contact the Department of Social and Health Services at the address listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Virginia Paynter, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504, e-mail dshsmailto:internet:("payntvh@dshs.wa.gov").

May 21, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

WSR 97-11-081
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)
 (Public Assistance)

[Filed May 21, 1997, 11:16 a.m.]

Subject of Possible Rule Making: WAC 388-540-005, 388-540-030, and 388-540-060.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.04.050, 74.09.035, and Budget note 9 (section 209).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provide clarifying language. Put definitions in alpha order. Require kidney centers to determine eligibility for clients applying for coverage under the kidney disease program (KDP).

Process for Developing New Rule: The department will distribute draft material for an internal and external review process and to the contracted kidney centers. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olym-

pia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

May 21, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

WSR 97-11-086
PREPROPOSAL STATEMENT OF INQUIRY
EMPLOYMENT SECURITY DEPARTMENT

[Filed May 21, 1997, 11:45 a.m.]

Subject of Possible Rule Making: To clarify the department's decision-making process for awarding or denying unemployment insurance benefits to pregnant claimants.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50.12.010 Commissioner's duties and powers, 50.12.040 Rules and regulations, 50.20.010 Benefit eligibility conditions.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules are proposed as a settlement agreement in the case of *Gachen and Booser, representatives of a class, vs. ESD*. As proposed, the department would provide a directive to claimants who leave work due to pregnancy; treat disability resulting from pregnancy the same as other medical disabilities when determining eligibility for unemployment benefits; consider whether an employer offered reasonable accommodation before deeming a claimant unavailable for work; and not deem a pregnant claimant unavailable for work solely because of a voluntary leave of absence.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Labor reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of unemployment insurance laws as long as conformity is maintained. The proposed regulations will be shared with USDOL Region X staff prior to adoption.

Process for Developing New Rule: Meetings with stakeholders and other interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Persons interested in participating in meetings and/or informal workgroups to discuss the proposed regulations should contact Graeme Sackrison, Chief, UI Program Analysis, Unemployment Insurance Division, P.O. Box 9046, Olympia, WA 98504-9046, phone (360) 902-9339, FAX (360) 902-9799.

May 15, 1997

Carver Gayton
 Commissioner

WSR 97-11-001
WITHDRAWAL OF PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE

[Filed May 7, 1997, 3:29 p.m.]

The proposed rule concerning rates, Insurance Commissioner Matter No. R 96-7, filed with the Code Reviser on March 28, 1996 [1997], and published on March 28 [April 16], 1997, at WSR 97-08-046 is hereby withdrawn in accordance with RCW 34.05.335 and WAC 1-21-060.

Greg J. Scully
 Chief Deputy Commissioner

WSR 97-11-008
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

(Public Assistance)

[Filed May 8, 1997, 4:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-09-044.

Title of Rule: Chapter 388-550 WAC, Hospital services, WAC 388-550-1050 Definitions, and 388-550-2300 Payment PM&R.

Purpose: Clarify assignment of rights and properly address different types of subrogation.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.730, 74.04.050, 71.01.010.

Statute Being Implemented: RCW 74.09.200, [74.09.]500, [74.09.]530, [74.09.]730, and 43.20B.020.

Summary: To add payment methodology and definitions to Medical Assistance Administration's hospital rules. Accomplishing this will require extensive rewriting of chapters 388-86 and 388-87 WAC; therefore, a new chapter 388-550 WAC will be added.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Anne DeJarnette, Medical Assistance Administration, 617 8th S.E., Olympia, WA, (360) 664-2320.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Will add payment methodology and definitions to existing hospital rules.

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not meet the criteria for requiring a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-A, Lacey WA 98503, on July 22, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by July 15, 1997, TTY (360) 902-8324, or (360) 902-7540.

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 July 22, 1997.

Date of Intended Adoption: July 22, 1997.

May 8, 1997
 Leslie Baldwin
 for Merry Kogut, Manager
 Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 97-13 issue of the Register.

WSR 97-11-010
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE

[Filed May 9, 1997, 1:25 p.m.]

Continuance of WSR 97-03-090.

Title of Rule: Minimum standards for personal injury protection (PIP) coverage in automobile insurance policies.

Other Identifying Information: Insurance Commissioner Matter No. R 96-6.

Summary: Continuation of adoption until June 4, 1997.

Date of Intended Adoption: June 4, 1997.

May 9, 1997
 Gregory J. Scully
 Chief Deputy
 Insurance Commissioner

WSR 97-11-017
PROPOSED RULES
GAMBLING COMMISSION

[Filed May 13, 1997, 1:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-05-015.

Title of Rule: Manufacturer and distributor credit/pricing rules, WAC 230-04-125, 230-12-320, 230-12-330, 230-12-340, and 230-12-350. CR-101 WSR 97-05-015.

Purpose: These rules limit promotional gifts, protect consumers from the effects of undue influence in the distribution of gambling equipment, and set parameters regarding the terms by which gambling equipment can be purchased and sold.

Statutory Authority for Adoption: RCW 9.46.070 (5), (6).

Statute Being Implemented: See above.

Summary: See Purpose above. Manufacturer and Distributor Credit/Pricing Rules:

Amendatory section WAC 230-04-125 Distributor's representative license (~~may be reissued when changing distributors~~)—Restrictions and procedures for changing employment. Summary: Allow staff to assure that distributor's representatives who are changing employment

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still qualify for a license and are in good standing. Clarifies that the license becomes void instead of suspended, as currently stated.

New section WAC 230-12-320 Manufacture and distribution of gambling equipment and services—Prohibited practices—Gifts, promotional activities, and loans—Exceptions. Summary: To codify current policies regarding gifts and promotional activities related to the distribution of gambling-related products or services. The prohibition against gifts is currently in WAC 230-12-200. This rule allows limited promotional activities.

New section WAC 230-12-330 Availability of gambling equipment and related products and services—Prices—Contracts—Discounts—Restrictions—Exceptions. Summary: To codify current policies regarding the sale and availability of gambling-related products and services. Will facilitate enforcement of current provisions to assure equal access to gambling products by licensees. Allows limited exceptions to provisions previously in WAC 230-12-200.

New section WAC 230-12-340 Sale of gambling devices, equipment, supplies, paraphernalia, and related services—Credit prohibited—Exceptions. Summary: Clarifies use of credit for the purchase of gambling products and services. Authorizes exceptions and codifies procedures for making payments. The general credit prohibition is currently in WAC 230-12-200.

New section WAC 230-12-350 Use of checks to purchase gambling equipment, products, and services—Restrictions. Summary: Prevents the use of checks as a means of granting or receiving credit related to the sale of gambling-related products or services. Imposes the same restrictions on checks for payments for sales between manufacturers and distributors as is currently in effect for distributors and operators (currently WAC 230-30-200). Companion rule to WAC 230-12-340.

Repealed sections WAC 230-12-200 and 230-30-200. Summary: WAC 230-12-200 replaced by WAC 230-12-320; and WAC 230-30-200 replaced by WAC 230-12-350.

Name of Agency Personnel Responsible for Drafting: Soojin Kim, 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 manufacturers and distributors, 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: Silverdale on the Bay Hotel/WestCoast, 3037 Bucklin Hill Road, Silverdale, WA 98310, on July 11, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by July 1, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: Soojin Kim, Mailstop 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by June 30, 1997.

Date of Intended Adoption: July 11, 1997.

May 13, 1997

Soojin Kim

Rules and Policy Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 97-12 issue of the Register.

WSR 97-11-018
PROPOSED RULES
GAMBLING COMMISSION
[Filed May 13, 1997, 1:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-075.

Title of Rule: Manufacturer and distributor credit/pricing rules, repealing WAC 230-12-200 and 230-30-200. CR-101 WSR 97-09-075.

Other Identifying Information: These rules establish repeal of manufacturer and distributor credit/pricing rules due to housekeeping changes.

Statutory Authority for Adoption: RCW 9.46.070 (5), (6).

Statute Being Implemented: See above.

Summary: See Purpose above. Repeal Sections: WAC 230-12-200 replaced by WAC 230-12-320 and WAC 230-30-200 replaced by WAC 230-12-350.

Name of Agency Personnel Responsible for Drafting: Soojin Kim, 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 manufacturers and distributors, private.

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

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement has been prepared under chapter 19.85 RCW. 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: Silverdale on the Bay Hotel/WestCoast, 3037 Bucklin Hill Road, Silverdale, WA 98310, on July 11, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by July 1, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: Soojin Kim, Mailstop 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by June 30, 1997.

Date of Intended Adoption: July 11, 1997.

May 13, 1997

Soojin Kim

Rules and Policy Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 230-12-200 Prohibited practices—
Contracts—Gifts—Rebates, etc.
- WAC 230-30-200 Punchboard and pull tab business restrictions.

WSR 97-11-025

PROPOSED RULES

WESTERN WASHINGTON UNIVERSITY

[Filed May 14, 1997, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-014.

Title of Rule: Chapter 516-12 WAC, Parking and traffic regulations.

Purpose: Update regulations.

Statutory Authority for Adoption: RCW 28B.35.120.

Statute Being Implemented: None.

Summary: Changes "transportation and parking department" title to "parking and transportation services" and other minor update of regulations.

Reasons Supporting Proposal: Updates and corrects some of the regulations.

Name of Agency Personnel Responsible for Drafting and Implementation: Carl Root, Parking Services, Western Washington University, Bellingham, Washington 98225, (360) 650-2945; and Enforcement: G. A. Pierce, VPB&FA, Western Washington University, Old Main 300, Bellingham, Washington 98225, (360) 650-3180.

Name of Proponent: Western Washington University, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Changes title of parking office, minor changes throughout, including spelling of "intersession" to "intercession" and adds statement that parking citation fines are due upon receipt.

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No costs are imposed on any small business through any of the university's parking regulations, so no statement was prepared.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules relate to internal governmental operations.

Hearing Location: Old Main 340, Western Washington University, 516 High Street, Bellingham, WA, on June 26, 1997, at 11 a.m.

Assistance for Persons with Disabilities: Contact Carl Root by June 23, 1997, TDD (360) 650-3725, or (360) 650-2945.

Submit Written Comments to: Carl Root, FAX (360) 650-3412, by June 23, 1997.

Date of Intended Adoption: July 1, 1997.

May 13, 1997

Gloria A. McDonald

Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-14-006, filed 6/20/96, effective 7/21/96)

WAC 516-12-400 Definitions. As used in this chapter, and chapters 516-13 and 516-14 WAC, the following words and phrases mean:

- (1) "Area designator": A tag affixed to a permit indicating a parking lot assignment for a vehicle.
- (2) "Automobile": Any motorized vehicle having four or more wheels.
- (3) "Board": The board of trustees of Western Washington University.
- (4) "Campus": All state lands devoted to the educational or research activities of the university.
- (5) "Disabled space": A parking space identified with a sign bearing the international disabled symbol that is restricted at all hours to use by vehicles displaying a valid WWU disabled parking permit.
- (6) "Dismount zone": Any area designated by signs or symbols as a place where bicycles shall not be ridden but may be walked.
- (7) "Employee": Any individual appointed to the faculty, staff, or administration of the university.
- (8) "Habitual offender": The driver of a vehicle license number or permit number accruing ten or more paid or unpaid parking citations.
- (9) "Holiday" or "university holiday": A day when all university offices and/or facilities are closed (e.g., Thanksgiving Day, Christmas Day, New Year's Day). (~~Intercession~~) Intercession or quarter breaks are not considered holidays. See definition of (~~intercession~~) intercession.
- (10) "~~Intercession~~) Intercession": A period of time in which classes or final exams are not in session. Except for holidays that may fall within this time period, the business offices of the university are open during this time.
- (11) "Impoundment": A state in which a vehicle has been seized and kept in legal custody by either being immobilized with a wheel lock device or towed from campus.
- (12) "Meter feeding": Purchase of additional time beyond the time limit posted on the parking meters. This practice is prohibited since use of meters is intended to serve short-term parking needs.
- (13) "Motorcycle": Any two or three wheeled motorized vehicle.
- (14) "Motor vehicle" or "vehicle": Any automobile or motorcycle.
- (15) "Parking appeals board": The board which hears parking citation appeals.

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(16) "Parking manager": The person appointed parking manager of the university by the president or designee.

(17) "Parking space": A parking area designated by a sign, wheelstop, white-painted lines, and/or white traffic buttons.

(18) "Permit": Any special or temporary parking permit authorized by the parking manager.

(19) "President": The president of Western Washington University.

(20) "Prohibited area": An area in which vehicular traffic and/or parking is prohibited according to the times posted.

(21) "Public safety department": The university public safety department.

(22) "Student": Any person enrolled in the university as a student.

(23) (~~"Transportation and parking department": The transportation and parking department~~) "Parking and transportation services": The parking and transportation services of the university.

(24) "Time-limited parking space": A space in which parking is allowed for a specific time period.

(25) "University": Western Washington University.

(26) "Valid permit": An unexpired parking permit authorized by the parking manager, properly registered and displayed on the vehicle.

(27) "Visitors": Persons who are neither employees or students and who visit the campus only on occasional basis.

(28) "Wheelstop": A cement or metal barrier approximately eight inches high and six feet long used to define a parking space.

AMENDATORY SECTION (Amending Resolution No. 85-05, filed 7/2/85)

WAC 516-12-420 Authority. The board of trustees of Western Washington University is granted authority under Title 28B of the Revised Code of Washington to establish regulations to govern pedestrian and vehicular traffic and parking on the campus of the university. The administration of the parking regulations is the responsibility of the parking manager. Moving violations are the responsibility of the director of public safety.

(1) All regulations in this chapter and all motor vehicle and other traffic laws of the state of Washington will apply on the campus.

(2) The traffic code of the city of Bellingham will apply on city streets which cross the campus.

(3) The parking manager is authorized to:

(a) Issue and/or sell parking permits to employees, students, guests, visitors, and others when necessary, and to provide special parking for the physically disabled.

(b) Impose and/or suspend traffic and parking regulations and restrictions when appropriate to the mission of the university.

(c) Erect signs, barricades, and other structures to designate and mark the various parking or no parking areas on campus; and to paint marks and other directions on the streets and roadways for the regulation of traffic and parking.

(d) Establish procedures, including time schedules and deadlines, to govern the purchase of annual, academic year,

and quarterly permits, and to assign the limited parking spaces.

(4) The authority conferred upon the parking manager under this chapter may be delegated by the parking manager to other personnel within (~~the transportation and~~) parking (~~department~~) and transportation services under guidelines established by business and financial affairs.

(5) The university reserves the right to change or close, either temporarily or permanently, any campus parking area. Notice of change will be provided whenever practical.

AMENDATORY SECTION (Amending Order 92-01, filed 3/3/92, effective 3/31/92)

WAC 516-12-430 General regulations. (1) The registered owner(s) and (~~the~~) operator of a vehicle or the person to whom a permit is issued involved in a violation of these regulations will be jointly and severally responsible for the violation.

(2) All vehicles, attended or unattended, must display a valid Western Washington University parking permit when parked on the campus unless parked in a metered parking space (with meter payment), a time-limited space, or a visitor's space (with a visitor's permit).

(3) Policy on assignments to parking lots will be established by the parking manager.

(4) If a parking permit holder cannot locate a parking space in the assigned lot, he/she may park in the nearest visitor area and then must call the parking and transportation services office. Motorcycle permit holders will go to the next nearest motorcycle lot.

(5) The university reserves the right to refuse parking privileges to anyone who has

(a) Had a permit revoked.

(b) Falsified a parking application or registration.

(c) Counterfeited or altered an area designator or permit.

(d) Failed to pay outstanding citations.

(e) Been identified as a habitual offender.

(f) Been found to be in possession of or using a lost or stolen permit.

(g) Removed a wheel lock without authorization of parking and transportation services.

(6) The speed limit on campus is 10 mph or as posted. Vehicles must be operated in a careful and prudent manner at all times and must be operated in compliance with established speed limits. Drivers of vehicles must obey all regulatory signs and comply with directions given by members of (~~the transportation and~~) parking (~~department~~) and transportation services and officers of the public safety department in the control and regulation of parking and traffic.

(7) The operator of a vehicle must yield the right-of-way to pedestrians crossing streets and roadways within the campus, and at intersections or clearly marked crosswalks or city streets which cross the campus. Pedestrians must not cross any street or roadway except at an intersection or clearly marked crosswalk. Pedestrians must utilize sidewalks where provided on streets and roadways. If no sidewalk is provided, pedestrians will utilize the extreme left-hand side and move to their left and clear of the roadway or street upon meeting an oncoming vehicle.

(8) Vehicles owned by or assigned on a permanent basis to administrative units on campus and bearing "E," "B" or "M" license plates or a university insignia may be parked in "G" or "C" lots for brief periods while the driver is on university business. Long-term parking is not permitted, nor is any parking allowed in reserved spaces except when a space is designated for that specific vehicle. University vehicles may be parked in metered spaces provided that meter regulations are observed. Violations incurred will be the responsibility of the driver. All operators of these or other state vehicles will abide by all traffic and parking regulations.

(9) No person may utilize any vehicle parked on campus as a living unit without specific approval from the parking manager. Violators will be cited and/or towed.

(10) Vehicles are to be maintained in operating condition at all times on university property. Repairs will not be made on campus unless authorization has been received in advance from the parking manager. A vehicle which appears to be abandoned, with or without current Western Washington University registration or license plates, may be impounded after an attempt is made to locate and notify the owner of the impending action.

(11) The university rents space to individuals who wish to park on campus and who are issued a parking permit. The university assumes no responsibility or liability under any circumstances for vehicles or bicycles parked on campus nor does it assume any personal liability in connection with its parking program. No bailment of any sort is created by the issuance of a permit.

(12) The person who obtains a permit is responsible for assuring that the vehicle, regardless of who drives it, is parked in conformance with these regulations.

AMENDATORY SECTION (Amending Resolution No. 85-05, filed 7/2/85)

WAC 516-12-450 Permits. (1) Except as otherwise provided in this chapter, permits may be issued only to students, employees, and other members of the university community. Persons wishing to obtain parking permits are required to complete a registration form provided by ~~((the transportation and))~~ parking ~~((department))~~ and transportation services and pay the fee. Ownership of the parking permit remains with the university. Individuals are not allowed to transfer ownership. All permits reported lost or stolen should be returned to the parking and transportation services office immediately upon recovery. Possession or use of a lost or stolen permit or a forged permit will result in a fine and loss of parking privileges. Report the loss or theft of a parking permit to the parking and transportation services office immediately.

(2) A valid permit means an unexpired parking permit authorized by the parking manager, properly registered and displayed on the vehicle.

(3) Hanging parking permits are to be displayed from the rear-view mirror according to instructions on the permit. Other types of permits are to be displayed according to instructions provided by parking and transportation services personnel. A parking permit is not considered valid unless it is correctly displayed on the vehicle.

(4) Motorcycle permits will be permanently attached to the top of the taillight. If taillight does not conform to current federal law, permits must be attached so as to be easily seen from the rear of the vehicle.

(5) The theft or loss of a parking permit should be reported immediately upon discovery.

A stolen permit will be replaced the first time at no cost providing a theft report has been filed with the public safety department. The second time the replacement fee will be \$10.00; the third time \$20.00; and thereafter at the original cost of the highest priced permit plus \$5.00.

A lost permit will be replaced the first time for \$5.00; the second time \$10.00; the third time \$20.00; and thereafter at the original cost of the highest priced permit plus \$5.00.

Recovered lost or stolen permits should be returned to the parking services office immediately.

(6) To enhance the business and operation of the university "all lots" decals or official business permits may be issued by the parking manager. Requests for all lots decals require annual written justification and the signature of the dean, director, or chairperson of the department with which the person is associated. Requests may also require the approval of the ~~((transportation and))~~ parking advisory committee. Issuance requires purchase of a "G" parking permit and permits will be in effect the same period of time. These permits are valid for brief periods of time only when on university business and are not valid in metered lots, specifically reserved spaces, or small capacity lots.

(7) Persons with a temporary or permanent physical disability who require special parking consideration must furnish to the parking manager a physician's certification of the request on forms provided by the parking and transportation services office. (This certification does not apply to persons whose vehicles bear a state-issued handicapped license or permit.)

(8) All permits are the property of the university and may be recalled by the parking manager under the following circumstances:

(a) When the purpose for which they were issued changes or ceases to exist.

(b) Falsification of an application or registration for parking.

(c) Violations of the regulations in this chapter.

(d) Counterfeiting or altering a permit.

(e) Failure to comply with a judgment of the parking appeals board.

(f) Failure to pay outstanding citations.

(g) Removed a wheel lock without authorization of parking and transportation services.

(9) Annual, academic, and quarterly parking space assignments ~~((for each year beginning September 15 and ending September 14))~~ will be available according to a schedule determined and publicized by the parking manager.

(a) Annual permits are valid for 12 months ~~((September 15 through September 14))~~.

(b) Academic permits are valid for 9 months ~~((September 15 through June 14))~~.

(c) Quarterly permits are valid from the first day of the quarter for which issued until the first day of the succeeding quarter.

(d) Those persons desiring to consecutively renew a quarterly permit for winter, spring, and summer quarters to

the same parking lot as assigned for fall quarter may do so during the two weeks prior to finals week each quarter. All spaces not renewed will go on open sale finals week of each quarter. Permits may not be renewed for fall quarter.

(10) Special permits may include, but are not limited to: Guest, service/vendor, temporary assignment, visitor, and loading permits authorized by the parking manager.

(11) Faculty, staff, or students who have purchased a hanging parking permit but forget to place it on the vehicle they are driving to campus and those who have not purchased a permit must obtain a temporary permit from the parking and transportation services office or the visitor information center at the cost of a daily visitor permit. Temporary permits are issued for the lot assigned or, if no permit has been purchased, for available spaces, not for visitor lots.

(12) Faculty, staff, or students who purchase an annual, academic, or quarterly parking permit may use the permit on any vehicle they drive but may not transfer ownership of the permit. The individual to whom a permit is issued is responsible for parking violations by any vehicle bearing the permit.

AMENDATORY SECTION (Amending WSR 96-14-006, filed 6/20/96, effective 7/21/96)

WAC 516-12-460 Fees. (1) Fee schedules will be submitted by the president or his/her designee to the board of trustees for approval by motion and will thereafter be posted in the public area of the parking and transportation services office.

(2) Cost of permits will be prorated throughout the year according to type and date purchased and will be posted in the parking and transportation services office.

(3) Refunds may be made based on the valid time remaining upon application by the permit holder or upon revocation of the permit by the parking manager. Unpaid citation fines will be deducted from any refund.

(a) The permit holder must return the permit to the parking and transportation services office before a refund will be authorized or a payroll deduction be terminated.

(b) A service charge will be assessed for any permit returned during the first ten days of fall quarter.

(c) A service charge will be assessed for quarterly permits returned during the first ten days of the quarter for which valid.

(d) No refund will be made for a quarterly permit during the last two weeks of the quarter.

(e) No refund will be made for an academic permit during the last two weeks of spring quarter.

(f) No refund will be made for a summer permit or an annual permit after the six-week summer session.

(4) A service charge will be assessed for:

(a) Change of permit when a lot transfer is requested by the permit holder and approved by the parking manager.

(b) Replacement of permits unless the old permit is returned in identifiable condition.

(c) Change in hours issued on a part-time permit.

(5) Salaried employees have the option of paying for parking through payroll deduction.

(6) Prorated fees will be charged for part-time permits ~~((and a visitor parking fee will be charged)).~~

(7) The proper fee must be paid for all vehicles parked in metered lots unless otherwise authorized.

(8) For fees regarding lost or stolen permits, see WAC ~~((516-12-450(5)))~~ 516-12-470(4).

(9) Permit holders who forget their permit or any driver without a permit must purchase a temporary permit at current visitor fees.

AMENDATORY SECTION (Amending WSR 96-14-006, filed 6/20/96, effective 7/21/96)

WAC 516-12-470 Enforcement. (1) General.

(a) A vehicle which is parked in a manner which endangers or potentially endangers members of the university community or their property, state property, and/or prevents a person having a valid permit from parking in their designated parking area, will be impounded on the first violation.

(b) Upon receiving a third parking citation with two previous unpaid parking citations outstanding for more than seventy-two hours, a vehicle is subject to impound.

(c) A student with unpaid parking citations may not be allowed to have a copy of his/her transcript released by the registrar's office.

(d) Parking permits will not be issued until all outstanding citations are paid.

(e) After identifying the registered owner of any vehicle without a parking permit or a permit number which has one or more unpaid citations, the parking and transportation services office will contact the owner in writing that payment is required. If payment for outstanding citations is not made by the date required, the matter will be referred to the appropriate collection agent and/or civil court for resolution.

(f) The operator and owner(s) of a vehicle which is involved in a violation of the university's parking regulations are jointly and severally responsible for the violation. The person to whom a permit is issued is responsible for all citations issued to that permit number.

(g) ~~These enforcement measures are cumulative ((and resort to one or more will not waive or impair the university's right to use any other enforcement measure))~~ using one or more enforcement measures will not prohibit the use of additional measures.

~~((h) The fine and penalty for illegal possession of a lost or stolen permit will be a fine equal to the original value of the highest priced period plus \$5.00 and revocation of parking privileges for a period of one year.))~~

(2) When regulations are in effect.

(a) Except as stated in (b) and (c) of this subsection, parking regulations are subject to enforcement throughout the calendar year but will not be enforced on official university holidays unless otherwise posted. For purposes of this section, ~~((intercessions are))~~ intercession is not considered a university holiday.

(b) A vehicle which is parked in a manner which endangers or potentially endangers members of the university or their property or state property will be impounded on the first violation regardless of when the violation occurs.

(c) ~~((Intercession))~~ Intercession regulations will be determined and published by the parking manager as required.

(d) Permits are required in G, C, and V parking areas Monday through Friday from 7:00 a.m. through 5:00 p.m.

unless otherwise posted. Permits are required in R (student resident) lots all hours.

(e) Should there be a conflict between these regulations, parking maps, and on-site posted signs regarding parking information and instructions, the on-site sign takes precedence.

~~((f) During the following periods of time special conditions exist, and the regulations are modified:~~

~~(i) Permits are not required in C lots or R lots at the start of each quarter from Monday of registration week until the first day of classes, at which time permits are required in all lots. C and R lots are also open during intersession between quarters.~~

~~(ii) Permits are not required in R (student resident) lots during final exam week of each quarter.))~~

(3) Night parking.

(a) The hours of night parking are 5:00 p.m. to 7:00 a.m.

(b) During the hours of night parking all lots except "R" (campus resident) lots, some restricted lots, and reserved spaces in any lot are open to parking unless otherwise posted with signs or designated by the parking manager.

(c) "R" parking lots are restricted to "R" permit holders at all times.

(d) Parking is restricted during the hours of night parking in any lot reserved for a special event unless attending that event.

(4) Citations. A vehicle which is in violation of the university's parking regulations will be issued a citation, and fines will be assessed for violations of these regulations according to the following schedule:

(a) \$5.00 violations:

(i) Improper display of permit.

(b) \$10.00 violations:

(i) Overtime parking;

(ii) Parking at an expired meter;

(iii) Occupying more than one space;

(iv) Parking in a no parking zone;

(v) Parking outside a designated parking space.

(c) \$15.00 violation: Parking out of assigned area.

(d) \$20.00 violations:

(i) No valid permit displayed;

(ii) Unauthorized permit transfer.

(e) \$25.00 violations:

(i) Blocking traffic;

(ii) Parking in a grass or landscaped area;

(iii) Parking in a reserved area;

(iv) Parking in prohibited area (except disabled spaces);

(v) Parking in a driveway or walkway.

(f) \$50.00 violations: Parking within fifteen feet of a fire hydrant or in a fire lane.

~~(g) \$100.00 violations. ((Display of lost, stolen or forged permit-))~~

(i) Display of lost permit.

(ii) Display of stolen permit.

(iii) Display of forged permit.

(h) \$175.00 violations: Parking in a disabled only space.

~~((i) Payment of citations is due upon receipt.))~~

(5) Continued violations. A vehicle which remains in violation of any regulations may receive additional citations for every four hours of the violation.

(6) Impoundment by towing or wheel lock:

(a) All violators are subject to having their vehicles impounded through the use of towing or the wheel lock device at their own risk and expense.

(b) Any vehicle may be towed away if the vehicle:

(i) Has been immobilized by wheel lock for more than twenty-four hours; or

(ii) Is parked in such a manner as to endanger the university community; or

(iii) Is parked in a fire lane or other posted tow-away zone; or

(iv) Is parked so as to deprive a permit holder of space in his/her assigned lot, personally reserved space or disabled space without a proper permit; or

(v) Is left under circumstances which indicate it has been abandoned; or

(vi) Is found displaying a forged or reported lost or stolen permit; or

(vii) Cannot be impounded with the wheel lock device.

(c) Any vehicle may be immobilized by use of a wheel lock device if the vehicle:

(i) Has an accumulation of two or more unpaid parking tickets (the second of which has been outstanding for more than seventy-two hours); or

(ii) Is parked at any time on campus when parking privileges have been revoked.

(d) The operator/owner of the impounded vehicle must provide positive personal identification and proof of ownership of the vehicle and pay all outstanding citations at the parking and transportation services office (or university public safety department when the parking and transportation services office is closed) before a vehicle release is authorized, a release form completed and a copy issued to the vehicle operator/owner.

(e) A fee will be assessed on vehicles immobilized by the wheel lock device.

(f) Any vehicle which remains immobilized by wheel lock for more than twenty-four hours in an area where towing is not practical or possible will be assessed a fee for each day or portion thereof over the twenty-four hours.

(g) An impound fee is charged if the driver of the tow truck or the wheel lock operator has performed any labor prior to the vehicle operator/owner returning to the vehicle before the impoundment is completed.

(h) An impounded vehicle shall be released to the operator/owner of the vehicle when:

(i) Positive identification and proof of ownership of the vehicle is provided;

(ii) All unpaid fines against the impounded vehicle or any other vehicle registered to the violator are paid at parking and transportation services (or university public safety department when parking and transportation services is closed);

(iii) A wheel lock fee is paid; and/or

(iv) All towing and storage fees are paid.

(i) The operator/owner of the towed vehicle must present an authorized release form to the towing company and pay all towing charges including any storage fees incurred.

(j) The university assumes no responsibility for damages which may result from use of the wheel lock device, storage,

or attempts to move a vehicle with a wheel lock device installed.

(k) A person wishing to challenge the validity of the impound or any fines or fees imposed under the impound policy may appeal through the process provided in the chapter governing appeals (chapter 516-14 WAC). However, in order to secure release of the vehicle, the driver must pay the amount of fines and/or fees as a bond which will be refunded to the extent the appeal is (~~successful~~) approved.

(7) It is prohibited to park:

- (a) Without a valid permit;
 - (b) Double parked;
 - (c) In reserved spaces without a proper permit;
 - (d) In no parking areas;
 - (e) In a disabled space without a proper permit;
 - (f) In fire lanes, service roads, fire exits or within 15 feet of a fire hydrant;
 - (g) In loading zones unless actually loading (time is limited);
 - (h) In service entrances, construction sites, spaces reserved for maintenance vehicles, handicapped access areas, dumpster access;
 - (i) On lawns, sidewalks, crosswalks, parking lot drive-ways, straddling painted lines or buttons, or angle parking where prohibited;
 - (j) Exceeding time in time-limited or metered spaces;
 - (k) In areas where permit is not valid;
 - (l) Over or adjacent to yellow lines or curbs;
 - (m) Against the flow of traffic;
 - (n) In areas or spaces closed by barricades or other control devices.
- (8) Payment of citations is due upon receipt.

AMENDATORY SECTION (Amending Order 6-02-83, Motion No. 6-02-83, filed 6/28/83, effective 9/19/83)

WAC 516-12-480 Appeals. Any person who alleges being unjustly ticketed and who wishes to appeal a citation shall report to the parking and transportation services office within seven days from the date of the citation and complete an appeal form.

(1) The right to a hearing is forfeited seven days from the date of the citation.

(2) Any person dissatisfied with the decision of the parking manager or designee on appeal of a citation may request a hearing before the parking appeals board. (Chapter 516-14 WAC.)

(3) Requests for a parking appeals board review must be made in writing within fourteen days of the decision made by the parking manager or designee and after the appealed citation has been paid in full.

WSR 97-11-039
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed May 15, 1997, 4:21 p.m.]

Original Notice.

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

Title of Rule: Chapter 246-338 WAC, Medical test site rules.

Purpose: To establish in WAC the rules for licensure of medical test sites for implementation of chapter 70.42 RCW.

Statutory Authority for Adoption: RCW 70.42.005.

Statute Being Implemented: Chapter 70.42 RCW.

Summary: Chapter 246-338 WAC, Medical test site rules, is amended. Amendments include housekeeping changes and changes required to meet the requirements of federal laws that license sites that perform clinical laboratory testing. The amendments are at the request of the federal Health Care Financing Administration, following a review of the state rules for exemption from federal legislation (CLIA).

Reasons Supporting Proposal: The amendments will bring the state medical test site rules into compliance with federal legislation and will allow the state to continue its exemption from federal regulation.

Name of Agency Personnel Responsible for Drafting: Gail Neuenschwander, Department of Health, (206) 361-2805; Implementation and Enforcement: Martha G. Simon, Department of Health, (206) 361-2806.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The medical test site rule licenses all sites in the state that perform clinical laboratory testing. The state law (chapter 70.42 RCW) was passed to take the place of federal regulation (CLIA). In order to renew the state exemption from CLIA, the federal Health Care Financing Administration reviewed the medical test site rules and identified areas that need changing or clarification to meet the federal CLIA requirements. These changes will allow the state to maintain its exemption from CLIA, and maintain the current level of activity necessary to assess and assure the quality of clinical laboratory testing in the state.

Proposed Changes the Following Existing Rules: The amendments clarify requirements for sites holding a certificate of waiver and provider performed microscopic procedures license; add additional tests to the list of waived tests; remove outdated language in licensure and personnel sections; clarify language in record-keeping section; change the requirements for retention of cytology reports from five years to ten years; clarify language in the quality control section; add specific requirements for mycology reagent checks, virus culture identification, and manual coagulation testing; specify the stain required for cytology gynecologic smears; cross reference the CLIA histocompatibility standards; and specify that the medical test site license will be revoked for one year if the licensee intentionally refers its proficiency testing samples to another medical test site or laboratory for analysis.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995 do not apply to rules that adopt without material

change, federal statutes or regulations (RCW 34.05.328 (5)(b)(iii)).

Hearing Location: Department of Health, 1112 S.E. Quince, Executive Conference Room, Olympia, WA 98504-7890, on June 24, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Jennifer Hart by June 17, 1997, TDD (800) 833-6388, or FAX (206) 361-2813.

Submit Written Comments to: Gail Neuenschwander, 1610 N.E. 150th Street, Seattle, WA 98155-9701, FAX (206) 361-2813, by June 20, 1997.

Date of Intended Adoption: June 24, 1997.

May 14, 1997
Bruce A. Miyahara
Secretary

AMENDATORY SECTION (Amending WSR 94-17-099, filed 8/17/94, effective 9/17/94)

WAC 246-338-020 Licensure of the medical test sites. (1) After July 1, 1990, no person shall advertise, operate, manage, own, conduct, open, or maintain a medical test site without first obtaining from the department, a license or a certificate of waiver as described under chapter 70.42 RCW and this chapter.

(2) Applicants requesting a medical test site license or renewal shall:

(a) Submit a completed application and fee for the appropriate category of license to the department on forms furnished by the department, including signature of the owner;

(b) Submit a completed application and fee for provider-performed microscopic procedures if the medical test site;

(i) Restricts its testing performance to waived tests as listed under WAC 246-338-030(11) and one or more of the tests listed in this section, unless specifically allowed or disallowed under federal law and regulation:

((+)) (A) Wet mounts, including, but not limited to, preparations of vaginal, cervical or skin specimens;

((+)) (B) Potassium hydroxide (KOH) preparations;

((+)) (C) Pinworm examinations;

((+)) (D) Fern tests;

((+)) (E) Post-coital direct, qualitative examinations of vaginal or cervical mucous;

((+)) (F) Urine sediment examinations;

((+)) (G) Nasal smears for eosinophils;

((+)) (H) Post vasectomy qualitative semen analysis;

and ((+)) (I) Any other tests specifically categorized under federal law and regulation as provider-performed microscopic procedures; and

(ii) Meets the requirements of this chapter for personnel, recordkeeping, quality control, quality assurance and, if applicable, proficiency testing;

(c) File a separate application for each facility except under the following conditions:

(i) If the medical test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single license for the home base location;

(ii) If the medical test site is a not-for-profit or state or local government laboratory that engages in limited public

health testing at different locations, the owner may file an application for a single license;

(d) Furnish full and complete information to the department in writing, as required for proper administration of rules implementing chapter 70.42 RCW including:

(i) Name, address, and phone number of the medical test site;

(ii) Name, address, and phone number of the owner of the medical test site;

(iii) Number and types of tests performed, planned, or projected;

(iv) Names and qualifications including educational background, training, and experience of the designated test site supervisor;

(v) Names and qualifications including educational background, training, and experience of technical personnel, if requested by the department, in order to determine consistency with federal law and regulation;

(vi) Name of proficiency testing program or programs used by the medical test site and a copy of the enrollment form for initial application;

(vii) Other information as required to implement chapter 70.42 RCW; and

(viii) Methodologies for tests performed, when the department determines the information is necessary, consistent with federal law and regulation.

(e) Submit to inspections by the Health Care Financing Administration (HCFA) or HCFA agents as a condition of licensure or approval, for the purpose of validation or in response to a complaint against the medical test site; and

(f) Authorize the department to release to HCFA or HCFA agents all records and information requested by HCFA;

(3) The owner or applicant shall submit an application and fee to the department thirty days prior to the expiration date of the current license.

(4) The department shall:

(a) Issue or renew a license for the medical test site, valid for two years, when the applicant or owner meets the requirements of chapter 70.42 RCW and this chapter, subject to subsection (7) of this section;

(b) Terminate a provisional license, at the time a two-year license for the medical test site is issued;

(c) Establish fees to be paid under WAC 246-338-990;

(d) Prohibit transfer or reassignment of a license without thirty days prior written notice to the department and the department's approval;

(e) Examine records of the medical test site, if the department believes a person is conducting tests without an appropriate license;

(f) Give written notice of any violations to the medical test site, including a statement of deficiencies observed and requirements to:

(i) Present a written plan of correction to the department within fourteen days following the date of postmark; and

(ii) Comply within a specified time, not to exceed sixty days, after department approval of a written plan of correction;

(g) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency unless the deficiency is an immediate threat to life, health, or safety.

PROPOSED

(5) The department shall also issue a license for a medical test site if the medical test site:

(a) Is accredited, certified, or licensed by an accreditation body under WAC 246-338-040; and

(b) Submits to the department:

(i) Information defined under subsection (2)(a) and (d) of this section;

(ii) Proof of accreditation, certification or licensure by an accreditation body within eleven months of issuance of the medical test site license; and

(c) Authorizes the accrediting body to submit, upon request from the department:

(i) On-site inspection results;

(ii) Statement of deficiencies;

(iii) Plan of correction for the deficiencies cited;

(iv) Any disciplinary action and results of any disciplinary action taken by the accreditation body against the medical test site; and

(v) Any records or other information about the medical test site required for the department to determine whether or not standards are consistent with chapter 70.42 RCW and this chapter.

(6) The department shall require the owner of a medical test site to reapply for a medical test site license if:

(a) Proof of accreditation is not supplied to the department within eleven months of issuance of the medical test site license; or

(b) The medical test site has its accreditation denied or terminated by the accreditation body.

(7) The department may:

(a) Issue, to a medical test site applying for licensure for the first time a provisional license valid for a period of time not to exceed two years from date of issue;

(b) Conduct on-site review of a medical test site at any time to determine compliance with chapter 70.42 RCW and this chapter; and

(c) Initiate disciplinary action, as described under chapter 70.42 RCW and this chapter, if the owner or applicant fails to comply with chapter 70.42 RCW and this chapter, consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) The department may(~~+~~)

~~(a))~~ extend a license for a period not to exceed six months beyond the expiration date of the license(~~+~~ or

~~(b) Issue a license for a period of one year for applications for licensure or renewal submitted during September 1993 to August 1995).~~

(9) The owner shall notify the department, in writing, at least thirty days prior to the date of a proposed change of ownership and provide the following information:

(a) Full name, address, and location of the current owner and prospective new owner, if known;

(b) Name and address of the medical test site and the new name of the medical test site, if known;

(c) Changes in technical personnel and supervisors, if known; and

(d) The date of the proposed change of ownership.

(10) The prospective new owner shall submit the information required under subsection (2)(a) and (d) of this section, at least thirty days prior to the change of ownership.

(11) The owner shall inform the department within thirty days, in writing, of:

(a) The date of opening or closing the medical test site; and

(b) Any changes in:

(i) Name;

(ii) Location; or

(iii) Designated test site supervisor.

(12) The owner shall inform the department within six months, in writing, of any changes in:

(a) Tests, specialties and subspecialties; and

(b) Test methodology.

AMENDATORY SECTION (Amending WSR 94-17-099, filed 8/17/94, effective 9/17/94)

WAC 246-338-030 Waiver from licensure of medical test sites. (1) The department shall grant a certificate of waiver to a medical test site performing only the tests listed under this section.

(2) Applicants requesting a certificate of waiver or renewal shall:

(a) Submit a completed application and fee for initial certificate of waiver or renewal to the department on forms furnished by the department, including signature of the owner; (~~and~~)

(b) File a separate application for each facility except under the following conditions:

(i) If the medical test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single certificate of waiver for the home base location;

(ii) If the medical test site is a not-for-profit or state or local government laboratory that performs, at different locations, only those tests listed in subsection (1) of this section, the owner may file an application for a single certificate of waiver;

(c) Furnish full and complete information to the department in writing, as required for proper administration of rules to implement chapter 70.42 RCW including:

(i) Name, address, and phone number of the medical test site;

(ii) Name, address, and phone number of the owner of the medical test site;

(iii) Number and types of tests performed, planned or projected;

(iv) Names and qualifications including educational background, training and experience of the personnel directing and supervising the medical test site;

(v) Names and qualifications including educational background, training, and experience of personnel performing the test procedures, if requested by the department, in order to determine consistency with federal law and regulation;

(vi) Other information as required to implement chapter 70.42 RCW; and

(vii) Methodologies for tests performed, when the department determines the information is necessary consistent with federal law and regulation.

(3) The owner or applicant shall submit an application and fee to the department thirty days prior to the expiration date of the current certificate of waiver.

(4) The department shall:

(a) Grant a certificate of waiver or renewal of a certificate of waiver for the medical test site valid for two years when the applicant or owner meets the requirements of chapter 70.42 RCW and this chapter, subject to subsection (6) of this section;

(b) Establish fees to be paid under WAC 246-338-990; and

(c) Prohibit transfer or reassignment of a certificate of waiver without thirty days prior written notice to the department and the department's approval.

(5) The department may ~~(=~~ ~~extend~~ a certificate of waiver for a period not to exceed six months beyond the expiration date of the certificate of waiver ~~(=~~ ~~or~~

~~(b) Issue a certificate of waiver for a period of one year for initial or renewal applications submitted during September 1993 to August 1995).~~

(6) If the department has reason to believe a waived site is conducting tests requiring a license, the department shall:

(a) Conduct on-site reviews of the medical test site;

(b) Examine records of the medical test site;

(c) Give written notice of any violations to the medical test site, including a statement of deficiencies observed and requirements to:

(i) Present a written plan of correction to the department within fourteen days following the date of postmark; and

(ii) Comply within a specified time not to exceed sixty days after department approval of a written plan of correction;

(d) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency unless the deficiency is an immediate threat to life, health, or safety.

(7) The department may:

(a) Conduct on-site review of a medical test site at any time to determine compliance with chapter 70.42 RCW and this chapter; and

(b) Initiate disciplinary action, as described under chapter 70.42 RCW and this chapter, if the owner or applicant fails to comply with chapter 70.42 RCW and this chapter, consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) The owner shall notify the department, in writing, at least thirty days prior to the date of a proposed change of ownership and provide the following information:

(a) Full name, address, and location of the current owner and prospective new owner, if known;

(b) Name and address of the medical test site and the new name of the medical test site, if known;

(c) Changes in personnel directing the medical test site, if known; and

(d) The date of the proposed change of ownership.

(9) The prospective new owner shall submit the information required under subsection (2)(a) and (c) of this section, at least thirty days prior to the change of ownership.

(10) The owner shall inform the department within thirty days, in writing, of:

(a) The date of opening or closing the medical test site; and

(b) Any changes in:

(i) Name;

(ii) Location; or

(iii) Personnel directing the medical test site.

(11) The department shall grant a certificate of waiver if the medical test site performs only the tests listed in this section and no other tests unless specifically ~~((disallowed or))~~ allowed or disallowed under federal law and regulation, and follows manufacturer's instructions for performing the tests:

(a) Dipstick or tablet reagent urinalysis;

(b) Fecal and gastric occult blood;

(c) Ovulation tests-visual color comparison tests for human luteinizing hormone;

(d) Urine pregnancy tests-visual color comparison tests;

(e) Erythrocyte sedimentation rate-nonautomated;

(f) Hemoglobin-copper sulfate-nonautomated;

(g) Hemoglobin by single instrument with self-contained or component features to perform specimen/reagent interaction, providing direct measurement and readout using the Hemocue test system;

(h) Blood glucose by glucose monitoring devices cleared by the FDA specifically for home use;

~~((=))~~ (i) Blood glucose using the Hemocue B-Glucose Photometer;

(j) Spun microhematocrit; ~~((and~~

~~(k) Hemoglobin by single analyte instruments with self-contained or component features to perform specimen/reagent interaction, providing direct measurement and readout.))~~

(k) Wampole STAT-CRIT hematocrit test;

(l) Accu-check InstantPlus cholesterol test system;

(m) Advanced Care cholesterol measuring system;

(n) Cholestech LDX test system for the measurement of total cholesterol, HDL cholesterol, triglyceride, and glucose;

(o) Chemtrak Accumeter cholesterol test system;

(p) Quidel QuickVue In-Line One-Step Strep A test;

(q) Binax NOW Strep A test;

(r) Quidel QuickVue One-Step H.pylori test for whole blood;

(s) Serim Pyloritek test for presumptive identification of H.pylori in gastric biopsy tissue; and

(t) Delta West CLOtest for presumptive identification of H.pylori in gastric biopsy tissue.

(12) The department will make additions or deletions to the list of waived tests under subsection (11) of this section, by rule, consistent with federal law and regulation.

(13) If the medical test site adds tests not included under subsection (11) of this section, the owner shall apply for licensure as defined under chapter 70.42 RCW and WAC 246-338-020.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-060 Personnel. (1) Owners shall ensure medical test sites:

(a) Have a designated test site supervisor responsible for:

(i) The overall technical supervision and management of the test site personnel; and

(ii) Performing and reporting of testing procedures;

(b) Have technical personnel, competent to perform tests and report test results; and

(c) Meet the standards for personnel qualifications and responsibilities in compliance with federal regulation, as listed in 42 CFR Part 493 Subpart M-Personnel for Moderate

and High Complexity Testing, with the following exception((s)):

~~((i))~~ A person that achieved a satisfactory grade through an examination conducted by or under the sponsorship of the United States Public Health Service for director, on or before July 1, 1970, would qualify as a director, technical supervisor, technical consultant, general supervisor and testing personnel for the specialties in which a satisfactory grade was achieved for moderate and high complexity testing(~~and~~

~~((ii))~~ A person that has completed 60 semester hours of academic credit including chemistry and biology as well as a structured curriculum in medical laboratory techniques at an accredited institution would qualify as testing personnel for high complexity testing)).

(2) The department, upon request, shall furnish 42 CFR Part 493 Subpart M.

(3) Owners of medical test sites shall establish, post and observe safety precautions to ensure protection from physical, chemical, biochemical and electrical hazards and biohazardous materials.

(4) Designated test site supervisors shall:

(a) Establish and approve policies for:

(i) Performing, recording, and reporting of tests;

(ii) Maintaining an ongoing quality assurance program;

(iii) Supervision of testing; and

(iv) Compliance with chapter 70.42 RCW and this chapter;

(b) Evaluate, verify, and document the following related to technical personnel:

(i) Education, experience, and training in test performance and reporting tests results;

(ii) Sufficient numbers to cover the scope and complexity of the services provided;

(iii) Access to training appropriate for the type and complexity of the test site services offered; and

(iv) Maintenance of competency to perform test procedures and report test results;

(c) Be present, on call, or delegate the duties of the designated test site supervisor to an on-site technical person during testing.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-070 Recordkeeping. The medical test site shall:

(1) Unless specified otherwise in subsection (2)(a), (b), and (c) of this section, maintain for two years:

(a) Test requisitions or equivalent;

(b) Test records;

(c) Test reports;

~~((e))~~ (d) Quality control records;

~~((d))~~ (e) Quality assurance records; and

~~((e))~~ (f) Discontinued procedures.

(2) Maintain:

(a) The items listed in subsection (1)(a), (b), (c), (d), and (e) of this section for transfusion services for five years;

(b) Abnormal cytology and all histology reports for ten years; and

(c) Normal cytology reports for ~~((five))~~ ten years.

(3) Request the following written information to accompany a test requisition:

(a) Patient's name or other method of specimen identification;

(b) Name or other suitable identifier of the authorized person ordering the test;

(c) Date of specimen collection, and time if appropriate;

(d) Source of specimen, if appropriate;

(e) Type of test ordered;

(f) Sex and age of the patient, if appropriate; and

(g) For cytology and histology specimens:

(i) Pertinent clinical information; and

(ii) For pap smears:

(A) The last menstrual period; and

(B) Indication whether the patient has history of cervical cancer or its precursors.

(4) Assure specimen records include:

(a) A medical test site identification;

(b) The patient's name or other method of specimen identification;

(c) The date the specimen was received at the medical test site, and time if appropriate;

(d) The reason for specimen rejection or limitation;

(e) The date of specimen testing; and

(f) The identification of the personnel who performed the test.

(5) Assure that test reports:

(a) Are maintained in a manner permitting identification and reasonable accessibility;

(b) Are released only to authorized persons or designees;

(c) Include the name of the medical test site, or where applicable, the name and address of each medical test site performing each test;

(d) Include the date reported;

(e) Include the time reported, if appropriate;

(f) Include any information regarding specimen rejection or limitation; ~~((and))~~

(g) Include the test performed, test result, and units of measurement, if applicable; and

(h) Include the exact language of the report from the testing facility, if the specimen was referred to another medical test site for testing.

(6) Assure cytology reports:

(a) Distinguish between unsatisfactory specimen and negative results; and

(b) Contain narrative descriptions for any abnormal results, such as the Bethesda system of terminology as published in the Journal of the American Medical Association, 1989, Volume 262, pages 931-934, for any abnormal results.

(7) Establish and make available for use by authorized persons ordering or utilizing the test results:

(a) Reference ranges; and

(b) A list of test methods, including performance specifications.

(8) Issue corrected reports when indicated.

(9) Establish criteria for and maintain appropriate documentation of:

(a) Temperature-controlled spaces and equipment;

(b) Preventive maintenance activities;

(c) Equipment function checks;

- (d) Procedure calibrations;
- (e) Validation, precision, and accuracy checks;
- (f) Expiration date, lot numbers, and other pertinent information for:
 - (i) Reagents;
 - (ii) Solutions;
 - (iii) Culture media;
 - (iv) Controls, as defined in WAC 246-338-090;
 - (v) Calibrators, as defined in WAC 246-338-090;
 - (vi) Standards, as defined in WAC 246-338-090;
 - (vii) Reference materials, as defined in WAC 246-338-090; and
 - (viii) Other testing materials;
 - (g) Testing of quality control samples; and
 - (h) Any remedial action taken in response to quality control, quality assurance, personnel, and proficiency testing.
- (10) Refer specimens for testing only to a medical test site with a valid license, or to an interstate laboratory with a valid CLIA certificate.
- (11) Maintain, or be able to reproduce, a copy of the report for all specimens that are referred for testing.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-090 Quality control. (1) For the purpose of this section, the following words and phrases have the following meanings, unless the context clearly indicates another meaning:

- (a) "ABO, A, A₁, B, O, anti-A, anti-B, anti-D, anti Rh₀, Rh₀ (D), HLA, HLA-A, B, and DR" means taxonomy classifications for blood groups, types, cells, sera, or antisera;
- (b) "Calibrator" means a material, solution, or lyophilized preparation designed to be used in calibration. The values or concentrations of the analytes of interest in the calibration material are known within limits ascertained during its preparation or before use;
- (c) "Control" means a material, solution, lyophilized preparation, or pool of collected serum designed to be used in the process of quality control. The concentrations of the analytes of interest in the control material are known within limits ascertained during its preparation or before routine use;
- (d) "Control slide" means a preparation fixed on a glass slide used in the process of quality control;
- (e) "Reference material" means a material or substance, calibrator, control or standard where one or more properties are sufficiently well established for use in calibrating a process or for use in quality control;
- (f) "Standard" means a reference material of fixed and known chemical composition capable of being prepared in essentially pure form, or any certified reference material generally accepted or officially recognized as the unique standard for the assay regardless of level or purity of the analyte content.

(2) The medical test site shall use quality control procedures providing and assuring accurate and reliable test results and reports, meeting the requirements of this chapter.

(3) The medical test site shall have written procedures and policies available in the work area including:

- (a) Analytical methods used by the technical personnel;
- (b) Specimen collection and processing procedures;

- (c) Preparation of solutions, reagents, and stains;
- (d) Calibration procedures;
- (e) Proper maintenance of equipment;
- (f) Quality assurance policies;
- (g) Quality control procedures;
- (h) Corrective actions when quality control results deviate from expected values or patterns;
- (i) Procedures for reporting test results;
- (j) Limitations of methodologies; and
- (k) Alternative or backup methods for performing tests including the use of a reference facility if applicable.

(4) The medical test site shall perform quality control complying with the requirements of this section for each specialty and subspecialty as follows:

- (a) At least as frequently as specified in this section;
 - (b) More frequently if recommended by the manufacturer of the instrument or test procedure; or
 - (c) More frequently if specified by the medical test site
- (5) The medical test site shall:

- (a) Perform procedural calibration or recalibration, in accordance with manufacturer's instructions(~~(-when)~~):
 - (i) When recommended by the manufacturer(~~(+)~~) or ~~((+))~~ specified by the medical test site's established schedule, with at least the frequency recommended by the manufacturer; and
 - (ii) When calibration fails to meet the medical test site's acceptable limits;

- (b) Perform calibration verification using materials appropriate for verifying the minimal, mid-point and maximum points of the reportable range, unless the medical test site can demonstrate an alternative method of assuring the accuracy of the procedure throughout the reportable range for patient test results:
 - (i) When a complete change of reagents for a procedure is introduced;
 - (ii) When there is major preventive maintenance or replacement of critical parts of equipment or instrumentation;
 - (iii) When controls begin to reflect an unusual trend or are outside acceptable range limits; or
 - (iv) At least every six months;

- (c) If patient values are above the maximum or below the minimum calibration point or the linear range:
 - (i) Report the patient results as greater than the upper limit or less than the lower limit or an equivalent designation; or
 - (ii) Use an appropriate procedure to rerun the sample allowing results to fall within the established linear range;

- (d) Perform quality control:
 - (i) For quantitative tests:
 - ~~((+))~~ (A) To include two reference materials of different concentrations each day of testing unknown samples, if these reference materials are available; or
 - ~~((+))~~ (B) Have an equivalent mechanism to assure the quality, accuracy, and precision of the test, if reference materials are not available; and
 - ~~((+))~~ (ii) For qualitative tests, to include positive and negative reference material each day of testing unknown samples;

- (e) Check each batch or shipment of reagents, discs, stains, antisera and identification systems for positive and negative reactivity:
 - (i) When prepared or opened;

(ii) For stains, each day of use, unless otherwise specified; and

(iii) For fluorescent stains, each time of use, unless otherwise specified;

(f) Determine the statistical limits for each lot number of unassayed reference materials through repeated testing;

(g) Use the manufacturer's reference material limits for assayed material, provided they are:

(i) Verified by the medical test site; and
(ii) Appropriate for the methods and instrument used by the medical test site;

(h) Make reference material limits readily available;
(i) Report patient results only when reference materials are within acceptable limits;

(j) Use materials within their documented expiration date and not interchange components of kits with different lot numbers, unless specified by manufacturer;

(k) For microbiology:
(i) Check each batch or shipment of reagents, discs, stains, antisera, and identification system for reactivity with positive and negative reference organisms including:

(A) Each time of use for fluorescent stains;
(B) Each day of use for:
(I) Stains, unless specifically stated otherwise in this section; DNA probes; reagents used in mycobacteriology; catalase, coagulase, beta-lactamase, and oxidase reagents; and

(II) Direct antigen detection systems, using positive and negative controls that evaluate both the extraction and reaction phase;

(C) Each week of use for Gram and acid-fast stains, bacitracin, optochin, ONPG, X, and V discs or strips; and

(D) Each month of use for antisera;
(ii) When testing antimicrobial susceptibility, check each new batch of media and each new lot of antimicrobial discs or other testing systems using approved reference organisms:

(A) Before initial use; and
(B) Each day of testing, or weekly, if the medical test site can meet the quality control requirements for antimicrobial disc susceptibility testing as outlined by the National Committee for Clinical Laboratory Standards (NCCLS), available upon request from the department;

(iii) Document zone sizes or minimum inhibitory concentration for reference organisms are within established limits;

(iv) Have available and use appropriate stock organisms for quality control purposes;

(v) Have available a collection of slides, photographs, gross specimens, or text books for reference sources to aid in identification of microorganisms;

(vi) Document appropriate steps in the identification of microorganisms on patient specimens;

(vii) Check each batch or shipment of noncommercial media for sterility, ability to support growth, and if appropriate, selectivity, inhibition, or biochemical response;

(viii) If commercially manufactured media quality control results are used:

(A) Verify that the product insert specifies that the quality control checks meet the requirements, as outlined by NCCLS, for media quality control;

(B) Keep records of the manufacturer's quality control results;

(C) Document visual inspection of the media before use; and

(D) Follow the manufacturer's specifications for using the media;

(ix) When performing ~~((susceptibility testing for))~~ mycology:

(A) For susceptibility testing:
(I) Test each drug each day of use with at least one control strain that is susceptible to the drug; and

~~((B))~~ (II) Document that controls are within established limits before reporting patient results;

(B) Test reagents, used with biochemical tests and other test procedures used for identification, each week of use with an organism that produces a positive reaction;

(x) When performing parasitology:
(A) Use a calibrated ocular micrometer for determining the size of ova and parasites, if size is a critical parameter; and

(B) Check permanent stains using reference materials, each month of use;

(xi) When performing virus identification, simultaneously culture uninoculated cells or cell substrate controls as a negative control;

(l) For syphilis serology:
(i) Use equipment, glassware, reagents, reference materials, and techniques conforming to manufacturers' specifications;

(ii) Perform serologic tests on unknown specimens concurrently with a positive serum reference material with known titer or graded reactivity and a negative reference material; and

(iii) Employ reference materials for all test components to ensure reactivity;

(m) For general immunology:
(i) Perform serologic tests on unknown specimens with a positive and a negative reference material;

(ii) Employ reference materials for all test components to ensure reactivity; and

(iii) Report test results only when the predetermined reactivity pattern of the reference material is observed;

(n) For chemistry, when performing blood gas analysis, include:

(i) A two-point calibration and a reference material each eight hours of testing; and

(ii) A one-point calibration or reference material each time patient samples are tested, unless automated instrumentation internally verifies calibration at least every thirty minutes; or

(iii) Another calibration and reference material schedule, approved by the department as equivalent to this subsection;

(o) For hematology and coagulation:
(i) Use one level of reference material each eight hours of testing patient samples for manual blood counts;

(ii) Use two levels of reference materials;
(A) Each eight hours of testing for:

~~((A))~~ (I) Instrumentation methods; and
~~((B))~~ (II) Manual tilt tube method for coagulation; and

(B) Each reagent change for coagulation;
(iii) Run manual coagulation tests and cell counts in duplicate;

(p) For immunohematology, for the services offered:

- (i) Perform ABO grouping by testing unknown red cells with Federal Food and Drug Administration approved anti-A and anti-B grouping sera;
- (ii) Confirm ABO grouping of unknown serum with known A₁ and B red cells;
- (iii) Determine the Rh₀(D) group by testing unknown red cells with anti-D (anti Rh₀) blood grouping serum;
- (iv) Employ a control system capable of detecting false positive Rh test results, when required by the manufacturer; and
- (v) Perform quality control checks of cells and antisera each day of use;
- (q) For transfusion services:
 - (i) Perform ABO grouping, Rh₀ (D) typing, antibody detection, and identification and compatibility testing as described by the Food and Drug Administration under 21 CFR Part 606, with the exception of 21 CFR Part 606.20a, Personnel, and 21 CFR Part 640;
 - (ii) Collect, store, process, distribute and date blood and blood products as described by the Food and Drug Administration under 21 CFR Parts 606, 610.53 and 640;
 - (iii) When provided by an outside entity, have an agreement approved by the director for procurement, transfer and availability of blood and blood products; and
 - (iv) Promptly investigate all transfusion reactions according to the medical test site's procedures;
 - (r) For histopathology:
 - (i) Use positive control slides for each special stain to check for intended level of reactivity;
 - (ii) Retain stained slides at least ten years and specimen blocks at least two years from the date of examination;
 - (iii) Retain remnants of tissue specimens in an appropriate preserved state until the portions submitted for microscopic examination have been examined and diagnosed; and
 - (iv) Include on all reports the signature or initials of the technical supervisor, as defined under 42 CFR Part 493 Subpart M;
 - (s) For cytology:
 - (i) Develop criteria for submission of material and the assessment of the adequacy of the sample submitted, including notifying the physician;
 - (ii) Retain all negative slides for five years from the date of examination of the slide;
 - (iii) Retain all abnormal slides for ten years from the date of examination;
 - (iv) Include in quality control the rescreening and documentation of benign gynecological slides as follows:
 - (A) One hundred percent of slides from patient with a known history of cervical cancer or its precursors; and
 - (B) Selection of benign slides for a total rescreening of a minimum of ten percent of all benign slides including patients identified in (s)(iv)(A) of this subsection; ~~((or~~
 - ~~(C) Another method demonstrating equivalent effectiveness in discovering errors;))~~
 - (v) Assure that quality control is performed by a person meeting the personnel requirements for technical supervisor or general supervisor in cytology, as defined under 42 CFR Part 493 Subpart M;
 - (vi) Evaluate the results of the quality control rescreen prior to reporting results for the cases selected;

- (vii) Review cytologic specimens or records of previous reviews, for the prior five years, if available, for each abnormal cytology result;
- (viii) Correlate abnormal cytology reports with prior cytology reports and with histopathology reports, if available, and determine the cause of any discrepancies;
- (ix) Document reviews of negative slides from cases known to have a history of abnormal slides;
- (x) Evaluate and document technical personnel slide examination performance, comparing against the medical test site's overall statistics;
- (xi) Evaluate and document significant discrepancies in examination of cytology slides;
- (xii) Establish an annual statistical evaluation of the number of cytology cases examined, number of specimens processed by specimen type, volume of patient cases reported by diagnosis, number of cases where cytology and histology are discrepant, number of cases where histology results were unavailable for comparison and number of cases where rescreen of negative slides resulted in reclassification as abnormal;
- (xiii) Stain all gynecologic smears with a Papanicolaou or modified Papanicolaou staining method;
- (xiv) Take effective measures when staining to prevent cross-contamination between gynecologic and nongynecologic specimens;
- ~~((xiv))~~ (xv) The technical supervisor shall:
 - (A) Confirm all gynecological smears interpreted to be outside normal limits;
 - (B) Review all nongynecological cytological preparations;
 - (C) Sign or initial all reports from (s)(xiv)(A) or (B) of this subsection; and
 - (D) Establish, document and reassess, at least every six months, the workload limits for each cytotechnologist;
 - ~~((xv))~~ (xvi) Technical personnel shall examine, unless federal law and regulation specify otherwise, no more than one hundred cytological slides in a twenty-four hour period and in no less than a eight-hour period; and
 - ~~((xvi))~~ (xvii) All slide preparations must be evaluated on the premises;
 - (t) For histocompatibility:
 - (i) Use applicable quality control standards for immunohematology, transfusion services, and diagnostic immunology as described in this chapter; and
 - (ii) ~~((For renal allotransplantation:~~
 - ~~(A) Have available and follow criteria for:~~
 - ~~(I) Selecting appropriate patient serum samples for crossmatching;~~
 - ~~(II) The technique used in crossmatching;~~
 - ~~(III) Preparation of donor lymphocytes for crossmatching;~~
 - ~~(IV) Reporting crossmatch results;~~
 - ~~(V) The preparation of lymphocytes for Human Leukocyte Antigen HLA A, B and DR typing;~~
 - ~~(VI) Selecting typing reagents; and~~
 - ~~(VII) The assignment of HLA antigens;~~
 - ~~(B) Have available:~~
 - ~~(I) Serum specimens for all potential transplant recipients at initial typing, for periodic screening, for pretransplantation crossmatch, and following sensitizing events;~~

~~(II) Results of final crossmatches before an organ or tissue is transplanted; and~~
~~(III) A list of individuals for fresh panel bleeding if frozen panels are not used;~~
~~(C) Have appropriate storage and maintenance of both recipient sera and reagents;~~
~~(D) Indicate, when applicable:~~
~~(I) Source;~~
~~(II) Bleeding date;~~
~~(III) Identification number; and~~
~~(IV) Volume remaining for reagent typing sera inventory;~~
~~(E) Properly label and store:~~
~~(I) Cells;~~
~~(II) Complement;~~
~~(III) Buffers;~~
~~(IV) Dyes; and~~
~~(V) Reagents;~~
~~(F) Type all potential transplant recipient cells and cells from organ donors referred to the medical test site;~~
~~(G) Have adequate reagent trays for typing recipient and donor cells to define all HLA A, B, and DR specificities as required to determine splits and cross reactivity;~~
~~(H) Have a written policy establishing when antigen redefinition and retyping are required;~~
~~(I) Screen recipient sera for preformed antibodies with a suitable lymphocyte panel;~~
~~(J) Use a suitable cell panel for screening patient sera containing all the major HLA specificities and common splits;~~
~~(K) Use the mixed lymphocyte culture, or equivalent, to determine cellularly defined antigens;~~
~~(L) On each tray:~~
~~(I) Include positive and negative reference materials; and~~
~~(II) Use positive controls for specific cell types when applicable;~~
~~(M) Use controls to monitor the test components and each phase of the test system for:~~
~~(I) Each compatibility test; and~~
~~(II) Typing for disease associated antigens;~~
~~(N) Use quality control procedures to monitor the efficacy of the method if immunologic reagents are used to remove contaminating cells during the isolation of lymphocytes or lymphocyte subsets;~~
~~(O) Have each individual performing tests evaluate a previously tested specimen as an unknown on a monthly basis; and~~
~~(P) Participate in at least one national or regional cell exchange program, if available, or develop an exchange system with another medical test site;~~
~~(iii) When performing only transfusions, and nonrenal transplantation, excluding bone marrow and living transplants, meet all the requirements specified in this section except for the requirements for the performance of mixed lymphocyte cultures;~~
~~(iv) When performing bone marrow transplantation, meet all the requirements specified in this section including the performance of mixed lymphocyte cultures, or equivalent, to evaluate class II compatibility;~~
~~(v) When performing disease associated studies, meet all the requirements specified in this section except for the~~

~~performance of mixed lymphocyte cultures, antibody screening and crossmatching; and~~

~~(vi) Test donor for HIV reactivity)) Meet the standards for histocompatibility as listed in 42 CFR Part 493.1265. Condition: Histocompatibility, available from the department upon request;~~

~~(u) For cytogenetics:~~
~~(i) Document the:~~
~~(A) Number of metaphase chromosome spreads and cells counted and karyotyped;~~
~~(B) Number of chromosomes counted for each metaphase spread;~~
~~(C) Media used;~~
~~(D) Quality of banding; and~~
~~(E) Sufficient resolution to support the reported results;~~
~~(ii) Assure an adequate number of karyotypes are prepared for each patient, according to the indication given for performing cytogenetics study;~~
~~(iii) Use an adequate patient identification system for:~~
~~(A) Patient specimens;~~
~~(B) Photographs, photographic negatives, or computer stored images of metaphase spreads and karyotypes;~~
~~(C) Slides; and~~
~~(D) Records;~~
~~(iv) Include in the final report:~~
~~(A) The number of cells counted and karyotyped; and~~
~~(B) An interpretation of the karyotypes findings;~~
~~(v) Use appropriate nomenclature on final reports; and~~
~~(vi) When performing determination of sex by X and Y chromatin counts, perform confirmatory testing on all atypical results;~~
~~(v) For radioassay and radioimmunoassay:~~
~~(i) Check the counting equipment for stability each day of use with radioactive standards or reference sources; and~~
~~(ii) Meet Washington state radiation standards described under chapter 70.98 RCW, and chapter 402-10 through 402-24, 402-32 through 402-34, 402-62, and 402-70 WAC.~~

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-100 Disciplinary action. (1) The department may take disciplinary action against the license of a medical test site or an application for a license as a medical test site upon a determination that the licensee or applicant has engaged in or committed any of the following:

(a) Failure or refusal to comply with the requirements of chapter 70.42 RCW or the rules adopted under chapter 70.42 RCW;

(b) Knowingly, or with reason to know, made a false statement of a material fact in the application for a license or in any data attached thereto or in any record required by the department;

(c) Refused to allow representatives of the department to examine any book, record, or file required under this chapter;

(d) Willfully prevented, interfered with, or attempted to impede in any way, the work of a representative of the department; or

(e) Misrepresented or was fraudulent in any aspect of the owner's or applicant's business.

(2) Except as provided in subsection (3) of this section, the following actions may be taken against the applicant or licensee, individually or in any combination, as a disciplinary action:

- (a) Denial of the license or renewal thereof;
- (b) Conditions on the license which limit or cancel the test site's authority to conduct any tests or group of tests;
- (c) Suspension of the license;
- (d) Revocation of the license;
- (e) Monetary penalties, not exceeding ten thousand dollars per violation.

(3) Upon a determination that the licensee or applicant has engaged in or committed any of the following described conduct, the sanction shall be as specified for that conduct. If more than one sanction is listed, the sanction may be ordered individually or in any combination:

(a) If the applicant was the holder of a license under chapter 70.42 RCW which was revoked for cause and never reissued by the department, then the license application may be denied;

(b) If the licensee willfully prevents or interferes with preservation of evidence of a known violation of chapter 70.42 RCW or the rules adopted under this chapter, a monetary penalty not exceeding ten thousand dollars per violation may be assessed or the license may be:

- (i) Conditioned in a manner limiting or canceling the authority to conduct tests or groups of tests;
- (ii) Suspended;
- (iii) Revoked;

(c) If the licensee used false or fraudulent advertising, a monetary penalty not exceeding ten thousand dollars per violation may be assessed or the license may be suspended or revoked;

(d) If the licensee failed to pay any civil monetary penalty assessed by the department under chapter 70.42 RCW within twenty-eight days after the assessment becomes final, the license may be suspended or revoked;

(e) If the licensee intentionally referred its proficiency testing samples to another medical test site or laboratory for analysis, the license will be revoked for a period of at least one year and a monetary penalty not exceeding ten thousand dollars per violation may be assessed (~~or the license may be:~~

- ~~(i) Conditioned in a manner limiting or canceling the authority to conduct tests or groups of tests;~~
- ~~(ii) Suspended;~~
- ~~(iii) Revoked).~~

(4) The department may summarily suspend or revoke a license when the department finds continued licensure of a test site immediately jeopardizes the public health, safety, or welfare.

(5) The department shall give written notice of any disciplinary action taken by the department to the owner or applicant for licensure, including notice of the opportunity for a hearing.

(6) A medical test site, convicted of fraud and abuse, false billing or kickbacks under state law must report this information to the department within thirty days.

WSR 97-11-040

PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed May 16, 1997, 8:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-016.

Title of Rule: Chapter 468-105 WAC, Public advisory elections for selected state transportation facilities.

Purpose: Revise rule to reflect 1996 legislative changes (SSB 6753) and to comply with chapter 47.46 RCW.

Statutory Authority for Adoption: Chapter 47.46 RCW.

Statute Being Implemented: Public-Private Initiatives in Transportation Act.

Summary: Rule is revised to reflect legislative changes in 1996 session (SSB 6753) and to reflect department commitment to conform WAC to existing statute as indicated to the Joint Administrative Rules [Review] Committee.

Name of Agency Personnel Responsible for Drafting and Implementation: Rhonda Brooks, Program Manager, Olympia, Washington, (360) 664-2910; and Enforcement: Jerry Ellis, Director, Olympia, Washington, (360) 664-2900.

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: Chapter 468-105 WAC sets for the administrative procedure for conducting a public advisory election on selected transportation facilities under the public-private initiatives in transportation program.

Proposal Changes the Following Existing Rules: SSB 6753 amended chapter 47.46 RCW by requiring a "preferred alternative" to be defined in the SEPA process prior to conducting a public advisory election on selected state transportation facilities. The revised WAC rule reflects this statutory change. In addition, a protest filed with the Joint Administrative Rules [Review] Committee declares that a recommendation from the Local Involvement Committee after the public advisory election is beyond the scope of the existing statute. The Washington State Department of Transportation and the Attorney General's Office concurs and the rule is proposed to be amended accordingly.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Administrative rule does not economically impact small businesses.

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

Hearing Location: Department of Transportation, Commission Board Room 1D16, Transportation Building, Olympia, Washington, on June 26, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980, by June 20, 1997.

Submit Written Comments to: Rhonda Brooks, Program Manager, Department of Transportation, P.O. Box 47395, Olympia, WA 98504-7395, FAX (360) 664-2770, by June 20, 1997.

Date of Intended Adoption: June 26, 1997.

May 12, 1997

E. R. Burch

Acting Deputy Secretary
for Operations

PROPOSED

AMENDATORY SECTION (Amending WSR 96-03-107, filed 1/23/96, effective 2/23/96)

WAC 468-105-020 Definitions. For the purpose of implementing RCW 47.46.030 (3) through (11) relative to the process for conducting public advisory elections on selected transportation facilities, the following definitions apply:

(1) "Affected project area" means a geographic area of the state impacted by the imposition of tolls or user fees that is defined and established by the department following a public comment period and a recommendation by the public private local involvement committee. The affected project area is a geographic portion of the state which is depicted in a map.

(2) "City" means any jurisdiction formed under Titles 35 and 35A RCW including any first class city (RCW 35.01.010), second class city (RCW 35.01.020), town (RCW 35.01.040) or code city (RCW 35A.01.035).

(3) "County auditor" shall have the same meaning as provided in RCW 29.01.043.

(4) "Department" means the Washington state department of transportation.

(5) "Initial affected project area" means a geographic area of the state that is defined by the department as a result of a comprehensive analysis of traffic patterns and economic impacts created by the imposition of tolls or user fees to finance a proposed project.

(6) "Local involvement committee (LIC)" means an advisory committee officially named the "public private local involvement committee" which will be established for each proposed project. The LIC will serve in an advisory capacity on all functions and responsibilities of the department in the conduct of the public advisory election.

(7) "Project description" means a written description of the proposed project that is prepared by the department in consultation with the LIC. The project description is a statement of the essential elements of the proposed project.

(8) "Project developer" means a private entity submitting a proposed project to improve transportation capital facilities under chapter 47.46 RCW.

(9) "Proposed project" means a conceptual project proposed by one or more project developers which is intended to build or improve transportation capital facilities. The proposed projects are those selected pursuant to chapter 47.46 RCW which have organized opposition as demonstrated by the submission to the department of original petitions bearing at least five thousand signatures of individuals opposing the proposed project by the deadlines set forth in RCW 47.46.030 (10) and (11).

(10) "Public advisory election" means an election conducted within an affected project area by the county auditor for the purpose of advising the department on the public support or opposition to the imposition of tolls to finance a proposed project.

(11) "Preferred alternative" means a proposed action identified in the draft environmental impact statement developed in chapter 42.21C RCW.

AMENDATORY SECTION (Amending WSR 96-03-107, filed 1/23/96, effective 2/23/96)

WAC 468-105-040 Local involvement committee.

(1) **Creation of the local involvement committee.** A public private local involvement committee shall be established for each proposed project. The committee will be known as the local involvement committee or "LIC." Within sixty days after defining the initial affected project area, all appointments to the LIC shall be made and submitted to the department.

(2) **LIC membership.** The LIC membership shall consist of:

(a) One elected official of each county and one elected official from each city lying wholly or in part within the affected project area. Such members shall be appointed by a majority of the members of the county or city legislative authority.

(b) Two persons from each county lying wholly or in part within the affected project area each of whom represents an organization formed in support of the proposed project, if any such organizations exist; and two persons from each county lying wholly or in part within the affected project area each of whom represents an organization formed to oppose the proposed project, if any such organizations exist. Such members shall be appointed by the county legislative authority. Prior to such appointment, the county legislative authority shall identify and validate organizations officially formed in support of or in opposition to the proposed project. The method of validation shall be devised by the county. Appointments shall be made from list(s) submitted by the chairs of the validated organizations. The county legislative authority shall submit a list of the appointed members in writing to the department.

(c) Four public members active in a state-wide transportation organization who shall be appointed by the governor.

(d) Vacancies in the membership of the LIC shall be filled by the appointing authority under (a) through (c) of this subsection.

(e) If the committee makeup results in an even number of committee members, there shall be an additional appointment of an elected official from the county in which all, or the greatest portion of the proposed project is located.

(3) **Compensation and expenses.** Members of the LIC shall serve without compensation and may not receive reimbursement for subsistence, lodging expenses, or travel expenses from the department.

(4) **LIC duties.** Each LIC will serve in an advisory capacity to the department on all matters related to the administration of the public advisory elections including:

(a) Reviewing the methodology, criteria and recommendations developed in the traffic and economic studies and used by the department to establish the initial affected project area boundary.

(b) ~~((Advising the department on the maximum length of the public comment period for establishing the affected project area.~~

(e)) Reviewing the initial affected project area boundary and recommending adjustments, if any are deemed desirable, to the geographic boundaries and the LIC membership.

~~((d))~~ (c) Reviewing the project description ~~((prepared))~~ that is based upon the preferred alternative selected by the department and recommending changes, if any are deemed desirable, in order for the department to prepare the final project description.

~~((e))~~ (d) Recommending to the department the date for the public advisory elections that are within those dates established by RCW 29.13.020.

~~((f) Reviewing the public advisory election results and providing a recommendation to the department on whether the department should impose tolls or user fees to finance the proposed project.~~

~~((g))~~ (e) Providing advice on any other matters identified by the department related to the administration of the public advisory election in the affected project areas.

(5) LIC meeting and procedures.

(a) LIC meetings shall be open to the public and shall be subject to the requirements of the Open Public Meetings Act, RCW 42.30.030. The public shall have advance notice of LIC meetings as described in LIC procedures established in (b) of this subsection. Meetings shall be held in locations within the affected project areas and be accessible for persons with disabilities.

(b) Within thirty days of the first LIC meeting, each LIC shall develop meeting procedures to include but not be limited to the frequency and location of meetings, alternate members, methods of public notification and public participation at the meetings. Each LIC shall also develop its own method of providing recommendations to the department, provided that all decisions of the LIC shall be made by a simple majority of the LIC members. A simple majority shall be defined as fifty percent of the members plus one member of the LIC committee.

(c) All LIC meeting summaries, reports, correspondence and other materials are subject to public disclosure pursuant to chapter 42.17 RCW.

(6) **Administrative support to LIC's.** The department shall provide administrative support to the LIC's. Such support shall include notifying members of meetings, providing public notification of meetings, facilitating meetings, arranging for meetings and materials, and other necessary administrative support.

AMENDATORY SECTION (Amending WSR 96-03-107, filed 1/23/96, effective 2/23/96)

WAC 468-105-050 Establishing affected project area. (1) **Public comment on initial affected project area.** The department shall conduct a ~~((minimum))~~ thirty-day public comment period on the definition of each initial affected project area boundary. ~~((The department, in consultation with the LIC shall establish the maximum period of public comment.))~~

(2) **LIC recommendation on affected project area.** The LIC shall review the public comments. The LIC shall recommend adjustments to the geographic boundary of the initial affected project area based upon the public comment. Adjustments to the geographic boundary shall be established by precinct. The LIC may also recommend adjustments to the membership of the LIC based upon any recommended boundary adjustments.

(3) **Final boundaries of affected project area.** Within fourteen calendar days after the close of the public comment period and a recommendation from the LIC, the department shall establish the final boundaries of the affected project area in units no smaller than a precinct as defined in RCW 29.01.120.

AMENDATORY SECTION (Amending WSR 96-03-107, filed 1/23/96, effective 2/23/96)

WAC 468-105-060 Project description. (1) **Proposed project description.** A draft project description shall be developed by the department based upon the ~~((information submitted by project developers for the proposed project as approved by the state transportation commission on August 18, 1994, or contained in a proposal approved after June 30, 1997))~~ preferred alternative.

(2) **LIC recommendation on project description.** The department shall provide the project description to the LIC. The LIC shall recommend changes to the content of the project description, if any, so that the department may prepare the final project description.

(3) **Publication of project description.** The department shall publish the project description in newspapers of general circulation in each county lying in whole or in part within the affected project area for a period of seven calendar days.

AMENDATORY SECTION (Amending WSR 96-03-107, filed 1/23/96, effective 2/23/96)

WAC 468-105-070 Public advisory elections. (1) **Transmittal to county auditor.** Within fourteen calendar days after the last day of the publication of the project description, the department shall transmit a letter requesting a public advisory election and a copy of the map depicting the affected project area and the project description to the county auditor of each county in which any portion of the affected project area is located.

(2) **Precinct verification.** Upon receipt of the affected project area map, and the project description, the county auditor shall, within thirty days, verify the precincts that are located within the affected project area.

(3) Ballot proposition.

(a) The department shall request the office of the attorney general to prepare the ballot title and summary advising the department on the public support or opposition to the imposition of tolls or user fees to implement the ~~((proposed project))~~ preferred alternative within the affected project area in the same manner and type as those required under RCW 29.79.040 for the public advisory election.

(b) Any registered voter residing within the affected project area who is dissatisfied with the content of the ballot title or summary may appeal to the superior court of Thurston County in the same manner as provided for on state measures in RCW 29.79.060.

(c) Not later than sixty days before the election date, the department shall submit the complete text of the ballot title and summary to the county auditor for the purpose of preparing the voters pamphlet and conducting the public advisory election.

(4) **Election date.** Unless a special election is requested by the department, the public advisory election shall be held at the next succeeding general election to be held in the

state. The special election date must be the next date for a special election provided under RCW 29.13.020 that is at least sixty days, but not more than ninety days after the transmittal of the final map of the affected project area, project description, the ballot title and summary to the county auditor under subsection (1) of this section.

(5) Voters pamphlet.

(a) The county auditor shall prepare or contract with the secretary of state to prepare the voters pamphlet in the same manner required under chapter 29.81A RCW using the full text of the ballot title, summary, the project description and the geographic boundary of the affected project together with statements for and against the imposition of tolls or user fees to finance the proposed project. Committees to prepare the statements for and against the imposition of tolls to finance the proposed project for the voters pamphlet shall be appointed in the same manner as committees for state measures under RCW 29.81.050. The secretary of state shall transmit committee names and their statements to the county auditors.

(b) The county auditor may consolidate the voters pamphlet on the public advisory election with any other local voters pamphlet that is being produced by the county auditor for an election.

(6) Reimbursement for election costs. The department shall reimburse the costs of publication and distribution of information to the voters incurred by the county auditor in the same manner that local election costs are allocated under RCW 29.13.045. The department shall reimburse the county auditor for the cost of an election.

AMENDATORY SECTION (Amending WSR 96-03-107, filed 1/23/96, effective 2/23/96)

WAC 468-105-080 Public advisory election results.

(1) Canvassing the votes cast on a public advisory election. Immediately following the certification of the votes cast on the public advisory election by the county canvassing board, the county auditor shall transmit a certified copy of the returns of that special election to the secretary of state in the same manner as provided for state measures in RCW 29.62.090.

(2) Certification of returns on a public advisory election to the department. Within three days following the receipt of the certified returns from a special election on a public advisory election, the secretary of state shall accumulate the results from the respective counties and certify the results to the department.

~~**((3) LIC recommendation on public advisory election results.** Within thirty days after receipt of the certification of the election results from the secretary of state, the LIC shall review the election results and recommend to the department on whether to proceed with the imposition of tolls to finance the proposed project.))~~

**WSR 97-11-044
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)**

[Filed May 16, 1997, 10:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-057.

Title of Rule: Sexually violent predator escorted leaves.

Purpose: Chapter 71.09 RCW was amended to authorize the Department of Social and Health Services to grant escorted leaves under certain circumstances.

Statutory Authority for Adoption: RCW 71.09.230.

Statute Being Implemented: RCW 71.09.200, [71.09.]210, [71.09.]110, and [71.09.]230.

Summary: Provides implementation rules for escorted leaves of persons detained or committed under chapter 71.09 RCW; outlines the process for the person or the person's immediate family to reimburse the state for the costs of the leave of absence.

Name of Agency Personnel Responsible for Drafting: David Weston, Olympia, (360) 902-7846; Implementation and Enforcement: Mark Selig, Acting Superintendent, Monroe, (360) 794-2240.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides implementation rules for escorted leaves of persons detained or committed under chapter 71.09 RCW; outlines the process for the person or the person's immediate family to reimburse the state for the costs of the leave of absence.

Proposal Changes the Following Existing Rules: Rules previously did not contain any reference to escorted leaves.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have any impact on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section (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 104-A, Lacey, WA 98503, on June 24, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by June 17, 1997, TTY (360) 902-8324, or (360) 902-7540.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by June 24, 1997.

Date of Intended Adoption: No sooner than June 25, 1997.

May 15, 1997
Merry A. Kogut, Manager
Rules and Policies Assistance Unit

**Chapter 275-155 WAC
SEXUAL PREDATOR PROGRAM—SPECIAL COM-
MITMENT (~~(PROCESS)~~)—ESCORTED LEAVE**

SPECIAL COMMITMENT PROCESS

AMENDATORY SECTION (Amending Order 3054, filed 8/21/90, effective 9/21/90)

WAC 275-155-005 Special commitment of sexually violent predators—Legal basis. (1) ~~((Laws of 1990;)) Chapter ((3, section 1006))~~ 71.09 RCW authorizes the department to develop a sexual predator program (SPP) for a person the court determines is a sexually violent predator.

(2) Beginning July 1, 1990, the department's SPP shall provide:

(a) Evaluation of a person court-ordered to the SPP ~~((for determining))~~ to determine if the person meets the definition of a sexually violent predator under this chapter; and

(b) Control, care, and treatment services to a person court-committed as a sexually violent predator.

AMENDATORY SECTION (Amending Order 3054, filed 8/21/90, effective 9/21/90)

WAC 275-155-010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Appropriate facility" means a facility the department uses for evaluating and determining if a person meets the definition of a sexually violent predator as defined in this section.

(2) "Care" means a service the department provides during a person's commitment to the SPP to sustain adequate health, shelter, and physical sustenance.

(3) "Control" means a restraint, restriction, or confinement the department applies protecting a person from endangering self, others, or property during a commitment under this chapter.

(4) "Department" means the department of social and health services.

(5) "Escorted leave" means a leave of absence from a facility housing persons detained or committed under chapter 71.09 RCW under the continuous supervision of an escort.

(6) "Evaluation" means an examination, report, or recommendation a professionally qualified person makes determining if a person meets or continues to meet the definition of a sexually violent predator as defined in this section.

~~((6))~~ (7) "Immediate family" includes a resident's parents, stepparents, parent surrogates, legal guardians, grandparents, spouse, brothers, sisters, half or stepbrothers or sisters, children, stepchildren, and other dependents.

(8) "Indigent" means a resident who has not been credited with twenty-five dollars or more total from any source for deposit to the resident's trust fund account during the thirty days preceding the request for an escorted leave and has less than a twenty-five dollar balance in his/her trust fund account on the day the escorted leave is requested, and together with his/her requesting immediate family member affirm in writing that they cannot afford to pay the costs of the escorted leave without undue hardship. A declaration of indigency shall be signed by the resident and the resident's

requesting immediate family member on forms provided by the department.

(9) "Individual treatment plan (ITP)" means an outline the SPP staff persons develop detailing how control, care, and treatment services are provided to a SPP-committed person.

~~((7))~~ "Predatory" means acts a person directs toward strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

~~((8))~~ (10) "Mental abnormality" means a congenital or acquired condition affecting a person's emotional or volitional capacity, including personality disorders, predisposing the person to commit criminal acts of sexual violence placing other persons in danger.

~~((9))~~ (11) "Predatory" means acts a person directs toward strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

(12) "Professionally qualified person" includes:

(a) "Mental health counselor" means a person certified as a mental health counselor under chapter 18.19 RCW;

(b) "Psychiatric nurse" means a person licensed as a registered nurse under chapter 18.88 RCW and having two or more years supervised clinical experience;

(c) "Psychiatrist" means a person licensed as a physician under chapters 18.71 and 18.57 RCW. In addition, the person shall:

(i) Have completed three years of graduate training in a psychiatry program approved by the American Medical Association or the American Osteopathic Association; and

(ii) Be certified, or eligible to be certified, by the American Board of Psychiatry and Neurology;

(d) "Psychologist" means a person licensed as a doctor of psychology under chapter 18.83 RCW; and

(e) "Social worker" means a person certified as a social worker under chapter 18.19 RCW.

~~((10))~~ (13) "Resident" means a person detained or committed pursuant to chapter 71.09 RCW.

(14) "Secretary" means the secretary of the department of social and health services.

(15) "Secure facility" means a department-operated facility, not located on the grounds of a state mental facility or residential habilitation center, with the purpose of confining and treating a person committed to the SPP.

~~((11))~~ (16) "Sexual predator program (SPP)" means a department-administered and operated program established for:

(a) A court-ordered person's evaluation; or

(b) Control, care, and treatment of a court-committed person defined as a sexually violent predator under this chapter.

~~((12))~~ (17) "Sexually violent offense" means an act defined under ~~((Laws of 1990;)) Chapter ((3, section 1002))~~ 71.09 RCW and for which a person is charged or convicted on, before, or after July 1, 1990.

~~((13))~~ (18) "Sexually violent predator" means a person defined under ~~((Laws of 1990;)) Chapter ((3, section 1002))~~ 71.09 RCW who has been convicted or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

PROPOSED

(19) "Superintendent" means the person delegated by the secretary of the department to be responsible for the facility housing persons detailed or committed under chapter 71.09 RCW.

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.

ESCORTED LEAVE

NEW SECTION

WAC 275-155-070 Escorted leave—Purpose. The purpose of WAC 275-155-070 through 388-155-140 is:

- (1) To set forth the conditions under which residents will be granted leaves of absence;
- (2) To provide for safeguards to prevent escape, the obtaining of contraband, and the commission of new crimes, while on leaves of absence; and
- (3) To outline the process for the reimbursement of the state by the resident and the resident's family for the costs of the leave of absence.

NEW SECTION

WAC 275-155-080 Reasons allowed. An escorted leave of absence may be granted by the superintendent, or designee, subject to the approval of the secretary, to residents to:

- (1) Go to the bedside of a member of the resident's immediate family as defined in WAC 275-155-010, who is seriously ill;
- (2) Attend the funeral of a member of the resident's immediate family as defined in WAC 275-155-010; and
- (3) Receive necessary medical or dental care which is not available in the institution.

NEW SECTION

WAC 275-155-090 Conditions. (1) An escorted leave shall be authorized only for trips within the boundaries of the state of Washington.

(2) The duration of an escorted leave to the bedside of a seriously ill member of the resident's immediate family or attendance at a funeral shall not exceed forty-eight hours unless otherwise approved by the superintendent, or designee.

(3) Other than when housed in a city or county jail or state institution the resident shall be in the visual or auditory contact of an approved escort at all times.

(4) The resident shall be housed in a city or county jail or state institution at all times when not in transit or actually engaged in the activity for which the escorted leave was granted.

(5) Unless indigent, the resident and immediate family member shall, in writing, make arrangements to reimburse the state for the cost of the leave prior to the date of the leave.

(6) The superintendent, or designee, shall notify county and city law enforcement agencies with jurisdiction in the area of the resident's destination before allowing any escorted leave of absence.

NEW SECTION

WAC 275-155-100 Application requests and approval for escorted leave. The superintendent, or designee, shall establish a policy and procedures governing the method of handling the requests by individual residents. The superintendent, or designee, shall evaluate each leave request and, in writing, approve or deny the request within forty-eight hours of receiving the request based on:

- (1) The nature and length of the escorted leave;
 - (2) The community risk associated with granting the request based on the resident's history of security or escape risk;
 - (3) The resident's overall history of stability, cooperative or disruptive behavior, and violence or other acting out behavior;
 - (4) The resident's degree of trustworthiness as demonstrated by his/her performance in unit assignments, security level, and general cooperativeness with facility staff;
 - (5) The resident's family's level of involvement and commitment to the escorted leave planning process;
 - (6) The rehabilitative or treatment benefits which could be gained by the resident; and
 - (7) Any other information as may be deemed relevant.
- The resident's, and family's, ability to reimburse the state for the cost of the escorted leave shall not be a determining factor in approving or denying a request.

NEW SECTION

WAC 275-155-110 Escort procedures. (1) Only persons approved by the superintendent, or designee, will be authorized to serve as escorts. All escorts must be employees of either the department of social and health services or the department of corrections and must have attained permanent employee status. At least one of the escorts must be experienced in the escort procedures.

(2) The superintendent, or designee, shall determine the use and type of restraints necessary for each escorted leave on an individual basis.

(3) Escorted leaves supervised by department of corrections staff shall be done in accordance with established department of corrections procedures. Correctional officers may wear civilian clothing when escorting a resident to a bedside visit or a funeral.

NEW SECTION

WAC 275-155-120 Expenses. (1) Staff assigned escort duties shall be authorized per diem reimbursement for meals, lodging, and transportation at the rate established by the state travel policy.

(2) Staff assigned escort duties shall receive appropriate compensation at regular salary or overtime for all hours spent in actual escort of the resident, but not including hours spent sleeping or not engaged in direct supervision of the resident. The salary shall be paid at the appropriate straight time and overtime rates as provided in the merit system rules.

(3) Cost of housing the resident in a city or county jail shall be charged to the resident in accordance with WAC 275-155-130.

NEW SECTION**WAC 275-155-130 Expenses—Paid by resident.** (1)

The expenses of the escorted leave as enumerated in WAC 275-155-120 shall be reimbursed by the resident or his/her immediate family member unless the superintendent, or designee, has authorized payment at state expense in accordance with WAC 275-155-140.

(2) Payments by the resident, or the resident's immediate family member, shall be made to the facility's business office and applied to the appropriate fund as defined by law, applicable provisions of the Washington Administrative Code, or department policy.

NEW SECTION**WAC 275-155-140 Expenses—Paid by department.**

The expenses of the escorted leave shall be absorbed by the state if:

(1) The resident and his/her immediate family are indigent as defined in WAC 275-155-010; or

(2) The expenses were incurred to secure medical care.

WSR 97-11-050**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed May 20, 1997, 10:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-24-086.

Title of Rule: Seed certification fees and standards.

Purpose: Response to industry request to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains, and to clarify wording in the field and seed standards for small grains.

Statutory Authority for Adoption: RCW 15.49.310 and 15.49.370(3).

Statute Being Implemented: Chapter 15.49 RCW.

Summary: Proposal increases seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains, and clarifies wording in the field and seed standards for small grains.

Reasons Supporting Proposal: The fee increases will reflect current costs of operating the portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association. Wording clarifications would increase understanding of the small grains standards by growers and seed conditioners.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Doug Boze, Yakima, Washington, (509) 575-2750.

Name of Proponent: Washington State Department of Agriculture and Washington State Crop Improvement Association, private and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal is in response to industry request to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains; and clarifies wording in the field and seed standards for small

grains. This fee increase reflects current operating costs of the portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association.

Proposal Changes the Following Existing Rules: Increases seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains; and clarifies wording in the field and seed standards for small grains.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The fees in question are for services provided by the Washington State Crop Improvement Association (WSCIA), a nonprofit organization, through a memorandum of agreement with the Washington State Department of Agriculture. This working relationship was established in the early 1950's and has been in effect continuously. WSCIA operates as an independent entity, and must retain the ability to adjust their fees to reflect changes in operating expenses, in order to remain in business.

Participation in the seed certification program in Washington is not required by the State Seed Act or any regulation. The fees are for inspection services provided that are entirely voluntary, in that it is possible to grow, condition, and market quality seeds that are not included in the seed certification program.

This proposal does not place a disproportionate impact on small business. All members of the seed trade who choose to participate in seed certification meet the definition of small business. Also, all growers and conditioners pay the same rate per acre or cwt., regardless of the size of the business.

This fee increase is at the request of the seed industry through its primary organizations: The Washington-North Idaho Seed Association, the Washington Seed Council, and the WSCIA board of directors.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Agriculture Service Center Conference Room, 2015 South 1st Street, Yakima, WA 98903, on June 26, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 26, 1997, TDD (360) 902-1996.

Submit Written Comments to: Doug Boze, Acting Program Manager, Washington State Department of Agriculture, Seed Program, 2015 South 1st Street, MS-3, Yakima, WA 98903, FAX (509) 454-4395, by June 26, 1997.

Date of Intended Adoption: July 28, 1997.

May 19, 1997

Julie Sandberg

Assistant Director

[AMENDATORY SECTION (Amending WSR 96-14-091, filed 7/2/96)]

WAC 16-316-474 Buckwheat—Chickpea—Field pea—Lentil—Millet—Soybean—Sorghum—Small grain—Application and fees. (1) An application for seed certification with application fee, field inspection fee, and late application fee (if due) for each field shall be filed by or for each grower with Washington State Crop Improvement

Association, Inc., the certifying agency for seeds of buckwheat, chickpea (garbanzo beans), field pea, lentil, millet, soybean, sorghum and small grains.

(2) Due dates:

- (a) Buckwheat - June 1
- (b) Field pea - June 1
- (c) Chickpea - June 1
- (d) Lentil - June 1
- (e) Millet - June 1
- (f) Soybean - July 1
- (g) Sorghum - July 1
- (h) Small grains - June 1 for both winter varieties and spring varieties.

(i) After due date, an application with late application fee may be accepted for service.

(3) Fees:

- (a) Application fee per variety per grower ((\$17.56))
\$18.27
- (b) Field inspection fee per acre
except millet and hybrid sorghum ... ((\$ 2.46))
\$ 2.55
- (c) Millet - first acre ... ((\$26.11))
\$27.16
- each additional acre ... ((\$ 5.22))
\$ 5.43
- (d) Hybrid sorghum - first acre ... ((\$26.11))
\$27.16
- each additional acre ... ((\$10.44))
\$10.86
- (e) Special field inspection fee per acre ... ((\$ 2.19))
\$ 2.27
- (f) Late application fee ... ((\$16.46))
\$17.12
- (g) Reinspection fee ... ((\$32.93))
\$34.26

minimum for each field which did not pass field inspection plus \$ 0.40 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is ((\$32.93)) \$34.26

(h) Final certification fee ... ((\$ 0.215))
\$ 0.22

per cwt. of clean seed sampled, which shall be charged to conditioning plant, or production fee ... \$0.105 per cwt. of production from fields inspected which is utilized for seed, which shall be charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of state.

(i) Sampling fee ... \$0.105 per cwt. of clean seed sampled, with minimum charge of ten dollars per sample, which shall be charged to conditioning plant in lieu of mechanical sampling.

(4) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee shall be refunded upon request until June 30 of the year following harvest.

(5) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

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.

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.

[AMENDATORY SECTION (Amending WSR 96-14-091, filed 7/2/96)]

WAC 16-316-724 Small grain standards. (1) Small grains (barley, oat, rye, triticale, wheat) - land, isolation, and field standards:

Class	Land Standards	Isolation Standards	Field Standards		
	Minimum Years	Minimum Feet	Off-Type Maximum Head Ratio	Other Crop Maximum Head Ratio	Wild Oat Maximum Plants/Acre
Foundation	2*	3**	None found	None found***	None found
Registered	1*	3**	1/148,000	1/148,000***	(5)
Certified	1*	3**	1/49,000	1/49,000***	(5)

* Waived if the previous crop was grown from an equal or higher certified class of seed of the same variety.

** Refers to distance from other small grain fields. Foundation class fields shall be isolated ninety feet from fields of the same (~~species~~) genus. In addition, each rye field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other rye fields by six hundred sixty feet. Each triticale field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other triticale, rye and wheat fields by three hundred feet for foundation and registered class, and three feet for certified class, unless otherwise stated by plant breeder.

*** Refers to other small grains, except that no rye or triticale is permitted in barley, oat, or wheat; no vetch is permitted.

PROPOSED

(2) Small grains - seed standards:

Class:

	Foundation	Registered	Certified
Pure seed (min)	98%	98%	98%
Inert (max)	2%	2%	2%
Off-type(*) (max)	None found	2/lb	4/lb
Other small grain(*) (max)	None found	1/lb	2/lb
Other crop(**) (max)	None found	0.03%	0.05%
Weed seed (max)	0.01%	0.01%	0.03%
Objectionable weed seed(***) (max)	None found	None found	1/lb
Wild oat (max) ((Germ or TZ))	None found	None found	None found(****)
Viability (*****) (min)	85%	85%	85%

(*) The combination of other small grain and off-type shall not exceed 2/lb for Registered class, and 4/lb for Certified class. No rye, triticale, or vetch is permitted in barley, oat, or wheat. No rye or vetch is permitted in triticale. No triticale or vetch is permitted in rye.

(**) Excluding off-type and other small grain.

(***) Excluding wild oat.

(****) 1/lb for Certified class oat.

(*****) A certification certificate will be issued upon receipt of either an official AOSA tetrazolium or germination test which meets minimum Washington viability standards. NOTE: State and federal seed laws require seed to be labeled based on a germination test.

Note: For all classes the purity analysis shall be based on 100 grams examined. For Registered and Certified classes, noxious weed, vetch, off-type, and other small grain, determinations shall be based on 500 grams examined. For Foundation class, noxious weed, vetch, off-type, and other small grain determinations shall be based on two pounds examined.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

[AMENDATORY SECTION (Amending Order 5086, filed 10/25/95)]

WAC 16-316-715 Miscellaneous field and seed inspection standards. (1) The field inspection will be made:

- (a) For field pea and chickpea (garbanzo bean) - when seedcrop is in full bloom and at maturity;
- (b) For lentil - when seedcrop is in full bloom and at maturity;
- (c) For soybean - when seedcrop is in full bloom and/or of mature color;
- (d) For open pollinated sorghum - when seedcrop is in full bloom, and optionally again when seedcrop begins to show mature color;
- (e) For hybrid sorghum - two inspections during bloom and one inspection after seed begins to show mature color.
- (f) For small grains - when seedcrop is fully headed and of mature color.
- (g) For millet - one inspection during bloom and one inspection after seed begins to show mature color.
- (h) For buckwheat - one inspection when seedcrop is in full bloom.

(2) Any condition or practice which permits or causes contamination of the seedcrop, such as failure to prevent seed formation in bindweeds, Canada thistle or jointed goatgrass, or excess weeds, or mechanical field mixing, shall be cause for rejection upon inspection for field standards. Fields rejected for jointed goatgrass at first inspection are not eligible for reinspection and shall remain ineligible for any production of certified classes of small grain seed until a reclamation procedure, as specified in subsection (3) of this section has been completed. Fields rejected for other causes will remain eligible for reinspection.

(3) The jointed goatgrass reclamation procedure shall include the following:

(a) Each grower shall develop a reclamation plan for his/her affected fields. Such a plan shall be based on the most current recommendations of Pacific Northwest scientists and Washington State University cooperative extension as well as good management practices. Such plan may include use of certified seed, spring cropping practices, and late tilling and planting. No particular program is specified or endorsed and compliance with such program does not assure eligibility for the production of certified classes of small grain seed. Such eligibility shall be based solely upon

results of field inspections as provided in (b) through (e) of this subsection.

(b) The rehabilitation and inspection program duration shall be three years for irrigated land and five years for dryland without production of certified small grain seed and the first year of certified seed production thereafter.

(c) Annual inspections of the affected fields shall be conducted by the Washington State Crop Improvement Association (WSCIA) during the prescribed rehabilitation period at such time that the jointed goatgrass would be most visible.

(d) Following the prescribed period of rehabilitation and during the first certified seed production year, a minimum of three field inspections shall be conducted by WSCIA.

(e) Should jointed goatgrass be found during any inspection as provided in (c) and (d) of this subsection, the rehabilitation program shall be determined to be unsuccessful or the field shall be declared ineligible and the rehabilitation and inspection program for that field shall begin again at year one of the procedure.

(4) No prohibited noxious weed seeds are permitted upon inspection for seed standards.

(5) Germination minimum refers to germination when sampled.

(6) If chemically controllable seed-borne diseases are noted upon inspection for field standards and seed standards for small grains, treatment of seed is required.

(7) Concerning wild oat, isolated patches and borders must be removed or clearly marked so as to avoid harvesting with the rest of the field. If rejected, a reinspection will be necessary to assure clean-up efforts have been satisfactory. Spot checks will occur on fields where heavy patches or contaminated borders were noted. Harvesting these areas with the rest of the field will be cause for rejection of the entire field.

(8) The official laboratory providing seed analysis for the purpose of certification shall be the Washington State Department of Agriculture.)

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 97-11-058
PROPOSED RULES
LOTTERY COMMISSION
[Filed May 20, 1997, 12:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-00-037 [97-02-037] and 97-07-061.

Title of Rule: New WAC 315-11A-196 Instant Game Number 196, 315-11A-197 Instant Game Number 197, 315-11A-198 Instant Game Number 198, 315-11A-199 Instant

Game Number 199, 315-11A-200 Instant Game Number 200, 315-11A-201 Instant Game Number 201, 315-11A-202 Instant Game Number 202 and 315-11A-203 Instant Game Number 203; and amendatory section WAC 315-12-030 Description of central and field organization of the commission and director.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 196, 197, 198, 199, 200, 201, 202, and 203; and to amend WAC 315-12-030.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Rules Coordinator, Olympia, (360) 586-6583; **Implementation and Enforcement:** Merritt D. Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-196, 315-11A-197, 315-11A-198, 315-11A-199, 315-11A-200, 315-11A-201, 315-11A-202 and 315-11A-203, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets.

Proposal Changes the Following Existing Rules: WAC 315-12-030 corrects the address listed for the lottery's Spokane regional office and clarifies the services provided at each lottery location.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: Washington State Lottery, 5936 Corson Avenue South, Suite 106, Seattle, WA 98108, on July 11, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michael Aoki-Kramer by July 2, 1997, (360) 586-6583.

Submit Written Comments to: Michael Aoki-Kramer, Lottery, FAX (360) 586-6586, by July 10, 1997.

Date of Intended Adoption: July 11, 1997.

May 19, 1997
Merritt D. Long
Director

NEW SECTION

WAC 315-11A-196 Instant Game Number 196. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 196, on file at the lottery headquarters office.

(2) **Price per ticket:** One dollar.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$6, \$10, \$20, \$40, \$50, \$60, \$100, \$500, \$700, and \$800. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match any of the "Your Symbols" to the "Winning Symbol." Uncover a spilled milk symbol to win instantly.

NEW SECTION

WAC 315-11A-197 Instant Game Number 197. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 197, on file at the lottery headquarters office.

(2) **Price per ticket:** Two dollars.

(3) **Prizes available:** \$1, \$2, \$3, \$6, \$10, \$25, \$40, \$50, \$100, \$200, \$2,000, \$3,000, and \$5,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match any of the "Your Combinations" to the "Winning Combination." Uncover a bank vault symbol to win instantly.

NEW SECTION

WAC 315-11A-198 Instant Game Number 198. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 198, on file at the lottery headquarters office.

(2) **Price per ticket:** One dollar.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$10, \$15, \$25, \$100, \$200, \$1,000, and \$3,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Get two like cards within one hand.

NEW SECTION

WAC 315-11A-199 Instant Game Number 199. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 199, on file at the lottery headquarters office.

(2) **Price per ticket:** One dollar.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$6, \$15, \$20, \$50, \$100, \$500, \$1,000, and \$2,500. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match "Your Coins" to the "Winning Coins."

NEW SECTION

WAC 315-11A-200 Instant Game Number 200. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 200, on file at the lottery headquarters office.

(2) **Price per ticket:** Five dollars.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$8, \$10, \$20, \$25, \$30, \$40, \$50, \$100, \$1,000, \$2,000, \$4,000, and \$30,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match any of the "Your Symbols" to either of the "Winning Symbols," or match any of the "Your Numbers" to either of the "Winning Numbers."

NEW SECTION

WAC 315-11A-201 Instant Game Number 201. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 201, on file at the lottery headquarters office.

(2) **Price per ticket:** Two dollars.

(3) **Prizes available:** \$2, \$7, \$14, \$35, \$70, \$80, \$700, and \$5,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match the cards within a hand according to the legend on the front of the ticket to win the corresponding amount listed on the legend.

NEW SECTION

WAC 315-11A-202 Instant Game Number 202. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 202, on file at the lottery headquarters office.

(2) **Price per ticket:** One dollar.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$6, \$8, \$10, \$20, \$100, and \$500. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match "Your Puzzle Pieces" to the "Winning Puzzle Piece."

NEW SECTION

WAC 315-11A-203 Instant Game Number 203. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 203, on file at the lottery headquarters office.

(2) **Price per ticket:** One dollar.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$10, \$20, \$50, \$100, \$200, and \$1,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match any of the "Your Numbers" to the "Winning Number." Uncover a yule log symbol to win instantly.

AMENDATORY SECTION (Amending Order 116, filed 6/1/89)

WAC 315-12-030 Description of central and field organization of the commission and the director. The administrative office of the commission and director is located at 814 - 4th Avenue, Olympia, WA 98506. Regional offices of the director located in other cities are as follows:

PROPOSED

PROPOSED

<u>CITY</u>	<u>SERVICES</u>
EVERETT REGION Casino Square Shopping Plaza 205 E. Casino Road Everett, WA 98204	(a) Sales Representative (b) ((Ticket Warehousing)) <u>Payout Center</u>
OLYMPIA REGION 814 - 4th Avenue Olympia, WA 98506	(a) Sales Representative (b) <u>Payout Center</u> (c) <u>Ticket Warehousing</u>
SEATTLE REGION Georgetown Center 5963 Corson Ave. S., Suite 106 Seattle, WA 98108-2611	(a) Sales Representative (b) ((Ticket Warehousing)) <u>Payout Center</u>
SPOKANE REGION ((Montgomery Commerce Center Suite #1 East 10807 Montgomery Avenue)) <u>East 10517 Sprague Avenue</u> Spokane, WA ((99207)) <u>99206-3631</u>	(a) Sales Representative (b) ((Ticket Warehousing)) <u>Payout Center</u>
VANCOUVER REGION El Camino Fountain Shopping Mall Suite 4 1503 NE 78th Street Vancouver, WA 98665	(a) Sales Representative (b) ((Ticket Warehousing)) <u>Payout Center</u>
YAKIMA REGION 9 South 5th Yakima, WA 98901	(a) Sales Representative (b) ((Ticket Warehousing)) <u>Payout Center</u>

All records of the commission and director are maintained in the administrative office in Olympia.

WSR 97-11-060
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF REVENUE
(By the Code Reviser's Office)
[Filed May 20, 1997, 3:50 p.m.]

WAC 458-40-540, proposed by the Department of Revenue in WSR 96-22-089, appearing in issue 96-22 of the State Register, which was distributed on November 20, 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 97-11-063
PROPOSED RULES
HOUSING FINANCE COMMISSION
[Filed May 21, 1997, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-07-068.

Title of Rule: Debarment and temporary disqualification rules.

Purpose: Provide procedures to debar or temporarily disqualify participants in the commission's programs.

Statutory Authority for Adoption: Chapter 43.180 RCW.

Summary: The proposed rules establish the commission's procedures for debarring or temporarily disqualifying participants in the commission's programs.

Reasons Supporting Proposal: The proposed rules implement the commission's policy to conduct business only with responsible persons.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark McLaughlin, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, (206) 287-4462.

Name of Proponent: Washington State Housing Finance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules establish the commission's procedures for debarring or temporarily disqualifying participants in the commission's programs. The proposed rules will implement the commission's policy to conduct business only with responsible persons.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose costs on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule relates only to internal governmental operations that are not subject to violation by a nongovernment party. See RCW 34.05.328 (5)(b)(ii).

Hearing Location: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, on June 26, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Mark McLaughlin by June 19, 1997, (206) 464-7139.

Submit Written Comments to: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, FAX (206) 587-5113, by June 25, 1997.

Date of Intended Adoption: June 26, 1997.

May 20, 1997
Kim Herman
Executive Director

NEW SECTION

WAC 262-03-010 Promulgation. (This promulgation relates to WAC 262-03-010 through 262-03-090.)

I, Busse Nutley, chair, Washington State Housing Finance Commission, 1000 Second Avenue, Suite 2700, Seattle, Washington 98104-1046, after due notice as provided under chapter 34.05 RCW, and a public hearing held in Seattle, Washington on June 26, 1997, do hereby promulgate the following regulations relating to actions to debar or temporarily disqualify participants in commission programs where appropriate to further the commission's purposes and protect the public interest in doing business with responsible persons.

NEW SECTION

WAC 262-03-020 Purpose. (1) It is in the public interest that the commission provide affordable housing, as well as nonprofit cultural and social service facilities, administer orderly programs, and maximize use of the bond financing and Low Income Housing Tax Credit (LIHTC) programs. To protect this public interest, it is the policy of the commission to conduct business only with responsible persons.

(2) These regulations provide debarment and temporary disqualification procedures to implement this policy. To ensure that program participants receive notice and an opportunity to be heard in any debarment or temporary disqualification action against such participants, these regulations adopt RCW 34.05.482 through 34.05.494 relating to brief adjudicative proceedings. Where these regulations are inconsistent with these procedures for brief adjudicative proceedings, the provisions of RCW 34.05.482 through 34.05.494 govern.

(3) These procedures may be extended to any new program administered by the commission.

NEW SECTION

WAC 262-03-030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout WAC 262-03-010 through 262-03-090.

(1) "Affiliate." Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, or a third person controls or has the power to control both. Indicia of control include, but are not limited to: Interlocking management or ownership, identity of interests among family members, shared facilities or equipment, common use of employees, or a business entity organized following the temporary disqualification or debarment of a person which has the same or similar management, ownership, professional contractors, or principal employees as the temporarily disqualified or debarred person, or any entity closely resembling or related to those outlined above whether or not either is a partnership, corporation, trust, or other legally defined person.

(2) "Covered transactions." These procedures apply to all persons who have participated, are currently participating, or may reasonably be expected to participate, in any commission program, including but not limited to the bond financing and LIHTC programs. For the purposes of these procedures, interactions with the commission with respect to any of such programs will be referred to as covered transactions. For example, covered transactions include applications, contracts, certifications, and reports with respect to commission programs.

(3) "Debarment" means an action taken by the debarment and disqualification officer in accordance with these procedures to exclude a person from participating in any covered transaction or limit such participation in any way that the debarment and disqualification officer deems appropriate for the period specified in the debarment order.

(4) "Debarment and disqualification officer" means the Executive Director of the Housing Finance Commission or his or her designee.

(5) "Participant" means any person who submits a proposal for, enters into, or reasonably may be expected to enter into, a covered transaction. This term also includes any person who acts on behalf of, or is authorized to commit, a participant in a covered transaction.

(6) "Person" includes any individual, corporation, partnership, association, unit of government, or legal entity, however organized.

(7) "Proposal" means a solicited or unsolicited bid, application, request, invitation to consider, or similar communication by or on behalf of a person presently

involved in a commission program, seeking to participate in a commission program, or seeking to receive a benefit, directly or indirectly, under a commission program.

(8) "Respondent" means a person against whom a debarment or temporary disqualification action has been initiated.

(9) "Substantial and material noncompliance." A participant in a covered transaction is in substantial and material noncompliance if the participant has made a misstatement or omission, or has failed to comply with any requirement, term, condition, or obligation of the covered transaction and if the misstatement, omission, or failure is substantial and material.

(10) "Temporary disqualification" means an action taken by the debarment and disqualification officer in accordance with these procedures that immediately excludes a person from participating in any covered transaction for a temporary period or limiting such participation in any way that the debarment and disqualification officer deems appropriate for a temporary period.

(11) "Professional contractors" includes but is not limited to consultants, attorneys, or law firms, accountants or accounting firms, architects, and engineers.

NEW SECTION

WAC 262-03-040 Temporary disqualification of participants. (1) Any participant in any covered transaction may be immediately and temporarily disqualified from such participation:

(a) If the debarment and disqualification officer determines that adequate evidence exists to support a reasonable belief that the participant is in substantial and material noncompliance sufficient to be cause for debarment; and

(b) If the debarment and disqualification officer determines that immediate action is necessary to protect the public interest in doing business with responsible persons. Consistent with the commission's purposes, the public interest includes providing affordable housing, administering orderly programs, and maximizing use of the bond financing and LIHTC programs.

(2) By way of example but not limitation, the debarment and disqualification officer may presume that the participant is in substantial and material noncompliance and that immediate action is necessary to protect the public interest where:

(a) The participant is delinquent in payment of any fees due under any commission program, including the LIHTC program;

(b) The participant has failed to meet any deadline under any commission program, including the LIHTC program;

(c) The participant has failed to comply with the terms, conditions, or obligations of one or more covered transactions;

(d) The participant has made material misstatements or omissions in proposals or any other communication to the commission;

(e) A state or other governmental agency reports that the participant is in substantial and material noncompliance in other jurisdictional programs; or

PROPOSED

(f) The participant has supplied insufficient or incomplete information in conjunction with any commission program.

(3) Any decision by the debarment and disqualification officer to temporarily disqualify a participant is discretionary; however, no decision will be based on unsupported allegations. The existence of adequate evidence of substantial and material noncompliance does not necessarily require that the person be temporarily disqualified. The debarment and disqualification officer may consider the seriousness of the participant's acts or omissions as well as any mitigating factors to determine whether temporary disqualification is necessary to protect the public interest.

(4) If debarment or legal proceedings are not initiated by the commission or the debarment and disqualification officer within twelve months after the date of the temporary disqualification notice, the temporary disqualification will be terminated.

(5) If the debarment and disqualification officer determines that temporary disqualification in accordance with subsections (1) or (2) of this section is appropriate, the debarment and disqualification officer will notify the respondent by personal service or certified mail of the temporary disqualification and the reasons therefor. Notice of temporary disqualification will include:

(a) A statement of the nature of the temporary disqualification action;

(b) A short and plain statement of, and the reasons for, the temporary disqualification action; and

(c) Information about the administrative review, hearings and appeals processes available to respondent pursuant to WAC 262-03-070 through 262-03-090.

(6) The temporary disqualification is effective immediately upon the respondent's receipt of the notice. Upon notification, the respondent will be entitled to the procedures set forth in WAC 262-03-070 through 262-03-090.

NEW SECTION

WAC 262-03-050 Proposal to debar. (1) If the debarment and disqualification officer determines that cause for the respondent's debarment can be established by a preponderance of the evidence, the debarment and disqualification officer may initiate proceedings pursuant to this section. Upon the decision to initiate proceedings pursuant to this section, the debarment and disqualification officer will notify the respondent of its proposal to debar by personal service or certified mail.

(2) The notice will inform the respondent that debarment is being considered, the effect of a debarment, and the reasons for the proposed debarment. The notice will also include information about the administrative review, hearings and appeals processes available to the respondent pursuant to WAC 262-03-070 through 262-03-090.

(3) A proposal to debar may, but need not, be preceded by a temporary disqualification. A proposal to debar by itself will not have any immediate effect on the respondent's status as a participant in any commission program.

(4) Upon notification of the commission's proposal to debar, the respondent will be entitled to the procedures set forth in WAC 262-03-070 through 262-03-090.

NEW SECTION

WAC 262-03-060 Debarment. (1) If the debarment and disqualification officer determines, by a preponderance of the evidence, that the respondent has committed any act, or made any omission, that constitutes substantial and material noncompliance, the debarment and disqualification officer may issue an order of debarment.

(2) By way of example but not limitation, the debarment and disqualification officer may presume that the participant is in substantial and material noncompliance if:

(a) The participant is delinquent in payment of any fees due under any commission program, including the LIHTC program, and payment of the delinquent amount has been demanded via certified mail to the last known address of the participant;

(b) The participant has failed to meet any deadline under any commission program, including the LIHTC program;

(c) The participant has failed to comply with the terms, conditions or obligations of one or more covered transactions;

(d) The participant has made material misstatements or omissions in proposals or any other communication to the commission.

(e) A state or other governmental agency reports that the participant is in substantial and material noncompliance in other jurisdictional programs; or

(f) The participant has supplied insufficient or incomplete information in conjunction with any commission program.

(3) An order of debarment disqualifies the respondent from participating in any commission program for the period specified in the order. The debarment term will be commensurate with the seriousness of the cause(s) but generally the debarment period should not exceed three years from the date that the debarment order is issued. Consideration may be given for any period of temporary disqualification already completed by the respondent.

(4) Debarment of a person under this section constitutes debarment of all its divisions and other organizational elements from all covered transactions, unless the debarment decision is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements or to specific types of transactions. The debarment action may include any affiliate of the participant that is specifically named and given notice of the proposed debarment pursuant to subsection (5) of this section and an opportunity to oppose the debarment pursuant to WAC 262-03-070 through 262-03-090. For the purposes of WAC 262-03-070 through 262-03-090, any named affiliate will be considered a respondent.

(5) The order of debarment will be served on the respondent by personal service or certified mail. It will include notification of the effect of debarment and the reasons debarment has been ordered as well as information about the administrative review, hearing and appeals processes available to respondent pursuant to WAC 262-03-070 through 262-03-090.

(6) Upon receipt of an order of debarment, the respondent will be entitled to the procedures set forth in WAC 262-03-070 through 262-03-090.

NEW SECTION

WAC 262-03-070 Debarment and disqualification procedures. (1) Within thirty days of receipt of notice of temporary disqualification, of a proposal to debar, or of an order of debarment, a respondent may submit to the commission, in person or in writing, personally or through a representative, any information or argument in opposition to debarment and/or disqualification. This information may dispute the debarment and disqualification officer's formal, written findings of substantial and material noncompliance, identify any remedial measure or mitigating factors, or both.

(2) If, within thirty days of receipt of the information submitted pursuant to subsection (1) of this section, the commission or its designee(s) determine that there is a dispute regarding one or more material facts, the commission will appoint a hearing officer to hold a hearing in accordance with WAC 262-03-080 and authorize the hearing officer to grant appropriate relief upon review. Such hearing will take place within ninety days of the receipt of the information submitted pursuant to subsection (1) of this section and the respondent will receive no less than seven days' advance written notice indicating the time and place for the hearing.

(3) If, within twenty days of receipt of the information submitted pursuant to subsection (1) of this section, the commission or its designee(s) determine that there is no dispute regarding any material facts, the commission or its designee(s) will issue a written order without appointing a hearing officer and without holding a hearing on the matter. The order will include a brief statement of the commission or its designee(s) reasons for the determination and a statement of the availability of hearings and appeals procedures and time limits pursuant to WAC 262-03-080 and 262-03-090.

NEW SECTION

WAC 262-03-080 Hearing procedures. (1) Any hearing pursuant to WAC 262-03-070(2) will be conducted by the hearing officer appointed by the commission.

(2) The respondent may personally appear at the hearing, appear through a duly authorized representative and/or be represented by legal counsel. The respondent, representative or legal counsel will be given a full opportunity to submit and respond to papers and pleadings, to present evidence and argument, and to conduct cross-examination of witnesses.

(3) Following the hearing, the hearing officer will determine the facts by a preponderance of the evidence, issue written findings of fact, and issue a written order. The order will include a brief statement of the hearing officer's findings and order and a statement about the availability and time limits of appeals procedures pursuant to WAC 262-03-090.

NEW SECTION

WAC 262-03-090 Appeals procedures. Any order issued pursuant to WAC 262-03-070(3) or 262-03-090(3) may be appealed to the full commission in accordance with the following procedures:

(1) The appeal must be in writing, signed, and received by the chair of the commission no later than ten business

days after the respondent receives an order pursuant to WAC 262-03-070(3) or 262-03-080(3).

(2) The appeal must describe why the respondent believes the order pursuant to WAC 262-03-070(3) or 262-03-080(3) is erroneous, identify information in the record that the respondent would like the commission to consider, and specify a desired remedy. The commission will not entertain any claim on appeal that has not first been asserted under WAC 262-03-070 or 262-03-080. An order issued pursuant to WAC 262-03-070(3) or 262-03-080(3) will be presumed to be correct and the respondent has the burden of showing that the order is not supported by substantial evidence.

(3) The commission will schedule a meeting or set aside time during a scheduled meeting to hear appeals. Respondents appealing will receive at least seven days' advance written notice of the time and place of this meeting. The respondent may personally appear at the meeting, appear through a duly authorized representative and/or be represented by legal counsel. The respondent, representative or legal counsel will be given an opportunity to present oral argument to the commission. No witnesses may be examined.

(4) The commission will issue an appeals decision or a statement specifying the date that a decision will be issued, after hearing oral arguments, if any, but within forty-five days after receipt of the appeal. Any commission appeals decision announced orally will be confirmed in writing. The commission's written decision is a final order that is binding on the respondent and other parties. The decision will include notice that judicial review may be available.

(5) Judicial review of any final order of the commission is governed by RCW 34.05.570. In accordance with RCW 34.05.534, any person seeking judicial review first must exhaust the administrative remedies set forth in these procedures.

WSR 97-11-064**PROPOSED RULES****HOUSING FINANCE COMMISSION**

[Filed May 21, 1997, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-112.

Title of Rule: Rules of conduct.

Purpose: Amend the commission's rules of conduct to implement the ethics in public service law codified at chapter 42.52 RCW.

Statutory Authority for Adoption: Chapter 43.180 RCW.

Statute Being Implemented: Chapter 42.52 RCW.

Summary: The proposed rules amend the commission's rules of conduct.

Reasons Supporting Proposal: The amended rules will implement the ethics in public service law codified at chapter 42.52 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark McLaughlin, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, (206) 287-4462.

PROPOSED

Name of Proponent: Washington State Housing Finance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules amend the commission's rules of conduct to implement the ethics in public service law codified at chapter 42.52 RCW.

Proposal Changes the Following Existing Rules: The proposal amends WAC 262-02-020 and 262-02-030. It explicitly recognizes the importance of maintaining public trust in the commission's unbiased expertise and impartial decision making. It permits a commissioner or a commission employee to accept awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement. It revises examples related to limitations on gifts.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose costs on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule relates only to internal governmental operations that are not subject to violation by a nongovernment party. See RCW 34.05.328 (5)(b)(ii).

Hearing Location: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, on June 26, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Mark McLaughlin by June 19, 1997, (206) 464-7139.

Submit Written Comments to: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, FAX (206) 587-5113, by June 25, 1997.

Date of Intended Adoption: June 26, 1997.

May 20, 1997
Kim Herman
Executive Director

AMENDATORY SECTION (Amending Resolution No. 85-55, filed 8/28/85)

WAC 262-02-020 Purpose. (1) ~~((As provided in RCW 42.18.250, "The Executive Conflict of Interest Act," the chair of the Washington state housing finance commission (the "commission") may promulgate, for the guidance of its commissioners and employees, regulations relating to conflict of interest which are appropriate to the specific needs of the commission.))~~ Certain provisions of chapter 154, Laws of 1994, "Ethics in Public Service" require interpretation through regulation to protect the Washington state housing finance commission (the "commission") and its commissioners and employees from violations of law. As provided in RCW 42.52.200, the commission may adopt rules consistent with law, for use within the commission.

(2) The legislature intended that commissioners appointed to the ~~((Washington state housing finance))~~ commission have experience with and expertise in housing matters, including housing construction and finance, and that they represent various industry and consumer groups. RCW 43.180.040(2). The commission intends that its commissioners actively participate in and lend their expertise to the deliberations of the commission. These regulations are intended to insure that decisions of the commission are based

on the expertise and unbiased judgment of these commissioners and not on their self-interest.

(3) The commission issues bonds to provide a secondary market for the financing of housing and nonprofit facilities. As a result, commissioners and commission employees work closely with private sector lenders, underwriters, mortgage bankers, financial advisors, lawyers and accountants. While the commission is regularly engaged in private sector transactions, it is a public entity established by the legislature. The legislature has determined that certain activities that may be common to professional relationships in the private sector may be inappropriate or illegal when conducted by commissioners and commission employees. These regulations are intended to insure that the activities of commissioners and commission staff are consistent with the highest degree of professional conduct for public appointees and employees. Also, these regulations recognize the importance of maintaining public trust in the commission's unbiased expertise and impartial decision making. The regulations are intended to ensure that commissioners and commission staff exercise their discretion in a manner that does not create even a perception of bias.

AMENDATORY SECTION (Amending Resolution No. 85-55, filed 8/28/85)

WAC 262-02-030 Rules of conduct. ~~((1) For any matter connected with, or related to, the discharge of official duties for the commission, no commissioner or employee shall, directly or indirectly, solicit or accept any gift or loan of money, goods, or services (other than compensation from the state), or other thing of economic value for the personal benefit of any person, which gift or loan would be considered as an inducement to neglect or improperly perform official duties or to influence official judgment. A commissioner or employee may accept services such as food and lodging when such services are provided to support and further commission business, and when such services cannot reasonably be construed to influence the substance or manner of commission decisions. A commissioner may accept unsolicited advertising or promotional material or items of nominal value such as mementos commemorating the issuance of commission bonds.~~

~~Example. Underwriter X, who is under contract to provide underwriting and financial services to the commission, hosts a seminar for a subcommittee of commissioners to discuss the structuring of future bond issues. Underwriter X rents a room to hold the seminar and pays for a meal served prior to the seminar. The commissioners may accept such a meal and use such meeting room so long as the process for the selection of underwriters pursuant to RCW 43.180.100 is not in progress. Such expenditures by X while the selection process is underway might give rise to an appearance that such services were provided to influence the selection of underwriters.~~

~~(2) For any matter connected with, or related to, the discharge of official duties for the commission, no commissioner or employee shall grant special treatment or favors to any person doing business with, or associated with a person doing business with, the commission, for the purpose of obtaining personal gain. A commissioner or commission employee shall not use his or her status of employment and~~

position with the commission to gain a personal advantage for himself or any other individual in any personal financial transaction.

(3) A commissioner or commission employee shall not participate in any commission decision or transaction in which the commissioner or employee, or a family member, may directly or indirectly profit, except to the extent that such commissioner or employee benefits as a member of the general public or as a member of a specific interest group related to housing construction or finance and receives the same treatment as all similarly situated persons. A commissioner may participate in a commission decision with respect to a general method or system of financing for housing which could benefit an industry with which the commissioner has a direct or indirect financial or personal interest. A commissioner may not vote to approve a contract between the commission and a company with which the commissioner has a financial or personal interest, but may participate in preliminary discussions or decisions with respect to which such company will be treated like all other similarly situated companies. If a commissioner does not vote under such circumstances, he shall announce for the record his reason for not voting.

The commission may not contract with a company in which a commissioner has a personal or financial interest unless (1) that company is the only company able to provide the services required by the commission, or (2)(a) other similarly situated and qualified companies have had the opportunity to enter into contracts with the same terms and conditions as the contract between the commission and the commissioner's company, (b) the decision to approve the contract does not involve a discretionary decision by the commission to choose among qualified companies, and (c) the relationship of the commissioner to such company is disclosed at the time the contract is approved by the commission.

Example. Commissioner A is an experienced mortgage lender and is the vice president of mortgage lending Company X. The commission is considering a multi-family financing program which will probably involve many lenders throughout the state, including Company X. Commissioner A may participate fully in the structuring of the financing program so long as the terms and conditions of the program apply equally to all of the eligible lending institutions in the state. Ultimately, three qualified lenders, including Company X, seek to participate in the program and agree to sign identical contracts. Commissioner A may not vote to approve the contract with Company X because the commissioner would directly benefit and may not vote to approve the contract with the other two lenders because the commissioner may indirectly benefit from the decision. The commissioner must identify for the record that he has a potential conflict. The commission may proceed to approve all three contracts.

(4) A commissioner or commission employee shall not disclose confidential information or use confidential information gained by reason of service to or employment with the commission to further any private financial transaction.

(5) In the event that a commissioner has been disqualified from voting on a commission issue due to a conflict of interest, the commission may proceed to vote on such issue

unless it finds that despite such disqualification the conflict of interest would inappropriately influence its decision.

(6) Within two years after the termination of service or employment, no commissioner or commission employee shall request that the commission take a discretionary action. This provision shall not prohibit a former commissioner from becoming involved in a transaction with the commission if he is a member of the general public or a specific interest group related to the housing construction or finance, and he receives the same treatment as all similarly situated persons. At no time following the termination of service or employment may a commissioner or commission employee receive compensation for any services rendered on behalf of any person in relation to any case, proceeding, or application with respect to which the commissioner voted or employee personally participated during the period of the service or employment.

Example. The term of Commissioner X expires on June 1, 1985. On October 15, 1985 the commission is requested to adopt "official action" resolutions with respect to 10 multifamily rental projects, one of which is being developed by former Commissioner X. The policy of the commission is to adopt all "official action" resolutions requested, so it may adopt the resolution benefitting former Commissioner X. On March 1, 1986 former Commissioner X requests that the commission engage his underwriting company to be one of four underwriters from a pool of 10 applicant underwriters. Since this request is within 2 years of his tenure as a commissioner and such commission action requires a discretionary decision by the commission to choose among competing underwriters, former Commissioner X must withdraw his request.) (1) Activities incompatible with public duties; financial interests in transactions. No commissioner or commission employee may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the commissioner or commission employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant.

No commissioner or commission employee may participate, in his or her official capacity, in a transaction involving the state with a partnership, association, corporation, firm or other entity of which the commissioner or commission employee is an officer, agent, employee or member, or in which the commissioner or commission employee owns a beneficial interest.

A commissioner may participate in a general discussion with respect to a method or system of financing for housing or nonprofit facilities which could benefit an industry or interest group which includes an entity of which the commissioner is an officer, agent, employee or member or in which the commissioner owns a beneficial interest. *Provided*, That such commissioner shall announce or otherwise make known such involvement at the time of such discussion, and: *Provided further*, That such commissioner's participation be limited to providing general expertise and not include any attempt to influence the votes of other commission members in favor of the entity with which such commissioner is so involved. A commissioner shall abstain from any vote taken by the commission to approve a transaction involving the

commission with an entity with which the commissioner is so involved, and if a commissioner abstains from voting because of such involvement such commissioner shall announce for the record his or her reason for his or her abstention.

The commission may contract with a partnership, association, corporation, firm or other entity of which the commissioner is an officer, agent, employee or member or in which the commissioner owns a beneficial interest so long as each commissioner so involved with such entity abstains from voting and the reason for such abstention is announced for the record at the time of such vote.

Example 1. A commissioner serves as an officer and member of the board of directors of a savings and loan company. The commission is considering a program involving the issuance of bonds to provide for the acquisition of mortgage loans originated by mortgage lenders across the state. The commissioner may participate in a general discussion of the commission's program for financing mortgage loans and the commission may enter into a contract for the origination and sale of mortgage loans with the savings and loan company on whose board the commissioner sits: *Provided*, That (a) at the time of the discussion, the commissioner informs the other commissioners of his/her involvement with the savings and loan company, (b) the commissioner abstains from any vote approving any contract between the commission and the savings and loan company, and (c) at the time of such vote, the commissioner explains the reason for his/her abstention.

Example 2. A commissioner and a commission employee serve without compensation on a housing advisory committee established by the Federal National Mortgage Association. The commissioner and the commission employee may participate fully in the consideration and approval of contracts between the Federal National Mortgage Association and the commission for the purchase and sale of commission bonds and for the credit enhancement of single-family and multifamily mortgages, because neither the commissioner nor the commission employee has any direct or indirect interest in the Federal National Mortgage Association as a member of an advisory committee and their participation in discussions and approval of such arrangements is in the public interest.

(2) Limitations of gifts. No commissioner or commission employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the commissioner or employee, or be considered as part of a reward for action or inaction.

No commissioner or commission employee may accept gifts other than those specified below:

(a) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(b) Unsolicited items received for the purpose of evaluation or review if the commissioner or commission employee has no personal beneficial interest in the eventual use or acquisition of the item by the commission;

(c) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(d) Food and beverages consumed at hosted receptions where attendance is related to the official duties of the commissioner or the commission employee;

(e) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

(f) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(g) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(h) Items exchanged among commissioners and commission employees or a social event hosted or sponsored by a commissioner or commission employee for coworkers;

(i) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence with respect to the commission;

(j) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(k) Campaign contributions reported under chapter 42.17 RCW;

(l) Discounts available to an individual as a member of an employee group, occupation or similar broad-based group;

(m) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement; and

(n) Items a commissioner or commission employee is authorized to accept by law.

A commissioner or commission employee is specifically prohibited from accepting the following items from a person or entity who seeks to provide goods or services to the commission:

(i) Payments of expenses incurred in connection with a speech, presentation, appearance or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide nonprofit professional, education, or trade association, or charitable institution; or

(iii) Flowers, plants and floral arrangements.

Example 1. Following the successful closing of a bond transaction, an underwriter, a bond attorney, a commissioner and two commission employees go to a restaurant to celebrate. Neither the commissioner nor the commission staff may permit the underwriter or the bond attorney to host the celebration, because the underwriter is potentially seeking to provide services to the commission and none of the exceptions applicable to accepting food or beverages, i.e., a hosted reception or a civic event, apply. The commissioner and commission employee may attend the closing celebration and, at their own expense (or, if appropriate, at the expense of the commission), may pay for their meals.

Example 2. During a recess in the commission's public meeting, an underwriter, a commissioner and two commission employees go to a restaurant for lunch and discuss, among other things, commission matters. Neither the commissioner nor the commission staff may permit the underwriter to buy their lunch.

Example 3. In the course of an all day session to review bond documents, bond counsel orders sandwiches for underwriters, attorneys, and commission staff. Commission staff may accept such lunch only if it is ultimately paid by

the commission from bond proceeds as a cost of issuing the bonds or from an alternative source of commission funds.

Example 4. Commissioners and commission staff attend a national convention of state housing authorities. The commissioners, commission staff and their spouses are invited to a cocktail reception, followed by a sit-down dinner, for all convention attendees. The reception and dinner are co-sponsored by several underwriters. At the cocktail reception, the co-hosts provide food and beverages, including substantial hors d'oeuvres. There are some tables where guests may be seated but most people stand. Commissioners and commission staff may attend the cocktail reception. Because the event is co-hosted, it does not create any perception that the attendees are favoring a particular business entity. Also, the event involves a diverse group of people, rather than solely commissioners, commission staff, and persons who provide goods and services to the commission. Finally, even though tables and chairs are provided, it is not a sit-down meal. Commissioners and commission staff may not attend the dinner following the cocktail reception (without compensating the hosts for the cost of the dinner) because it is a sit-down dinner rather than a hosted reception.

Example 5. An underwriter invites a commissioner with whom he has enjoyed a personal friendship to a holiday open house at his home. The commissioner and her spouse may attend the party and partake of food and beverage since the underwriter enjoys a friendship with the commissioner and it is clear beyond a reasonable doubt that the gift of food and beverage in the context of a holiday open house was not designed to gain or maintain influence.

Example 6. At a national convention for state housing authorities, a commission employee is invited to accept a T-shirt on which there is printed the logo of an underwriter. The employee may accept such gift because it is advertising material of nominal value.

Example 7. Fannie Mae offers a commission employee a scholarship to attend a series of educational classes. The class material is relevant to the employee's responsibilities. The employee cannot accept the scholarship because Fannie Mae is an entity who seeks to provide services to the commission.

Example 8. A commission employee is invited to participate in a panel discussion before a housing industry group. The lunch of each panel member is paid for by the host organization. The commission employee may not accept such lunch (without compensating the hosts for the cost of the lunch) because it is a sit-down lunch rather than a hosted reception. Because participation in such a panel discussion is likely to promote the interests of the commission, the commission employee is encouraged to seek reimbursement for the costs of such meal from the commission.

Discussion. The purpose of the rule and the statute on which it is based is to prevent the acceptance of gifts by commissioners and commission employees that could influence commission decision making. Thus, the rule recognizes the importance of ensuring the commission's impartiality.

The rule also ensures that commissioners and commission staff with experience and expertise in housing matters

are able to contribute this experience and expertise to the commission's work in an unbiased manner.

Finally, the rule stresses the importance of maintaining the public trust in this impartiality. Therefore, the rule prohibits the acceptance of gifts that could be interpreted as influencing such decision making. Although it would be difficult to believe that any commissioner or commission employee would be influenced by the acceptance of gifts or a sit-down meal, the commission seeks to regulate the acceptance of gifts that could be inappropriately interpreted as influencing commission decision making.

The rule is not designed to prevent commissioners, commission staff and those with whom the commission contracts from eating together, being social friends or in certain appropriate public situations attending as representatives of the commission hosted receptions at which refreshments are served.

WSR 97-11-065
PROPOSED RULES
HOUSING FINANCE COMMISSION

[Filed May 21, 1997, 9:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-112.

Title of Rule: Designees.

Purpose: Allowing for the appointment of designees to act on behalf of commission members.

Statutory Authority for Adoption: Chapter 43.180 RCW.

Summary: The proposed rules amend the commission's procedure for appointing designees.

Reasons Supporting Proposal: The revised rules will allow the commission to approve designees to act until replaced by the ex officio member.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark McLaughlin, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, (206) 287-4462.

Name of Proponent: Washington State Housing Finance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules amend the commission's procedure for appointing designees. The revised rules will allow the commission to approve designees to act until replaced by the ex officio member.

Proposal Changes the Following Existing Rules: The proposal amends WAC 262-01-030(8). It provides that an ex officio member of the commission may appoint a designee in writing, and that, upon approval of the commission, the designee shall serve as a member of the commission until replaced by the ex officio member.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose costs on businesses in an industry.

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

PROPOSED

governmental operations that are not subject to violation by a nongovernment party. See RCW 34.05.328 (5)(b)(ii).

Hearing Location: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, on June 26, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Mark McLaughlin by June 19, 1997, (206) 464-7139.

Submit Written Comments to: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, FAX (206) 587-5113, by June 25, 1997.

Date of Intended Adoption: June 26, 1997.

May 20, 1997

Kim Herman
Executive Director

AMENDATORY SECTION (Amending Resolution No. 84-1, filed 1/27/84)

WAC 262-01-030 Description of organization. (1) The commission is a public body, corporate and politic, with perpetual corporate succession. The commission is an instrumentality of the state of Washington, exercising essential government functions and, for the purposes of the United States Internal Revenue Code, acts as a constituted authority on behalf of the state of Washington when it issues bonds pursuant to chapter 161, Laws of 1983.

(2) Members. The commission shall consist of the members provided for and appointed in accordance with section 4(2), chapter 161, Laws of 1983.

(3) Officers. The officers of the commission shall be:

(a) A chair of the commission, who shall be appointed by the governor as chair and who shall serve on the commission and as chair of the commission at the pleasure of the governor;

(b) A vice chair, who shall be selected by the commission from among its membership and shall serve as chair in the absence of the appointed chair;

(c) A secretary, who shall be the state treasurer, who is a member of the commission ex officio, and who shall serve as secretary of the commission by virtue of his or her office;

(d) A treasurer, who shall be selected by the commission from its membership. The treasurer shall have custody of and be responsible for all moneys and obligations of the commission and shall deposit such moneys in such banks or other financial institutions as the commission may designate from time to time; or shall invest such moneys not required for immediate disbursement, as the commission may direct from time to time.

(4) Staff services. The commission may employ such staff or temporary staff as it may from time to time direct by motion or by resolution. The commission may from time to time, by motion or by resolution, employ, contract with, engage engineers, architects, attorneys, financial advisors, bond underwriters, mortgage lenders, mortgage administrators, housing construction or financing experts, other technical or professional assistants, and such other personnel as are necessary. The commission may delegate to the appropriate persons the power to execute legal instruments on its behalf.

(5) Powers. Except as provided in subsection (6) of this section, the commission may by motion or by resolution exercise any or all of the powers specified in chapter 161, Laws of 1983.

(6) The commission may exercise its powers under section 5, chapter 161, Laws of 1983, only by resolution. In order to be effective, each resolution must be adopted by a majority of the commission present and voting at a duly constituted meeting in accordance with WAC 262-01-040, and must be signed by the chair and attested to by the secretary of the commission.

(7) Minutes. In order to be effective, the minutes of any meeting of the commission must be adopted by a majority of the members of the commission present and voting at a duly constituted meeting of the commission in accordance with WAC 262-01-040, and signed and attested to by the secretary of the commission.

(8) Designees. Subject to the approval of a majority of the commission present and voting at a duly constituted meeting in accordance with WAC 262-01-040, an ex officio member of the commission identified in RCW 43.180.040 (2)(a) or (b) may appoint a designee in writing to act on his or her behalf ((until the next public meeting)). Upon such approval of the commission, the designee shall serve as a member of the commission with full authority to vote or carry out the duties of ((his or her)) the office of the ex officio member until the expiration of the designee's written appointment or the ex officio member appoints a temporary or permanent successor to such designee. The term of an appointee shall automatically expire upon replacement of the designating ex officio member. Nothing herein shall prevent the ex officio member from carrying out his or her duties himself or herself during the term of such appointment, in which case the authority of the designee shall be temporarily suspended.

WSR 97-11-068

PROPOSED RULES

EVERETT COMMUNITY COLLEGE

[Filed May 21, 1997, 10:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-080.

Title of Rule: WAC 132E-121-010 College procedures on disclosure of student information.

Purpose: Delineates the terms under which student information can and cannot be released.

Statutory Authority for Adoption: Chapter 28B.50 RCW, 34 CFR 99 FERPA.

Summary: Changes to WAC 132E-121-010 clarify disclosure of student information.

Reasons Supporting Proposal: Confidentiality and compliance with the Family Education Rights and Privacy Act of 1974 (FERPA).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Rich Haldi, Parks Building, (206) 388-9589.

Name of Proponent: Rules Coordinator, Everett Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 132E-121 WAC provides specific guidelines for the disclosure of student information.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes update existing WAC information only.

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

Hearing Location: Everett Community College, Port Gardner Bay Room, 801 Wetmore Avenue, Everett, WA 98201, on June 24, 1997, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Juli Boyington by June 23, 1997.

Submit Written Comments to: Rules Coordinator, Everett Community College, FAX (206) 388-9531, by June 12, 1997.

Date of Intended Adoption: June 25, 1997.

May 13, 1997
 Juli Boyington
 Rules Coordinator

**Chapter 132E-121 WAC
 COLLEGE PROCEDURES ON DISCLOSURE OF
 STUDENT INFORMATION**

Last Update: 8/30/88
 Revised 2/26/97

WAC
 132E-121-010 Disclosure of student information.

[**AMENDATORY SECTION** (Amending Order 88-8-3, Resolution No. 88-8-1, filed 8/30/88)]

WAC 132E-121-010 Disclosure of student information. Unless the student has provided the Office of Enrollment Services with written notice which specifically requests otherwise, designated officials* of the college will routinely respond to requests for the following directory information about a student. Directory information is defined as:

- Student's name.
- Major field of study.
- Extracurricular activities.
- Height and weight of athletic team members.
- Dates of attendance.
- Degrees and awards received.
- Other institutions attended.

No other information is to be given without the prior written consent of the student or parent/guardian as appropriate. The dean of students ((student services)) will be responsible for reviewing unusual requests for information and assisting in the interpretation of the provisions of the Federal Education Rights and Privacy Act/Buckley Amendment.

* Designated officials of the college are those employees designated by the president to serve in this capacity. ((with routine access to the information.))

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 97-11-069
 PROPOSED RULES
 EVERETT COMMUNITY COLLEGE**

[Filed May 21, 1997, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-081.

Title of Rule: WAC 132E-133-020 Organization.

Purpose: Provides general information about the organization, addresses and office hours for the main campus and off-site program locations.

Statutory Authority for Adoption: Chapters 34.05, 28B.50 RCW.

Summary: The proposed changes to chapter 132E-133 WAC are for purposes of address and office title clarification.

Reasons Supporting Proposal: The Everett Community College cosmetology program was relocated.

Name of Agency Personnel Responsible for Drafting and Implementation: Juli Boyington, Olympus Hall, Room 200, (206) 388-9202.

Name of Proponent: Rules Coordinator, Everett Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Changes to chapter 132E-133 WAC are for purposes of address and office title clarification.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes update existing WAC information only.

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

Hearing Location: Everett Community College, Port Gardner Bay Room, 801 Wetmore Avenue, Everett, WA 98201, on June 24, 1997, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Juli Boyington by June 23, 1997.

Submit Written Comments to: Rules Coordinator, Everett Community College, FAX (206) 388-9531, by June 12, 1997.

Date of Intended Adoption: June 25, 1997.

May 13, 1997
 Juli Boyington
 Rules Coordinator

**Chapter 132E-133 WAC
 ORGANIZATION**

Last Update: 4/13/90
 Revised 2/12/97

WAC
 132E-133-020 Organization—Operation—Information

PROPOSED

[AMENDATORY SECTION (Amending WSR 90-09-049, filed 4/13/90)]

WAC 132E-133-020 Organization—Operation—Information. (1) Organization. Everett Community College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at the following address:

President's Office
Everett Community College
801 Wetmore
Everett, WA 98201

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses:

Everett Community College
Aviation Maintenance Technician School
Building C-80
Paine Field
Everett, WA 98204

Everett Community College
Applied Technology Training Center
2333 Seaway Blvd.
Everett, WA 98204

Everett Community College
Cosmetology Program
~~((1110 Broadway))~~
~~((Everett, WA 98201))~~
9315 State Street
Marysville, WA 98270

(3) Information. Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

~~((Registration Office))~~
Everett Community College
801 Wetmore
Everett, WA 98201

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 97-11-072
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed May 21, 1997, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-15-130.

Title of Rule: Definition of competitive business practices, identification of unauthorized and involuntary

changes in services identified as "slamming" practices in the local exchange market and restrictions of such practices, and formulation of competitive service practices related to telecommunications companies business in the Washington state market. Docket No. UT-960942.

Purpose: The purpose of the proposed rule is for consumer protection and to address fair competitive business practices between and among competing telecommunications companies during contacts with customers where choice of service provider for some component of service is an issue, including protection against involuntary and unauthorized changes in service providers.

Other Identifying Information: Under the federal Telecommunications Act of 1996, consumers are offered choices among many providers of service for various components of telecommunication services needs. Consumer protection may be necessary to ensure that choices and options of services and service providers are fair and neutral with consumers at the time service is initiated or changes in services are sought and that the choices are exercised voluntarily by consumers. Standard Industry Codes: 2741 (publishing/directories) and 7389 (telecommunications marketing).

Statutory Authority for Adoption: RCW 80.04.010.

Statute Being Implemented: RCW 80.01.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McLellan, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 753-6451.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Rule is necessary because of federal law, 47 U.S.C. § 271. Copies of this statute are available at the Utilities and Transportation Commission branch of the Washington State Library.

Explanation of Rule, its Purpose, and Anticipated Effects: Amendatory section WAC 480-120-042 Directory service, the purpose of the rule amendment is to list all local exchange companies doing business in Washington in the pertinent area directory so that customers are informed regarding telecommunication choices of services and carriers. The language states telecommunications service listing in telephone directories shall include the name and telephone number of all exchange carriers registered to provide service in the geographic area covered by such directory.

New section WAC 480-120-139 Changes in service, the purpose of the new rule language is to confirm customer options and safeguards during initiation of new services or changes in existing services. The rule would give uniform consumer protection to ensure service providers are addressing consumers' inquiries and consumer service orders are fair and consistent across the industry. The choices in services and providers would be exercised voluntarily and in an informed manner by consumers.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The amended section of WAC 480-120-042 and new WAC 480-120-139 are

adopted solely to bring conformity to state regulations with federal statutes. The rules will bring state code into consistency with U.S.C. 47, Section 271 of the Telecommunications Act of 1996. The act does not preempt state jurisdictions to adopt rules duplicating federal requirements.

The proposed rule amendment and new rule will place existing industry practices into rule language and clarify consumer education practices. Because these practices are already in place, no new costs will be imposed.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency is exempt from mandatory application of the requirements of section 201.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on July 30, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine by July 28, 1997, TDD (360) 586-8203, or (360) 753-1292.

Submit Written Comments to: Steve McLellan, Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, FAX (360) 586-1150, by June 16, 1997.

Date of Intended Adoption: July 30, 1997.

May 21, 1997
Terrence Stapleton
for Steve McLellan
Secretary

AMENDATORY SECTION (Amending Order R-242, Cause No. U-85-56, filed 11/7/85)

WAC 480-120-042 Directory service. A telephone directory shall be regularly published for each exchange, listing the name, address (unless omission is requested), and telephone number of the subscribers who can be called in that exchange, except those subscribers who have a nonlisted or nonpublished telephone number. Any subscriber to residential service may request a dual name primary directory listing which contains, in addition to the subscriber's surname, the given names or initials (or combination thereof) of the subscriber and (1) one other person with the same surname who resides at the same address; or (2) a second name, other than surname, by which the subscriber is also known, including the married name of a woman whose husband is deceased. Any additional directory listing requested by a subscriber pursuant to tariff provision shall also reflect said dual name listing if requested by the subscriber. (Each subscriber to residential service as of the effective date of this rule shall be entitled for a six month period to request on a one-time basis at no cost a change in the manner of listing the subscriber's name to the dual name listing provided for above, so long as there has been no other change requested and made in the subscriber's directory listing since the effective date.)

A copy of any required directory shall be furnished each subscriber in each exchange. If that directory does not also contain such listings for all subscribers who can be called toll free from that exchange (excluding WATS), a copy of the directory or directories required for that coverage shall be furnished each subscriber upon request and without charge. If anyone requests a directory other than the one(s) provided for above, the company may apply a charge equal

to, but not to exceed, its actual cost for the directory, plus freight, postage, and \$0.50.

All telecommunications service listings in telephone directories published by any incumbent local exchange carriers or competitive local exchange carriers shall include the name and telephone number of all exchange carriers registered to provide service in the geographic area covered by such directory.

Normally, telephone directories shall be revised annually; otherwise they shall be revised at least once every fifteen months, except when it is known that impending service changes require rescheduling of directory revision dates. The revision of directories may at times be required more often than specified to keep the directory correct and up to date. Exemptions from these requirements may be allowed by the commission upon application if it can be shown that it is unnecessary to revise the directory within the specified time limit for good cause and/or due to a relatively small number of changes resulting from new listings or changed numbers and if the exchange is equipped for adequate intercept in the case of dial exchanges.

In the event of an error in the listed number of any subscriber, the telecommunications company shall, until a new directory is published, intercept all calls to the incorrectly listed number to give the calling party the correct number of the called party, providing that this is permitted by existing central office equipment and the incorrectly listed number is not a number presently assigned to another subscriber. In the event of an error or omission in the name listing of a subscriber, such subscriber's correct name and telephone number shall be maintained in the files of the directory assistance operator, and the correct number shall be furnished the calling party upon request.

Whenever a subscriber's telephone number is changed for any reason after a directory is published, the utility shall intercept all calls to the former number, if existing office equipment will permit, for a minimum period of thirty days or until a new directory is published, and give the calling party the new number for that subscriber unless the subscriber has requested that such referral not be made.

When additions or changes to plant or records are scheduled which will necessitate a large group of number changes, a minimum of six months notice shall be given to all subscribers then of record and so affected even though the additions or changes may be coincidental with the issuance of a new directory.

NEW SECTION

WAC 480-120-139 Changes in service. (1) Verification of orders. No carrier shall submit to a telecommunications company a change order until the order has first been confirmed in accordance with the following procedures:

- (a) The carrier has obtained the customer's written authorization to submit the order and confirm:
 - (i) The customer billing name and address and each telephone number to be covered by the change order;
 - (ii) The decision to change; and
 - (iii) The customer's understanding of the change fee.
- (b) The carrier has obtained the customer's electronic authorization, placed from the telephone number(s) on which the change is to be made, to submit the order that confirms

the information described in (a) of this subsection to confirm the authorization.

Carriers electing to confirm sales electronically shall establish one or more toll free telephone numbers exclusively for that purpose.

Calls to the number(s) shall connect a customer to a voice response unit, or similar, that records the required information regarding the change, including automatically recording the originating automatic number identification (ANI).

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the change order that confirms and includes appropriate verification data.

(d) Within three business days of the customer request for a change, the carrier must send each new customer an information package by first class mail containing at least the following information concerning the requested change:

(i) The information is being sent to confirm a telemarketing order placed by the customer within the previous week.

(ii) The name of the customer's current carrier.

(iii) A description of any terms, conditions or charges that will be incurred.

(iv) The name of the newly requested carrier.

(v) The name of the person ordering the change.

(vi) The name, address and telephone number of both the customer and the soliciting carrier.

(vii) A postpaid postcard which the customer can use to deny, cancel or confirm a service order.

(viii) A clear statement that if the customer does not return the postcard, the customer's carrier service will be switched within fourteen days after the date the information package was mailed.

(ix) The name, address and telephone number of a contact point at the commission for consumer complaints.

(x) Carriers must wait fourteen days after the form is mailed to customers before submitting their change orders. If customers have canceled their orders during the waiting period, the carrier cannot submit the customer's order.

(2) Business practices.

(a) A carrier may not use another carrier's customer specific information related to billing or gathered in the provision of billing to market its own services.

(b) A carrier may not, except as authorized by law, disclose to any person, customer information, except to provide internal billing, collection, and network operations.

(c) A carrier is prohibited from telemarketing its services to its customers with nonpublished and unlisted telephone numbers.

(d) The carrier receiving the customer initiated request for a change of local exchange and/or intraLATA toll carrier shall keep an internal memorandum or record generated at the time of the request. Such internal record shall be maintained by the carrier, at a minimum, for twelve months to serve as verification of the customer's authorization to change carriers, which will be made available to the customer and/or to the commission upon request.

WSR 97-11-074

PROPOSED RULES

FOREST PRACTICES BOARD

[Filed May 21, 1997, 11:07 a.m.]

Supplemental Notice to WSR 94-17-156, 95-04-073, 95-14-028, 95-24-093, 96-04-076, 96-05-090, 96-09-099, 96-13-004, 96-20-120, and 97-08-077.

Preproposal statement of inquiry was filed as WSR 94-13-066.

Title of Rule: Amendment to forest practices rules, Title 222 WAC.

Purpose: The purpose of this proposed rule is to identify critical wildlife habitat (state) for the marbled murrelet.

Statutory Authority for Adoption: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050.

Statute Being Implemented: Chapter 76.09 RCW.

Summary: Alternative 1 - Occupied Stand Approach: Amending WAC 222-16-010 and 222-16-080.

Alternative 2 - Marbled Murrelet Watershed Administrative Unit Approach: Amending WAC 222-16-010 and 222-16-080.

Alternative 3 - Department of Natural Resources Staff Proposal for Marbled Murrelets: Amending WAC 222-12-090, 222-16-010, 222-16-080, 222-16-100, 222-24-030, 222-30-020, 222-30-050, 222-30-060, 222-30-065, 222-30-070 and 222-30-100; and new sections WAC 222-10-042, 222-16-087, and 222-16-105.

Reasons Supporting Proposal: This rule was originally proposed and published in the same notices as the proposed rules for the northern spotted owl. The Forest Practices Board adopted the owl rules on May 22, 1996, but continued the marbled murrelet portions of the proposal. A Forest Practices Board committee reviewed the original proposal in light of new information. The board directed on May 14, 1997, that the alternatives shown below be filed as a supplemental notice.

Name of Agency Personnel Responsible for Drafting: Judith Holter, 1111 Washington Street S.E., Olympia, WA 98504-7012, (360) 902-1412; Implementation and Enforcement: John Edwards, 1111 Washington Street S.E., Olympia, WA 98504-7012, (360) 902-1730.

Name of Proponent: Forest Practices Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These proposed rules identify critical wildlife habitat (state) for a threatened species, the marbled murrelet. Any applications for forest practices within such habitat are classed as Class IV-Special and require additional environmental review in order to identify the potential for substantial material damage to public resources. The proposal's purpose is to identify and classify as Class IV-Special all forest practices that have the potential for a substantial adverse impact on the environment because of impacts on marbled murrelets.

Two alternatives were originally proposed for the marbled murrelet: (1) The occupied stand approach; and (2) the marbled murrelet watershed administrative unit approach. This supplemental notice adds the Department of Natural

Resources staff proposal as a third alternative. All three approaches identify critical wildlife habitat (state).

The Forest Practices Board is soliciting public comments on these alternatives. A final environmental impact statement on the first two alternatives was published in May 1996. A draft supplemental EIS was prepared on the detection area approach alternatives, and a final supplemental EIS is being prepared. Copies of environmental documents can be obtained by contacting the Forest Practices Board secretary at the address listed below.

Proposal Changes the Following Existing Rules: Changes to existing rules include: For the marbled murrelet, each alternative includes new definitions and identifies critical wildlife habitat (state).

The Department of Natural Resources staff alternative adds SEPA guidance, a marbled murrelet special landscape, and criteria for avoiding disturbance to occupied marbled murrelet sites during the critical nesting season.

A small business economic impact statement has been prepared under chapter 19.85 RCW. The small business economic impact statement was filed as WSR 95-24-096 and published in WSR 96-01.

A copy of the statement may be obtained by writing to Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, or FAX (360) 902-1784.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. A statement of proposed rule making under RCW 34.05.320 for this rule making was filed prior to July 23, 1995. See WSR 94-17-156.

Hearing Location: Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA, on June 24, 1997, at 5 p.m.

Assistance for Persons with Disabilities: Contact Forest Practices Board Recording Secretary by June 15, 1997, TDD (360) 902-1431, or (360) 902-1413.

Submit Written Comments to: Judith Holter, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, FAX (360) 902-1784, by June 24, 1997.

Date of Intended Adoption: July 10, 1997.

May 14, 1997

Jennifer M. Belcher

Commissioner of Public Lands

**FOREST PRACTICES BOARD
PROPOSED RULES
FOR THE MARBLED MURRELET
OCCUPIED STAND APPROACH**

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Appeals board**" means the forest practices appeals board established in the act.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"**Borrow pit**" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Chemicals**" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"**Clearcut**" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Commercial tree species**" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"**Completion of harvest**" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"**Constructed wetlands**" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"**Contamination**" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to

domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative spotted owl habitat enhancement agreement (CHEA)" see WAC 222-16-100(2).

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 15.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Fen**" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hard-stem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"**Fertilizers**" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"**Fill**" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"**Flood level - 50 year.**" For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"**Forest land**" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"**Forest land owner**" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or

other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"**Forest practice**" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"**Forest trees**" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"**Green recruitment trees**" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"**Herbicide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"**Historic site**" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"**Identified watershed processes**" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

"**Insecticide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"**Interdisciplinary team**" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"**Islands**" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"**Limits of construction**" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"**Load bearing portion**" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"**Local government entity**" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"**Low impact harvest**" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"**Median home range circle**" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"**Merchantable stand of timber**" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"**Northern spotted owl site center**" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

- Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.
- Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.
- Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"**Notice to comply**" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"**Occupied marbled murrelet site**" means a contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

- A nest is located; or
- Downy chicks or eggs or egg shells are found; or
- Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- Birds calling from a stationary location within the area; or
- Birds circling above the canopy; or
- A contiguous forested area which is not suitable marbled murrelet habitat in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

The outer perimeter of the occupied site shall be presumed to be the beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat." For sites defined above, it shall be the beginning of any gap greater than 300 feet wide where one or more of the distinguishing vegetative characteristics important to murrelets is lacking.

The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

"**Old forest habitat**" see WAC 222-16-085 (1)(a).

"**Operator**" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"**Ordinary high-water mark**" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"**Other forest chemicals**" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"**Park**" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"**Partial cutting**" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil.

Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"**Pesticide**" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"**Plantable area**" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"**Power equipment**" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"**Public resources**" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"**Rehabilitation**" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"**Relief culvert**" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"**Resource characteristics**" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"**Riparian management zone**" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"**Rodenticide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"**Salvage**" means the removal of snags, down logs, windthrow, or dead and dying material.

"**Scarification**" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"**Shorelines of the state**" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"**Side casting**" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"**Site preparation**" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"**Skid trail**" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"**Slash**" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"**SOSEA goals**" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"**Spoil**" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"**Spotted owl dispersal habitat**" see WAC 222-16-085(2).

"**Spotted owl special emphasis areas (SOSEA)**" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"**Stop work order**" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"**Sub-mature habitat**" see WAC 222-16-085 (1)(b).

"**Suitable marbled murrelet habitat**" means a contiguous forested area with all of the following characteristics:

- Within 40 miles of marine waters;
- Containing at least eight trees per acre equal to or greater than 32 inches dbh;
- At least 40% of the trees equal to or greater than 32 inches are Douglas-fir, western hemlock, western red cedar or sitka spruce; and
- Containing at least two nesting platforms per acre. Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than seven inches in diameter and 50 feet or more in height above the ground.

"**Suitable spotted owl habitat**" see WAC 222-16-085(1).

"**Threatened or endangered species**" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"**Timber**" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"**Water bar**" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"**Watershed administrative unit (WAU)**" means an area shown on the map specified in WAC 222-22-020(1).

"**Watershed analysis**" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-

22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused

by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Young forest marginal habitat" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - the following shall apply through June 30, 1996: Harvesting, road construction, or aerial application of pesticides on the most suitable 500 acres of nesting, roosting, and foraging habitat surrounding the northern spotted owl site center. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

Beginning July 1, 1996, the following shall apply for the northern spotted owl:

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical wildlife habitat (state) for northern spotted owls.

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iii) Use of aircraft below 1,300 feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(iv) Harvesting within a 300 foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of 75 trees per acre greater than 6 inches dbh; provided that 25 of which shall be greater than 12 inches dbh including five trees greater than 20 inches dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as an average of 300 feet is maintained.

(v) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vi) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below 1,300

feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Marbled murrelet critical wildlife habitat (state) shall not include habitat where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b)(ii).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

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(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical wildlife habitat (state) (WAC 222-16-080(1)) or critical habitat (federal) (WAC 222-16-050 (1)(b)(ii)) for a species if the forest practices are consistent with one of the following proposed for protection of the species:

(a) A habitat conservation plan and permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. §1536 (b) or 1539 (a); an "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or a "no-take letter" or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species and that is subject to review under the National Environmental Protection Act, 42 U.S.C. §4321 et seq., or the State Environmental Policy Act, chapter 43.21C RCW, as applicable;

(b) A rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1); or

(f) A cooperative spotted owl habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-100(2).

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical wildlife habitat (state) or critical habitat (federal) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements

referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

**FOREST PRACTICES BOARD
PROPOSED RULES
FOR THE MARBLED MURRELET
MM-WATERSHED ADMINISTRATIVE UNIT
APPROACH**

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations: "Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative spotted owl habitat enhancement agreement (CHEA)" see WAC 222-16-100(2).

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 15.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hard-stem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site

preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history;

or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet - watershed administrative units (MM-WAU)" means those watershed administrative units containing an occupied marbled murrelet site or in which a marbled murrelet has been detected and documented by the department of fish and wildlife.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.

Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.

Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means a stand of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

- Stands where a nest is located; or
- Stands where downy chicks or eggs or egg shells are found; or
- Stands where marbled murrelets are detected flying below, through, into or out of the forest canopy within or adjacent to a stand; or
- Birds calling from a stationary location within the stand; or
- Birds circling above the canopy.

The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long

continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

- For fish and water:
 - Physical fish habitat, including temperature and turbidity;
 - Turbidity in hatchery water supplies; and
 - Turbidity and volume for areas of water supply.
- For capital improvements of the state or its political subdivisions:
 - Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures

are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"SOSEA goals" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means timber stands with all of the following characteristics:

- Within 40 miles of marine waters;
- Containing at least eight trees per acre equal to or greater than 32 inches dbh;
- At least 40% of the trees equal to or greater than 32 inches are Douglas-fir, western hemlock, western red cedar or sitka spruce;
- Containing at least two nesting platforms per acre. Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than seven inches in diameter and 50 feet or more in height above the ground;
- At least (5) (10) (25) acres in size; or

- Any stand identified as an occupied marbled murrelet site documented by the department of fish and wildlife.

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have

evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Young forest marginal habitat" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - the following shall apply through June 30, 1996: Harvesting, road construction, or aerial application of pesticides on the most suitable 500 acres of nesting, roosting, and foraging habitat surrounding the northern spotted owl site center. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

Beginning July 1, 1996, the following shall apply for the northern spotted owl:

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical wildlife habitat (state) for northern spotted owls.

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction in suitable

marbled murrelet habitat within a MM-WAU, provided that, marbled murrelet critical wildlife habitat (state) shall not include suitable marbled murrelet habitat within a MM-WAU where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(iii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iv) Use of aircraft below 1,300 feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(v) Harvesting within a 300 foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of 75 trees per acre greater than 6 inches dbh; provided that 25 of which shall be greater than 12 inches dbh including five trees greater than 20 inches dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as an average of 300 feet is maintained.

(vi) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below 1,300 feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added

to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b)(ii).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical wildlife habitat (state) (WAC 222-16-080(1)) or critical habitat (federal) (WAC 222-16-050 (1)(b)(ii)) for a species if the forest practices are consistent with one of the following proposed for protection of the species:

(a) A habitat conservation plan and permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. §1536 (b) or 1539 (a); an "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or a "no-take letter" or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species and that is subject to review under the National

Environmental Protection Act, 42 U.S.C. §4321 et seq., or the State Environmental Policy Act, chapter 43.21C RCW, as applicable;

(b) A rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1); or

(f) A cooperative spotted owl habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-100(2).

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical wildlife habitat (state) or critical habitat (federal) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

**FOREST PRACTICES BOARD
PROPOSED RULES FOR THE
MARBLED MURRELET
REVISED PROPOSAL - MAY 14, 1997**

NEW SECTION

WAC 222-10-042 Marbled murrelets. The following policies shall apply to forest practices subject to SEPA where the forest practices may cause adverse impacts to marbled murrelets.

(1) Within marbled murrelet detection areas, marbled murrelet habitat containing 2 or more platforms per acre in stands 7 acres and greater as determined by the methodology identified in WAC 222-12-090(14), in the absence of more site specific data including but not limited to survey information, stand data, stand status, fire or wind history, is assumed to have a higher likelihood of marbled murrelet presence. Forest practices that will adversely impact this habitat will have a probable significant adverse impact on the environment.

OR

(1) Within marbled murrelet detection areas:

(a) Suitable marbled murrelet habitat with 4 or more platforms per acre in the marbled murrelet special landscape or 6 or more platforms elsewhere is assumed to have a sufficiently high likelihood of marbled murrelet presence. Forest practices that will adversely impact this habitat may have a probable significant adverse impact on the environment.

(b) Suitable marbled murrelet habitat with fewer than 4 platforms per acre in the marbled murrelet special landscape or less than 6 platforms elsewhere is assumed to have a sufficiently high likelihood of marbled murrelet presence to warrant a delay in forest practices. This delay will provide the department, or the department of fish and wildlife, an opportunity to survey the stand. Forest practices that will adversely impact this habitat may have a probable significant adverse impact on the environment, unless:

(i) The department or the department of fish and wildlife fails to provide a notice to the landowner of the intent to survey within 60 days from the date of application; or

(ii) During the first or second full survey season after the date of filing the application, the department, or the department of fish and wildlife, fails to complete the first or second year of surveys in accordance with the methodology identified in WAC 222-12-090(14).

(2) Outside a marbled murrelet detection area, in suitable marbled murrelet habitat, it is assumed that these stands have a high likelihood of marbled murrelet presence, in the absence of more site specific data, including but not limited to survey information, stand data, stand status, fire or wind history. See WAC 222-12-090(14). Forest practices that will adversely impact these stands may have a probable significant adverse impact on the environment.

(3) Within the marbled murrelet special landscape, suitable marbled murrelet habitat is assumed to have a high likelihood of marbled murrelet presence, in the absence of more site specific data, including but not limited to survey information, stand data, stand status, fire or wind history. See WAC 222-12-090(14). Forest practices that will adversely impact this habitat may have a probable significant adverse impact on the environment.

(4) Adequate suitable marbled murrelet habitat and a 300 foot managed buffer adjacent to the stand should be maintained to protect the site nesting and rearing viability of the marbled murrelets associated with each occupied site.

(5) When determining whether a forest practice will have a probable significant adverse impact on the environment, the department shall, in consultation with the department of fish and wildlife, evaluate the impacts on the state-wide, regional (Southwest Washington, Olympic Peninsula, Hood Canal, North Puget Sound, South Puget Sound and South Cascades) and local (within the marbled murrelet detection area) marbled murrelet populations and associated habitats. The department should consider a variety of information including but not limited to survey data, habitat quality and patch size, the amount of edge in relation to the area of habitat, amount of interior habitat, distance from saltwater, detection rates, the amount and quality of habitat, the likelihood of predation and the recovery goals for the marbled murrelet.

AMENDATORY SECTION (Amending WSR 92-15-113, filed 7/21/92, effective 8/21/92)

WAC 222-12-090 Forest practices board manual.

When approved by the board the manual serves as an advisory technical supplement to these forest practices regulations. The department, in cooperation with the departments of fisheries, wildlife, agriculture, ecology, and such other agencies, affected Indian tribes, or interested parties as may have appropriate expertise, is directed to prepare, and submit to the board for approval, revisions to the forest practices board manual. The manual shall include:

(1) **Method for determination of adequate shade requirements on streams** needed for use with WAC 222-30-040.

(2) **The standard methods** for measuring channel width, stream gradient and flow which are used in the water typing criteria WAC 222-16-030.

(3) **A chart** for establishing recommended permanent culvert sizes and associated data.

(4) **Guidelines** for clearing slash and debris from Type 4 and 5 Waters.

(5) **Guidelines** for landing location and construction.

(6) **Guidelines** for determining acceptable stocking levels.

(7) **Guidelines** for calculating average widths of riparian management zones.

(8) **Guidelines** for wetland delineation.

(9) **Guidelines** for wetland replacement or substitution.

(10) A list of nonnative wetland plant species.

(11) The standard methodology, which shall specify the quantitative methods, indices of resource conditions, and definitions, for conducting watershed analysis under chapter 222-22 WAC. The department, in consultation with Timber/Fish/Wildlife's Cooperative Monitoring, Evaluation and Research Committee (CMER), may make minor modifications to the version of the standard methodology approved by the board. Substantial amendments to the standard methodology requires approval by the board.

(12) A list of special concerns related to aerial application of pesticides developed under WAC 222-16-070(3).

(13)

(14) Survey protocol for marbled murrelets. The Pacific seabird survey protocol in effect March 1, 1997, shall be used when surveying for marbled murrelets in a stand. The department shall, in consultation with the department of fish and wildlife, develop platform survey protocols.

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations: "Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual*.

"**Borrow pit**" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Chemicals**" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"**Clearcut**" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Commercial tree species**" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"**Completion of harvest**" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"**Constructed wetlands**" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"**Contamination**" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"**Conversion option harvest plan**" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"**Conversion to a use other than commercial timber operation**" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"**Cooperative (~~spotted owl~~) habitat enhancement agreement (CHEA)**" see WAC ((~~222-16-100(2)~~)) 222-16-105.

"**Critical habitat (federal)**" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"**Critical nesting season**" means for marbled murrelets - April 1 to August 31.

"**Critical wildlife habitat (state)**" means those habitats designated by the board in accordance with WAC 222-16-080.

"**Cultural resources**" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"**Cumulative effects**" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"**Daily peak activity**" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"**Debris**" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"**Demographic support**" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"**Department**" means the department of natural resources.

"**Dispersal habitat**" see WAC 222-16-085(2).

"**Dispersal support**" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat found within RMZs, WMZs or other required and voluntary leave areas.

"**Eastern Washington**" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hard-stem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or

other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history;

or
Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.

Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.

Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

- (a) A nest is located; or
- (b) Downy chicks or eggs or egg shells are found; or
- (c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- (d) Birds calling from a stationary location within the area; or
- (e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

- (a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or
- (b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or
- (c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(4) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

- (a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or
- (b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or
- (c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(5) In determining the existence and location of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those sites contained in the department of fish and wildlife data base.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"SOSEA goals" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means a contiguous forested area with all of the following indicators:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre that include any horizontal limb, tree structure, or deformity equal to or greater than 7 inches in diameter and 50 feet or more in height above the ground;

(d) At least 7 acres in size, including all timber containing nesting platforms within 300 feet of, and contiguous to, the trees described in (b) above; or

(2) Where marbled murrelets are present.

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The

term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"**Young forest marginal habitat**" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - the following shall apply through June 30, 1996: Harvesting, road construction, or aerial application of pesticides on the most suitable 500 acres of nesting, roosting, and foraging habitat surrounding the northern spotted owl site center. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

Beginning July 1, 1996, the following shall apply for the northern spotted owl:

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted

owl site center shall not be considered to be on lands designated as critical wildlife habitat (state) for northern spotted owls.

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat within a marbled murrelet detection area.

(iii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat containing 6 platforms per acre outside a marbled murrelet detection area.

(iv) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within a marbled murrelet special landscape, as identified in WAC 222-16-087, within suitable murrelet habitat with 4 or more platforms per acre.

(v) Harvesting within a 300 foot managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stand stem density of 75 trees per acre greater than 6 inches in dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches in dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as the average of 300 feet is maintained.

(vi) Except that the following shall not be critical wildlife habitat (state):

(A) Where a landowner owns less than [50] [100] [200] [300] [400] [500] acres of forest land within 50 miles of saltwater and the land does not contain an occupied marbled murrelet site; or

(B) Where a protocol survey (see WAC 222-12-090(14)) has been conducted and no murrelets were detected. The landowner is then relieved from further survey requirements. However, if an occupied marbled murrelet site is established, this exemption is void.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment as a result of provisions of the state's marbled murrelet rule:

(None listed-) Marbled murrelet critical habitat 50 C.F.R. § 17.95(b), 61 Fed. Reg. 26256.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered

species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b)(ii).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical wildlife habitat (state) (WAC 222-16-080(1)) or critical habitat (federal) (WAC 222-16-050 (1)(b)(ii)) for a species if the forest practices are consistent with one of the following proposed for protection of the species:

(a) A habitat conservation plan and permit or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. §1536 (b) or 1539 (a); an "unlisted species agreement" covering such species approved by the U.S. Fish and

Wildlife Service or National Marine Fisheries Service; or a "no-take letter" or other cooperative or conservation agreement entered into with a federal or state fish and wildlife agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species and that is subject to review under the National Environmental Protection Act, 42 U.S.C. §4321 et seq., or the State Environmental Policy Act, chapter 43.21C RCW, as applicable;

(b) A rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d);

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1); or

(f) A cooperative (~~(spotted owl)~~) habitat enhancement agreement (CHEA) developed pursuant to WAC (~~(222-16-100(2))~~) 222-16-105.

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical wildlife habitat (state) or critical habitat (federal) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

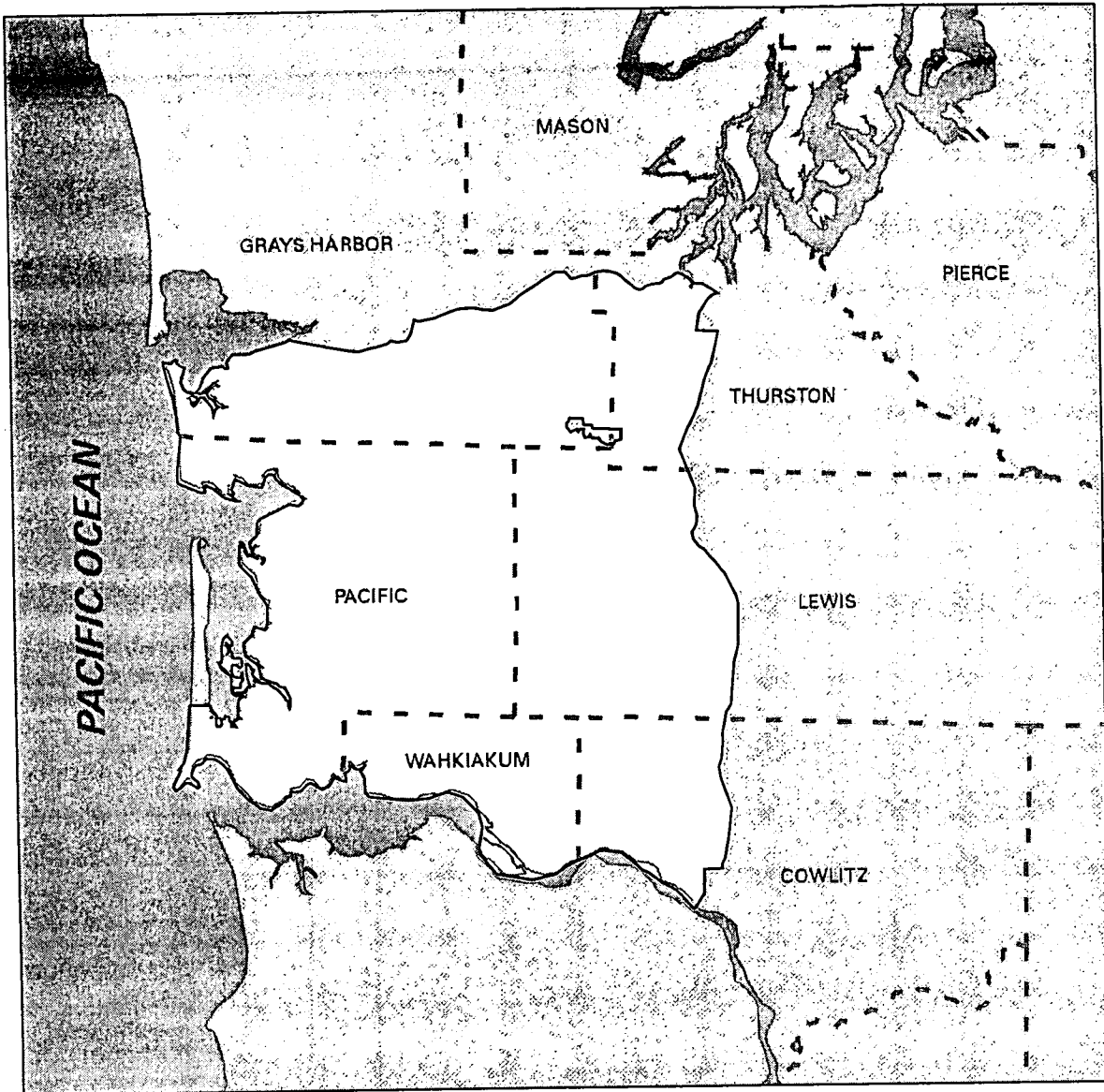
(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

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

NEW SECTION

WAC 222-16-087 Marbled murrelet special landscape. Marbled murrelet special landscape means the following geographic area as mapped. A detailed map of the marbled murrelet special landscape indicating the boundaries is available from the department at its regional offices.

Southwest Washington Special Landscape



PROPOSED

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-16-100 Planning options for the northern spotted owl. (1) **Landowner option plans for the northern spotted owl.** Landowner option plans (LOPs) are intended to provide landowners with a mechanism, entered into voluntarily, to contribute to the protection of northern spotted owls by considering the needs of overall population maintenance or dispersal habitat across a defined geographic area. Forest practices applications that are in an area covered by an LOP, and that are consistent with the LOP, will not be classified as Class IV-Special on the basis of critical wildlife habitat (state) or critical habitat (federal) for the northern spotted owl. This does not preclude classification as Class IV-Special because of the presence of other factors listed in WAC 222-16-050(1).

(a) **Required elements of LOPs.** The level of detail to be included in a LOP will depend on the area of ownership involved, the time period for which the plan will be in

effect, and the complexity of the management strategy. Nevertheless, each plan shall contain the elements set forth in this subsection.

(i) **Goals and objectives.** The specific goals and objectives for the landowner's contributions proposed under the LOP shall be developed by the landowner and approved by the department in consultation with the department of fish and wildlife based on the following:

(A) Mitigation under the plan must be reasonable and capable of being accomplished;

(B) To the maximum extent practicable, the plan must minimize and mitigate significant adverse impacts caused by, and identified in, the plan on individual northern spotted owl site centers or the ability of the SOSEA to meet SOSEA goals. Specific short (one to five-year) and long (greater than five-year) term goals and objectives for the LOP should be clearly stated, where applicable; and

(C) LOPs should be designed to achieve an appropriate contribution from nonfederal lands toward meeting SOSEA goals and are intended to be an efficient and effective

alternative to site-by-site management planning. In Eastern Washington, LOPs must also consider the need to protect the forests from catastrophic loss from wildfire, insects, and diseases.

(ii) **Other required elements:**

(A) A description of the planning area. The LOP planning area shall include a sufficient amount of the landowner's forest land within the SOSEA to meet the goals and objectives of the plan.

(B) A description of the physical features in the planning area (e.g., geology, topography, etc.).

(C) The current habitat status. Suitable spotted owl habitat should be categorized and mapped as old forest, sub-mature, young forest marginal, or dispersal.

(D) The current species status. All status 1, 2, and 3 northern spotted owl site centers and the associated median home range circles that overlap any of the landowner's ownership within the LOP boundary must be mapped.

(E) Management proposals and relevant operations plans.

(F) Projected suitable habitat development.

(G) A plan for training.

(H) A monitoring program.

(I) Reporting standards.

(J) The conditions under which the LOP may be modified.

(K) The term of the LOP and conditions for termination. The term of the LOP shall be sufficient to meet its goals and objectives. The conditions of the LOP run with the land unless the LOP specifies alternative means to achieve the LOP goals and objectives upon mid-term sale or transfer. In addition to any other termination provisions in the LOP, plans may be terminated by mutual agreement of the landowner and the department.

(b) **Approval of LOPs.** Upon receipt of a landowner option plan, the department shall circulate the plan to the department of fish and wildlife, affected Indian tribes, local government entities, other forest landowners in the SOSEA, and the public for a thirty-day review and comment period. The department may extend this review period for up to thirty additional days. Within ninety days of receipt of the plan, the department shall review the comments and approve or disapprove the plan or submit the plan to the landowner to revise as appropriate. The department, after consultation with the department of fish and wildlife, shall approve the plan if:

(i) The plan contains all of the elements required under this section;

(ii) The plan is expected to be effective in meeting its goals and objectives;

(iii) The plan will not have a probable significant adverse impact on the ability of the SOSEA to meet its goals; and

(iv) The plan will not appreciably reduce the likelihood of the survival and recovery of the northern spotted owl in the wild.

In making its determination under this subsection, the department shall consider the direct, indirect, and cumulative effects of the plan; both the short-term and long-term effects of the plan; and whether local, state, or federal land management, regulatory, or nonregulatory requirements will mitigate identified significant adverse impacts. If the department

does not approve the plan, or approves it over the objections of the department of fish and wildlife, the department shall set forth in writing a concise explanation of the reasons for its action.

(c) **Enforcement of LOPs.** The department shall review all applications and notifications from the landowner, proposed within the plan area, for consistency with the plan. Any applications or notifications found to be inconsistent with the plan shall be returned to the landowner for modification. After landowner review, applications and notifications which are not consistent with the plan shall be classified as Class IV-Special.

(2) ~~((Cooperative northern spotted owl habitat enhancement agreements:~~

~~(a) **Purpose.** A cooperative northern spotted owl habitat enhancement agreement (CHEA) is intended to remove disincentives for landowners who create, enhance, or maintain habitat for the northern spotted owl by providing them with a "safe harbor" against future spotted owl regulation caused by their enhancement activities. A CHEA is an agreement between the department and a landowner, developed in cooperation with the department of fish and wildlife, for the purpose of creating, enhancing, or maintaining northern spotted owl habitat. The agreement will apply only to forest land identified by the landowner, outside of the median home range circles of northern spotted owl site centers in existence at the time of implementation.~~

~~(b) **Authority.** Outside of the median home range circles of northern spotted owls, the department, in consultation with the department of fish and wildlife, may enter into agreements with nonfederal landowners to create, enhance, or maintain habitat that the northern spotted owl can be expected to utilize. During the term of these agreements, forest practices covered by the agreements shall not be classified as Class IV Special on the basis of critical wildlife habitat (state) or critical habitat (federal) for the northern spotted owl. This does not preclude classification as Class IV Special because of the presence of other factors listed in WAC 222-16-050(1).~~

~~(c) **Baseline.** Each agreement shall identify a baseline level of habitat, and the department shall not permit forest practices that reduce the habitat below the baseline during the term of the agreement. The baseline may range from zero habitat to the overall levels of suitable spotted owl habitat and dispersal habitat that existed across the land in question at the time the agreement is entered into. The department shall determine, working with the landowner and in consultation with the department of fish and wildlife, the appropriate baseline, taking into consideration:~~

~~(i) The size of the landowner's ownership and the ability of the landowner to maintain habitat conditions across the landscape in question over time;~~

~~(ii) The overall benefits of the agreement to the northern spotted owl including both the proposed measures to create, enhance, or maintain habitat and the proposed baseline levels; and~~

~~(iii) The term of the agreement.~~

~~(d) **Form and content of CHEAs.** The department shall, in consultation with the department of fish and wildlife, have the authority to define the form and contents of CHEAs. The form and contents may vary among agreements, but each must provide sufficient information for~~

~~the department, the public, and other reviewers to understand and evaluate the agreement against the standards established under this subsection (2). In addition to the elements required by the department, each agreement shall include a plan to avoid harvesting, road construction, or the aerial application of pesticides, between March 1 and August 31, on the seventy acres of highest quality suitable spotted owl habitat surrounding any known northern spotted owl site centers on lands covered by the agreement.~~

~~(e) Approval of a CHEA. Upon receipt of a CHEA, the department shall circulate the agreement to the department of fish and wildlife, affected Indian tribes, local government entities, other forest landowners in the SOSEA (if the CHEA is in a SOSEA), and the public for review and comment. Within sixty days of receipt of the agreement, the department shall review the comments and approve or disapprove the agreement or submit the agreement to the landowner to revise as appropriate. The department, after consultation with the department of fish and wildlife, may approve the agreement if the agreement will create, enhance, or maintain habitat conditions for the northern spotted owl in a manner that provides a measurable contribution toward meeting the goals of the SOSEA or a measurable benefit to northern spotted owls outside SOSEAs.~~

~~(f) Enforcement of CHEAs. The department shall review all applications and notifications from the landowner, proposed within the agreement area, for consistency with the agreement. Any applications or notifications found to be inconsistent with the agreement shall be returned to the landowner for modification. After landowner review, applications and notifications which are not consistent with the agreement shall be classified based on the rules in effect at the time of application and without any of the benefits of the agreement.) See WAC 222-16-105 for CHEAs.~~

NEW SECTION

WAC 222-16-105 Cooperative habitat enhancement agreements. (1) **Purpose.** A cooperative habitat enhancement agreement (CHEA) is intended to remove disincentives for landowners who create, enhance, or maintain habitat for the northern spotted owl or marbled murrelet by providing them with protection against future spotted owl or marbled murrelet regulation caused by their enhancement activities. A CHEA is an agreement between the department and a landowner, developed in cooperation with the department of fish and wildlife, for the purpose of creating, enhancing, or maintaining northern spotted owl habitat and/or marbled murrelet habitat. The agreement will apply only to forest land identified by the landowner:

(a) For northern spotted owls, outside of the median home range circles of northern spotted owl site centers in existence at the time of implementation.

(b) For marbled murrelets, any current unoccupied or potential future habitat.

(2) **Authority.** Outside of the median home range circles of northern spotted owls or an occupied marbled murrelet site, the department, in consultation with the department of fish and wildlife, may enter into agreements with nonfederal landowners to create, enhance, or maintain habitat that the northern spotted owl and/or the marbled murrelet can be expected to utilize. During the term of these

agreements, forest practices covered by the agreements shall not be classified as Class IV-Special on the basis of critical wildlife habitat (state) or critical habitat (federal) for the northern spotted owl or the marbled murrelet. This does not preclude classification as Class IV-Special because of the presence of other factors listed in WAC 222-16-050(1).

(3) **Baseline.**

(a) Each agreement shall identify a baseline level of habitat, and the department shall not permit forest practices that reduce the habitat below the baseline during the term of the agreement.

(b) For northern spotted owls, the baseline may range from zero habitat to the overall levels of suitable spotted owl habitat and dispersal habitat that existed across the land in question at the time the agreement is entered into.

(c) For marbled murrelets, the baseline may not be less than the habitat condition at the time the agreement is entered into.

(d) The department shall determine, working with the landowner and in consultation with the department of fish and wildlife, the appropriate baseline, taking into consideration:

(i) The size of the landowner's ownership and the ability of the landowner to maintain habitat conditions across the landscape in question over time;

(ii) The overall benefits of the agreement to the northern spotted owl or marbled murrelet including both the proposed measures to create, enhance, or maintain habitat and the proposed baseline levels; and

(iii) The term of the agreement.

(4) **Form and content of CHEAs.**

(a) The department shall, in consultation with the department of fish and wildlife, have the authority to define the form and content of CHEAs. The form and content may vary among agreements, but each must provide sufficient information for the department, the public, and other reviewers to understand and evaluate the agreement against the standards established under this section.

(b) For northern spotted owls, in addition to the elements required by the department, each agreement shall include a plan to avoid harvesting, road construction, or the aerial application of pesticides, between March 1 and August 31, on the seventy acres of highest quality suitable spotted owl habitat surrounding any known northern spotted owl site centers on lands covered by the agreement.

(5) **Approval of a CHEA.** Upon receipt of a CHEA, the department shall circulate the agreement to the department of fish and wildlife, affected Indian tribes, local government entities, other forest landowners in the SOSEA (if the CHEA is in a SOSEA), and the public for review and comment. Within sixty days of receipt of the agreement, the department shall review the comments and approve or disapprove the agreement or submit the agreement to the landowner to revise as appropriate. The department, after consultation with the department of fish and wildlife, may approve the agreement if the agreement will create, enhance, or maintain habitat conditions for:

(a) The northern spotted owl in a manner that provides a measurable contribution toward meeting the goals of the SOSEA or a measurable benefit to northern spotted owls outside SOSEAs.

(b) The marbled murrelet in a manner that provides a measurable contribution towards conserving the species.

(6) **Enforcement of CHEAs.** The department shall review all applications and notifications from the landowner, proposed within the agreement area, for consistency with the agreement. Any applications or notifications found to be inconsistent with the agreement shall be returned to the landowner for modification. After landowner review, applications and notifications which are not consistent with the agreement shall be classified based on the rules in effect at the time of application and without any of the benefits of the agreement.

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-24-030 Road construction. (1) **Right of way timber.** Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

***(2) Debris burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

***(4) Stabilize soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.

***(5) Channel clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

***(6) Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsliping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

***(7) Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

***(8) End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

***(9) Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

(10) Disturbance avoidance. Road construction, operation of heavy equipment and blasting within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(11) Disturbance avoidance for marbled murrelets.

(a) Road construction and operation of heavy equipment shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season; and

(b) Blasting shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the critical nesting season.

(c) Provided that, these restrictions shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

WAC 222-30-020 Harvest unit planning and design.

(1) **Logging system.** The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding can be economically accomplished in compliance with these regulations.

*(2) **Landing locations.** Locate landings to prevent damage to public resources. Avoid excessive excavation and filling.

*(3) **Western Washington riparian management zones.** These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than 25 feet in width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

WATER TYPE/ AVERAGE WIDTH	RMZ MAXIMUM WIDTH	RATIO OF CONIFER TO DECIDUOUS/ MINIMUM SIZE LEAVE TREES	# TREES/1000 FT. EACH SIDE	
			GRAVEL/ COBBLE <10" DIAMETER	BOULDER/ BEDROCK
1 & 2 Water 75' & over	100'	representative of stand	50 trees	25 trees
1 & 2 Water under 75'	75'	representative of stand	100 trees	50 trees

3 Water 5' & over	50'	2 to 1/ 12" or next largest available	75 trees	25 trees
3 Water less than 5'	25'	1 to 1/ 6" or next largest available	25 trees	25 trees

"Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified. Ponds or lakes which are Type 1, 2 or 3 Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

(e) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and the harvest unit is a clearcutting of 30 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

*(4) **Eastern Washington riparian management zones.** These zones shall be measured horizontally from the ordinary high-water mark of Type 1, 2 or 3 Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, there shall be trees left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-

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16-010 "Partial cutting." When the adjacent unit harvest type is:

Partial cutting - The riparian management zone width shall be a minimum of 30 feet to a maximum of 50 feet on each side of the stream.

Other harvest types - The riparian management zone shall average 50 feet in width on each side of the stream with a minimum width of 30 feet and a maximum of 300 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type 1, 2 or 3 Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 16 live conifer trees/acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 3 live conifer trees/acre 20 inches dbh or larger and the 2 largest live deciduous trees/acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 wildlife reserve trees/acre 20 inches or larger do not exist, substitute 2 live conifer trees/acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees/acre; and

(E) Leave 3 live deciduous trees/acre between 12 inches and 16 inches dbh where they exist.

(iii) Minimum leave tree requirements per acre for Type 1, 2 and 3 Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees/acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 135 trees/acre 4 inches dbh or larger.

(C) On lakes or ponds the minimum leave tree requirement shall be 75 trees/acre 4 inches dbh or larger.

Note: (See the Forest Practices Board Manual for assistance in calculating trees/acre and average RMZ widths.)

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type 1, 2 or 3 Waters or a wetland management zone and either the harvest unit is a clearcutting of 30 acres or less or the harvest unit is a partial cutting of 80 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010 "Partial cutting.")

*(5) Riparian leave tree areas. The department will require trees to be left along Type 4 Water where such practices are necessary to protect public resources. Where such practices are necessary leave at least 25 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 25 feet of the stream. The leave trees may be arranged to accommodate the operation.

*(6) **Forested wetlands.** Within the wetland, unless otherwise approved in writing by the department, harvest

methods shall be limited to low impact harvest or cable systems. Where feasible, at least one end of the log shall be suspended during yarding.

(a) When forested wetlands are included within the harvest area, landowners are encouraged to leave a portion (30 to 70%) of the wildlife reserve tree requirement for the harvest area within a wetland. In order to retain undisturbed habitat within forested wetlands, these trees should be left in clumps. Leave tree areas should be clumped adjacent to streams, riparian management zones, or wetland management zones where possible and they exist within forested wetlands. Green recruitment trees should be representative of the size and species found within the wetland. Leave nonmerchantable trees standing where feasible.

(b) If a RMZ or WMZ lies within a forested wetland, the leave tree requirement associated with those areas may be counted toward the percentages in (a) of this subsection.

(c) If the conditions described in (a) and (b) of this subsection are met, the distribution requirements for wildlife reserve trees and green recruitment trees (subsection (11)(e) of this section) are modified as follows: For purposes of distribution, no point within the harvest unit shall be more than 1000 feet from a wildlife reserve tree and green recruitment tree retention area.

(d) Approximate determination of the boundaries of forested wetlands greater than 5 acres shall be required. Approximate boundaries and areas shall be deemed to be sufficient for harvest operations.

(e) The department shall consult with the department of wildlife, the department of fisheries, and affected Indian tribes about site specific impacts of forest practices on wetland-sensitive species in forested wetlands.

*(7) **Wetland management zones (WMZ).** These zones shall apply to Type A and B Wetlands, as indicated in (a) of this subsection, and shall be measured horizontally from the wetland edge or the point where the nonforested wetland becomes a forested wetland, as determined by the method described in the board manual, and shall be of an average width as described in (a) of this subsection. These zones shall not be less than the minimum nor more than the maximum widths described in (a) of this subsection. When these zones overlap a riparian management zone the requirement which best protects public resources shall apply.

*(a) Wetland management zones (WMZ) shall have variable widths based on the size of the wetland and the wetland type, described as follows:

WETLAND MANAGEMENT ZONES

Wetland Type	Acres of Nonforested Wetland*	Maximum WMZ Width	Average WMZ Width	Minimum WMZ Width
A (including bogs)	Greater than 5	200 feet	100 feet	50 feet
A (including bogs)	0.5 to 5	100 feet	50 feet	25 feet
A (bogs only)	0.25 to 0.5	100 feet	50 feet	25 feet
B	Greater than 5	100 feet	50 feet	25 feet
B	0.5 to 5			25 feet
B	0.25 to 0.5	No WMZ Required	No WMZ Required	

*For bogs, both forested and non-forested acres are included.

(b) Within the WMZ, leave a total of 75 trees per acre of WMZ greater than 6 inches dbh in Western Washington and greater than 4 inches dbh in Eastern Washington, 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. Leave trees shall be representative of the species found within the WMZ.

(c) Retain wildlife reserve trees where feasible. Type 1 and 3 wildlife reserve trees may be counted among, and need not exceed, the trees required in (b) of this subsection. Leave all cull logs on site.

(d) Partial-cutting or removal of groups of trees is acceptable within the WMZ. The maximum width of openings created by harvesting within the WMZ shall not exceed 100 feet as measured parallel to the wetland edge. Openings within WMZs shall be no closer than 200 feet. Landowners are encouraged to concentrate leave trees within the WMZ to the wetland edge.

(e) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

(f) When 10% or more of a harvest unit lies within any combination of a wetland management zone or a riparian management zone of Type 1, 2, or 3 Waters and either the harvest unit is a clearcut of 30 acres or less or the harvest unit is a partial cut of 80 acres or less, leave not less than 50% of the trees required in (b) of this subsection.

(8) **Type A or B Wetlands.** Within the boundaries of Type A or B Wetlands the following shall apply:

(a) Individual trees or forested wetland areas less than 0.5 acre in size may occur. These trees have a high habitat value to the nonforested wetland. Leave individual trees or forested wetlands less than 0.5 acre. These trees may be counted toward the WMZ requirements.

(b) Harvest of upland areas or forested wetlands which are surrounded by Type A or B Wetlands must be conducted in accordance with a plan, approved in writing by the department.

(c) No timber shall be felled into or cable yarded across Type A or B Wetlands without written approval of the department.

(d) Harvest shall not be allowed within a Type A Wetland which meets the definition of a bog.

(9) **Future productivity.** Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

(10) **Wildlife habitat.** This subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of fish and wildlife to identify critical wildlife habitats (state) as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification. Landowners are required to provide protocol survey data and known occurrence data for critical wildlife species identified in WAC 222-16-080 to the department of fish and wildlife, which maintains the resource data base. This information shall be communicated to the department of fish and wildlife as soon as possible, but generally no later than 30 days from the date of survey completion or occurrence detection. This knowledge will contribute to improved understanding of resource abundance and distribution, and will enhance the

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ability to conduct landscape level resource or habitat analyses.

(b) Harvesting methods and patterns in established big game winter ranges should be designed to insure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(11) **Wildlife reserve tree management.** In areas where leaving wildlife reserve trees under this section will not create a significant fire hazard, or significant hazard to overhead power lines and operations that are proposed in the vicinity of wildlife reserve trees will not create a significant safety or residential hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), wildlife reserve trees will be left to protect habitat for cavity nesting wildlife in accordance with the following:

(a) In Western Washington, for each acre harvested 3 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. In Eastern Washington for each acre harvested 2 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. Type 1 wildlife reserve trees may be counted, at the landowner's option, either as a wildlife reserve tree or as a green recruitment tree. If adequate wildlife reserve trees are not available, no additional green recruitment trees will be required as substitutes. Landowners shall not under any circumstances be required to leave more than 2 green recruitment trees per acre for the purpose of wildlife reserve tree recruitment, or be required to leave Type 3 or 4 wildlife reserve trees.

(b) In Eastern Washington, for 5 years from the effective date of this subsection where over-story harvest of seed trees left for purpose of reforestation are proposed and less than 10 trees per acre will be harvested within the 5-year period, 50% of the green recruitment trees otherwise required in this subsection may be left.

(c) In Western Washington, only those wildlife reserve trees 10 or more feet in height and 12 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. In Eastern Washington, only those wildlife reserve trees 10 or more feet in height and 10 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. Green recruitment trees, 10 or more inches dbh and 30 or more feet in height and with at least 1/3 of their height in live crown, left standing after harvest may be counted toward green recruitment tree requirements. Green recruitment trees and/or wildlife reserve trees left to meet other requirements of the rules or those left voluntarily by the landowner shall be counted toward satisfying the requirements of this section. Large, live defective trees with broken tops, cavities, and other severe defects are preferred as green recruitment trees. Only down logs with a small end diameter greater than or equal to 12 inches and a length greater than or equal to 20 feet or equivalent volume shall be counted under (a) of this subsection. Large cull logs are preferred as down logs.

(d) In the areas where wildlife reserve trees are left, the largest diameter wildlife reserve trees shall be retained to meet the specific needs of cavity nesters. Where the opportunity exists, larger trees with numerous cavities should be retained and count as recruitment trees.

(e) In order to facilitate safe and efficient harvesting operations, wildlife reserve trees and recruitment trees may be left in clumps. For purposes of distribution, no point within the harvest unit shall be more than 800 feet from a wildlife reserve tree or green recruitment tree retention area. Subject to this distribution requirement, the location of these retention areas and the selection of recruitment trees shall be at the landowner's discretion. Closer spacing of retention areas through voluntary action of the landowner is encouraged. Wildlife reserve tree and green recruitment tree retention areas may include, but are not limited to, riparian management zones, riparian leave tree areas, other regulatory leave areas, or voluntary leave areas that contain wildlife reserve trees and/or green recruitment trees.

(f) In order to provide for safety, landowners may remove any Type 3 or 4 wildlife reserve tree which poses a threat to humans working, recreating, or residing within the hazard area of that tree. In order to provide for fire safety, the distribution of wildlife reserve tree retention areas, described in (e) of this subsection, may be modified as necessary based on a wildlife reserve tree management plan proposed by the landowner and approved by the department.

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-30-050 Felling and bucking. *(1) Falling along water.

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

***(2) Bucking in water.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

***(3) Falling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into

riparian management zones, wetland management zones and areas outside the harvest unit.

(4) **Falling in selective and partial cuts.** Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

(5) **Disturbance avoidance.** Felling and bucking within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(6) Disturbance avoidance for marbled murrelets. Felling and bucking shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-30-060 Cable yarding. *(1) **Type 1, 2 and 3 Waters.** No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water have hydraulic project approval of the departments of fisheries or wildlife.

*(2) **Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

*(3) **Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

*(4) **Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

(5) **Direction of yarding.**

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

*(c) When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) **Disturbance avoidance.** The operation of heavy equipment within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(7) Disturbance avoidance for marbled murrelets. Yarding or operation of heavy equipment shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-30-065 Helicopter yarding. (1) Helicopter operations within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

~~((1))~~ (a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

~~((2))~~ (b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(2) **Helicopter operations shall not be allowed:**

(a) Over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site during the critical nesting season; or

(b) Within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season.

(c) Provided that, these restrictions shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-30-070 Tractor and wheeled skidding systems. *(1) **Typed waters and wetlands.**

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall

only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

(e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

***(2) Riparian management zone.**

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

***(3) Wetlands management zones.**

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

***(4) Deadfalls.** Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

***(5) Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils or saturated soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

(6) **Protection of residual timber.** Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

***(7) Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outslowed where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

***(8) Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

***(9) Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

(10) **Disturbance avoidance.** The operation of heavy equipment within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(11) Disturbance avoidance for marbled murrelets. Operation of heavy equipment shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

AMENDATORY SECTION (Amending WSR 96-12-038, filed 5/31/96, effective 7/1/96)

WAC 222-30-100 Slash disposal or prescribed burning. (1) **Slash disposal techniques:**

***(a)** Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity. Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: *Provided*, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to protect Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

***(c)** Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash isolation, reduction, or abatement** is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

***(4) Removing slash and debris from streams.**

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the 50-year flood level of Type 1, 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

***(5) Fire trails.**

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within Type A or B Wetlands, wetland management zones, or riparian zones without prior written approval of the department. Hand constructed fire trails are preferred within forested wetlands. When machine built fire trails are necessary for control of burning, trail width and excavation shall be minimized.

(6) **Disturbance avoidance.** Burning within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31, provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(7) Disturbance avoidance for marbled murrelets.

Slash disposal or prescribed burning shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

**WSR 97-11-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed May 21, 1997, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-01-090.

Title of Rule: WAC 388-505-0510 Residence and 388-513-1320 Institutional—Status.

Purpose: Comply with federal requirements concerning residence status of an institutionalized person. Adds new cross-reference.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090.

Statute Being Implemented: 42 CFR 435.403 (j)(2).

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical

Assistance Administration, 617 8th S.E., Olympia, WA, (360) 753-7462.

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

Rule is necessary because of federal law, 42 CFR 435.403 (j)(2).

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses. It concerns eligibility policy and affects only clients and staff.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section (RCW 34.05.328) does not pertain to the Department of Social and Health Services rules.

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-1, Lacey, WA 98503, on June 24, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by June 13, 1997, TTY (360) 902-8324, voice (360) 902-7540, e-mail lbaldwin@dshs.wa.gov.

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 June 24, 1997.

Date of Intended Adoption: No sooner than June 25, 1997.

May 21, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-505-0510 Residence. (1) A client receiving medical care program benefits other than medically indigent shall be a resident of the state of Washington. A client need not be a resident of the county in which medical care is obtained.

(2) The department shall consider a client a resident if the client:

(a) Intends to remain permanently or for an indefinite period in the state; or

(b) Enters the state with a job commitment or seeks employment, whether the client is or is not currently employed.

(3) The department shall not consider a person temporarily entering the state, for the sole purpose of obtaining medical care, as a resident. For an institutionalized person, refer to WAC 388-513-1320(4).

(4) The department shall consider a client's residence the state:

(a) Making a state supplemental security income (SSI) supplementary payment; or

(b) Making federal payments for foster or adoption assistance under Title IV-E of the Social Security Act; or

(c) Of residence of the parent or legal guardian, if one has been appointed, for an institutionalized minor child; or

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(d) Of residence of the parent or legal guardian, if one has been appointed, for an institutionalized client twenty-one years of age or older who became incapable of determining residential intent before twenty-one years of age; or

(e) Where a client is residing if the person becomes incapable before twenty-one years of age; or

(f) Making a placement in an out-of-state institution.

(5) The department shall determine the state of residence of a noninstitutionalized child, unless married or emancipated, following the rules under chapter 388-215 WAC.

(6) The department shall ensure married or emancipated minor children follow the rules of subsections (1), (2), (3) and (4) of this section.

(7) When two or more states cannot agree which state is the client's state of residence, the department shall require the state in which the client is physically located to be the state of residence.

AMENDATORY SECTION (Amending Order 3980, filed 5/10/96, effective 6/10/96)

WAC 388-513-1320 Institutional status. (1) The department shall find that a person has achieved institutional status when the person is residing or expected to reside in a Medicaid-certified medical facility for a period of at least:

(a) Ninety consecutive days for an AFDC-related child seventeen years of age or younger in residential mental health or chemical dependency/substance abuse treatment; or

(b) Thirty consecutive days for an SSI-related person and AFDC-related persons other than as described under subsection (1)(a) of this section.

(2) The department shall consider a person receiving waived program services or hospice services to have achieved institutional status.

(3) The department shall make medical assistance available to an otherwise eligible person who has achieved institutional status as described under subsection (1) or (2) of this section.

(4) The department shall not deny Medicaid eligibility to a person in a nursing facility:

(a) On the grounds that the person did not establish residence in this state before entering the nursing facility; and

(b) When the person meets residency requirements described under chapter 388-505 WAC at the time the person applies for medical assistance.

WSR 97-11-083
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed May 21, 1997, 11:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-074.

Title of Rule: WAC 388-15-120 Adult protective services.

Purpose: To implement changes in chapter 74.34 RCW made in 1995.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: Chapters 74.34 and 26.44 RCW; 42 USC 1397 and 42 USC 3058.

Summary: The definitions of abuse, neglect, abandonment, and exploitation; and the definition of frail elder and vulnerable adult in chapter 74.34 RCW have changed. The changes in the current WAC will enable APS to use the appropriate criteria for determining the need for protective services for this population of people.

Reasons Supporting Proposal: Chapters 74.34 and 26.44 RCW requires that the Department of Social and Health Services provide services to protect vulnerable adults.

Name of Agency Personnel Responsible for Drafting: Melanie Johnson, Aging and Adult Services Administration, Olympia, Washington 98504, (360) 407-0354; Implementation and Enforcement: Aging and Adult Services Administration, Olympia, Washington 98504, (360) 407-0354.

Name of Proponent: Department of Social and Health Services, Aging and Adult Services Administration, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules implement the requirements of chapters 74.34 and 26.44 RCW to provide protective services to vulnerable adults by stating the authority and goals of the rules; defining the terms used to define an APS situation; explaining eligibility and investigative authority; and explaining scope of support services.

Proposal Changes the Following Existing Rules: WAC 388-15-120; see above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Currently, this section, codified in RCW 34.05.328, does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center, 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on June 24, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin, e-mail lbaldwin@dshs.wa.gov, by June 13, 1997, TDD (360) 902-8324, or (360) 902-7540.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-9292, by June 24, 1997.

Date of Intended Adoption: No sooner than June 25, 1997.

May 21, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3116, filed 12/18/90, effective 1/18/91)

WAC 388-15-120 Adult protective services. (1) **Authority.** The authority for adult protective services is:

(a) 42 U.S.C. 1397 for adults in need of protection;

(b) 42 U.S.C. 3058, for programs for prevention of elder abuse, neglect, and exploitation;

(c) Chapter 74.34 RCW for frail elders and vulnerable adults;

~~((b))~~ and

(d) Chapter 26.44 RCW for dependent and developmentally disabled adults;~~(; and~~

(e) 42 U.S.C. 1397 for other adults in need of protection)).

(2) **Goals.** The department shall:

(a) Limit adult protective services goals to those specified under WAC 388-15-010 (1)(c), (d), and (e) and 388-15-010(2); and

(b) Help prevent, correct, improve, or remedy situations of abuse, abandonment, exploitation, or neglect by providing adult protective services to eligible clients as defined under chapter 26.44 RCW and RCW 74.34.020.

(3) ~~((Description of services. To prevent, correct, improve, or remedy situations of abuse, abandonment, exploitation, or neglect, the department shall provide adult protective services to:~~

~~(a) Dependent adults eighteen years of age or older;~~

~~(b) Developmentally disabled adults eighteen years of age or older;~~

~~(c) Vulnerable adults sixty years of age or older; or~~

~~(d) Other adults similarly unable to protect interests vital to their safety and well-being))~~ **Definitions.** The department shall use the following definitions when intervening to protect frail elderly and vulnerable adults:

(a) "Abandonment" means action or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care (RCW 74.34.020);

(b) "Abuse" means a nonaccidental act of physical or mental mistreatment or injury, or sexual mistreatment, which harms a person through action or inaction by another individual (RCW 74.34.020);

(c) "Adult protective services evaluation" is the term used to describe the action taken to determine if further investigation is necessary when a report of self-neglect is received.

(d) "Basic necessities of life" means food, water, shelter, clothing, and health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

(e) "Consent" means express written consent granted after the person has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary (RCW 74.34.020);

(f) "Exploitation" means the illegal or improper use of a frail elder or vulnerable adult or that person's income or resources, including trust funds, for another person's profit or advantage (RCW 74.34.020);

(g) "Frail elder or vulnerable adult" shall have the same meaning as the definition in RCW 74.34.020. Frail elder and vulnerable adults include a person:

(i) Sixty years of age and older who has the functional, mental, and physical inability to care for himself or herself;

(ii) Found incapacitated under chapter 11.88 RCW;

(iii) Who has a developmental disability under chapter 71.A.10 RCW;

(iv) Admitted to any long-term care facility that is licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW; or

(v) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 7.127 RCW.

(h) "Neglect" means a pattern of conduct or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that results in the deprivation of care necessary to maintain the vulnerable person's physical or mental health (RCW 74.34.020);

(i) "Mental mistreatment" means any infliction of mental or emotional pain or distress or both. Examples include, but are not limited to intimidation, coercion, ridiculing, harassment, treating an adult like a child, isolating an adult from family, friends, or regular activity, use of silence to control behavior, and yelling and swearing which results in mental distress.

(j) "Person or entity with a duty of care" includes, but is not limited to, the following:

(i) A guardian appointed under chapter 11.88 RCW; or

(ii) A person or entity providing the basic necessities of life to frail elder or vulnerable adults where:

(A) The person or entity is employed by or on behalf of the frail elder or vulnerable adult; or

(B) The person or entity voluntarily agrees to provide, or has been providing, the basic necessities of life to the frail elder or vulnerable adult on a continuing basis.

(k) "Physical abuse" means any infliction of bodily injury or physical mistreatment. Examples include, but are not limited to striking (with or without an object), slapping, pinching, choking, kicking, shoving, or inappropriate use of drugs or physical restraints;

(l) "Self-neglect" means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, emotional harm, or medical harm. This definition excludes a person who is competent to make a voluntary decision to live his or her life in a manner which may threaten his or her safety or well-being;

(m) "Sexual mistreatment" means any form of nonconsensual sexual contact. Sexual mistreatment includes, but is not limited to unwanted touching, rape, sodomy, coerced nudity, sexual explicit photographing.

(4) ~~Eligibility.~~ ~~((Before a person receives adult protective services from the department, a person))~~ **Prior to investigating or providing services:**

(a) The department shall determine when an adult protective service situation exists.

(b) The department shall conduct investigations without regard to the income of the frail elder or vulnerable adult.

(c) The client shall be the frail elder or vulnerable adult as defined in WAC 388-15-120.

(d) The client shall ~~((show))~~ exhibit evidence of:

~~((a) Existing))~~ (i) Elements of abuse, abandonment, exploitation, or neglect constituting a danger to the frail elder or vulnerable adult ~~((or others)); and~~

~~((b))~~ (ii) No ~~((one willing and))~~ other adult is available or able to competently assist the frail elder or vulnerable adult ~~((responsibly)).~~

(e) The department may refuse to investigate reports which do not fit the definition of abuse, neglect, exploitation,

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abandonment or the definition of frail elder or vulnerable adult found in this chapter.

(5) Investigation.

(a) The department shall respond to ((all)) reports of abuse, neglect, exploitation, or abandonment of frail elder or vulnerable (~~(, dependent, and developmentally disabled)~~) adults. Response to a report may include, but is not limited to, referral to another entity for action; another entity may include, but is not limited to, law enforcement agency, mental health center, department of health, domestic violence program, residential care services, drug or alcohol treatment.

~~((a) The department shall determine if a valid adult protective service situation exists.))~~

~~(b) ((The department may refuse to investigate reports which do not constitute abuse, exploitation, neglect, or abandonment as defined under RCW 74.34.020.~~

(c) The department shall conduct investigations regardless of the adult's income)) The department shall report an incident of abuse or neglect pursuant to chapter 26.44 RCW involving an adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to sexual abuse, shall report such incident to the proper law enforcement agency.

(i) In emergency cases where the person's welfare is endangered the department shall notify law enforcement within twenty-four hours after receiving the report.

(ii) In all other cases the department shall notify law enforcement within seventy-two hours after receiving the report.

(6) Support services.

(a) The department shall provide ~~((dependent adults, developmentally disabled adults, vulnerable adults, and other adults similarly unable to protect interests vital to their safety and well-being with support services))~~ services only with the written consent of the client after the client has been fully informed about the services and the client's right to refuse services.

(b) The department shall provide frail elders and vulnerable adults with chore personal care services and placement into an adult family home or adult residential care facility without regard to income only:

~~((a)) (i) When the services are essential to, and a subordinate part of, the adult protective services plan; and~~

~~((b)) (ii) For a period not to exceed ((the)) ninety days during any twelve-month period of time which is specified ((under)) in WAC 388-15-209((4))~~(5)~~, ((Chore services—Eligibility, WAC)) 388-15-552(2), ((Adult family home—Eligible persons, and WAC)) or 388-15-562(3)~~((, Congregate care—Eligible persons))~~.~~

(c) The department may seek the appointment of a guardian after all other less restrictive alternatives have been explored and when it is apparent that the client may meet the criteria of incapacity pursuant to chapter 11.88 RCW.

(d) The department may provide assistance to a frail elder or vulnerable adult by filing a protective order as per chapters 10.14, 26.50, and 74.34 RCW, or as otherwise provided by law.

(e) The department may provide other services to protect the vulnerable adult.

WSR 97-11-084

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed May 21, 1997, 11:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-15-138.

Title of Rule: New chapter 16-573 WAC, Canola and Rapeseed Commission.

Purpose: Establish a commodity commission to represent canola and rapeseed growers in the state of Washington with the authority to collect assessments to carry out activities in promotion, research, public information programs, establishing grades and standards, and to take necessary action to prevent unfair trade practices.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: The new rule will create the Canola and Rapeseed Commission consisting of an eight member board to carry out activities in the promotion, research, public information programs, establishing grades and standards and to take necessary action to prevent unfair trade practices.

Reasons Supporting Proposal: Agricultural industry groups may petition the director of agriculture to form an agricultural commodity commission in compliance with chapter 15.65 RCW. The issuance of a marketing order must be approved by a vote of the growers. The cost of all programs in marketing and research conducted by the commission are borne by the affected producers.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, 1111 Washington, 2nd Floor, Olympia, WA, (360) 902-1928; Implementation and Enforcement: Commission Board, to be established.

Name of Proponent: Pacific Northwest Canola and Rapeseed Association in a petition signed by eleven growers I/A/W RCW 15.65.050, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Affected producers of canola and/or rapeseed must approve the issuance of a marketing order to create the commission in compliance with procedures in chapter 15.65 RCW before the rule becomes effective.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will establish an agricultural commodity commission for the canola and rapeseed producers. The commission will have the authority to assess a fee on producers of canola and/or rapeseed to fund programs in marketing, advertising, research, and to take necessary action to prevent unfair trade practices. The issuance of a marketing order to create the commission will insure a constant source of funding for long range activities that will improve the efficiency of production and marketing and greater profits for the producers. Agricultural commodity commissions in the state are in the public interest by promoting the economic welfare of the state.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Franklin County PUD #1, 1411 West Clark, Pasco, WA, on June 25, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 18, 1997, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Walter Swenson, Agricultural Programs Administrator, Washington Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, FAX (360) 902-2089, by June 25, 1997.

Date of Intended Adoption: August 13, 1997.

May 21, 1997

William E. Brookreson
Assistant Director

Chapter 16-573 WAC CANOLA AND RAPESEED COMMISSION

NEW SECTION

WAC 16-573-010 Definitions of terms. For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agriculture Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association or corporation.

(5) "Affected producer" means any person who produces, or causes to be produced, in commercial quantities, canola or rapeseed, or both in the state of Washington.

(6) "Commercial quantity" means all the canola or rapeseed produced for market in any calendar year by any producer.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing or distributing canola or rapeseed not produced by the handler and includes any lending agencies for a commodity credit corporation loan to producers.

(8) "Canola and rapeseed commodity board" referred to as "board" means the canola and rapeseed commodity board formed under WAC 16-573-020.

(9) "Canola or rapeseed" or "canola and rapeseed" means *Brassica Sp.* oilseeds, produced for use as oil, meal, planting seed, condiment, or other industrial or chemurgic uses, and includes mustard.

(10) "Marketing season" or "fiscal year" means the twelve-month period beginning on June 1 of any year and ending with the last day of May, both dates being inclusive.

(11) "Producer-handler" is both a "producer" and a "handler" with respect to canola and rapeseed and is covered by this order as a producer when engaged in the business of producing canola or rapeseed or a handler when engaged in processing, selling, marketing or distributing canola or rapeseed.

(12) "Affected area" means the following counties located in the state of Washington: Adams, Asotin, Benton,

Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Klickitat, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(14) "Affected unit" means one hundred pounds (hundredweight) of canola or rapeseed, or both.

NEW SECTION

WAC 16-573-020 The canola and rapeseed board.

(1) **Administration.** The provisions of this order and the applicable provisions of the act is administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of eight members. Six members must be affected producers elected under provisions of this order. One member must be an affected handler appointed by the elected producers. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area of the state of Washington is divided into three representative districts as follows:

(i) District I must have two board members, being positions one and two and include the counties of Adams, Benton, Douglas, Franklin, Grant, Klickitat, Lincoln, and Yakima.

(ii) District II must have two board members, being positions three and four and include the counties of Ferry, Pend Oreille, Spokane, and Stevens.

(iii) District III must have two board members being positions five and six and include the counties of Asotin, Columbia, Garfield, Walla Walla, and Whitman.

(iv) The handler appointed by the elected producers will be position seven.

(3) **Board membership qualifications.**

(a) The affected producer members of the board must be practical producers of canola or rapeseed in the district in and for which they are nominated and elected and must be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing canola or rapeseed within the state of Washington for a period of five years and has during that time derived a substantial portion of their income therefrom and who is not engaged in business as a handler or other dealer.

(b) The affected handler member of the board must be a practical handler of canola or rapeseed and must be a citizen and resident of the state of Washington, over the age of twenty-five years and who is and has been, either individually or as an officer or an employee of a corporation, firm, partnership association or cooperative actually engaged in handling canola or rapeseed within the state of Washington for a period of five years and has during that period derived a substantial portion of their income therefrom.

(c) The qualifications of members of the board must continue during their term of office.

(4) Term of office.

(a) The term of office for members of the board is three years, and one-third of the membership as nearly as possible must be elected each year.

(b) Membership positions on the board are designated numerically; affected producers will have positions one through six, the affected handler will have position seven and the member appointed by the director will have position eight.

(c) The term of office for the initial board members must be as follows:

Positions one and three - one year, ending on May 31, 1998;

Positions two and five - two years, ending on May 31, 1999;

Positions four, six and seven - three years, ending on May 31, 2000.

(d) No elected producer member of the board can serve more than two full consecutive three-year terms.

(5) Nomination and election of board members.

(a) Each year the director shall call for nomination meetings in those districts whose board members term is about to expire. The meetings must be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every meeting must be published in newspapers of general circulation within the affected district at least ten days in advance of the date of the meeting and in addition, written notice of every meeting must be given to all affected producers within the affected district according to the list maintained by the director under RCW 15.65.200 of the act. Nonreceipt of notice by any interested person will not invalidate the proceedings at the nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at the nomination meetings. Nominations may also be made within five days after the meeting by written petition filed with the director, signed by at least five affected producers. At the inception of this order, nominations may be made at the issuance hearing.

(b) If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the vacancy by mail to all affected producers. Nominating petitions for producers must be signed by at least five affected producers of the district from which the candidate will be elected. The final date for filing nominations must be at least twenty days after the notice was mailed.

(6) Election of board members.

(a) Members of the board must be elected by secret mail ballot within the month of April under the supervision of the director. Affected producer members of the board must be elected by a majority of the votes cast by the affected producers within the affected district. Each affected producer is entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a runoff election must be held by mail in a similar manner between the two candidates for the position receiving the largest number of votes.

(c) Notice of every election for board membership must be published in a newspaper of general circulation within the affected district at least ten days in advance of the date of the election. At least ten days before every election for

board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of the affected producers maintained by the director in accordance with RCW 15.65.200 of the act. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing their qualifications. Nonreceipt of a ballot by an affected producer will not invalidate the election of any board member.

(d) The appointed handler member of the initial board shall be elected by a majority of the elected members at the first meeting.

(7) **Vacancies prior to election.** In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) **Quorum.** A majority of the members is a quorum for the transaction of all business and to execute the duties of the board.

(9) **Board compensation.** No member of the board will receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board, in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chair and other officers as the board deems advisable.

(c) To employ and discharge at its discretion the personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to execute the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. The expenses and costs may be paid by check, draft or voucher in the form and the manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director to defray the costs of formulating the order.

(f) To establish a "canola and rapeseed board marketing revolving fund" and to deposit the fund in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done under this order. The records, books and accounts must be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. The books and accounts must be closed as of the last day of each fiscal year of the state of Washington.

A copy of the audit shall be delivered within thirty days after completion to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board may deem necessary. The premium for the bond or bonds must be paid by the board from assessments collected. The bond may not be necessary if any board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution a headquarters which shall continue unless changed by the board. All records, books and minutes of board meetings must be kept at the headquarters.

(k) To adopt rules of a technical or administrative nature, under chapter 34.05 RCW (Administrative Procedure Act).

(l) To execute RCW 15.65.510 covering the obtaining of information necessary to effectuate the order and the act, along with the necessary authority and procedure for obtaining the information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States to obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To execute any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least quarterly, with the time and date fixed by resolution of the board and held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget must be presented for discussion at the meeting. Notice of the annual meeting must be given by the board at least ten days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution the time, place, and manner of calling special meetings of the board with reasonable notice to the members. The notice of any special meeting may be waived by a written waiver from each member of the board.

NEW SECTION

WAC 16-573-030 Marketing order purposes. The order is to promote the general welfare of the state, to enable producers of canola and rapeseed to help themselves establish orderly, fair, sound, efficient, unhampered marketing, grading and standardization of canola or rapeseed, or both.

To execute the purposes of the order, the board shall provide for a program in one or more of the following areas:

(1) Establish plans and conduct programs for advertising, sales, promotion or other programs for maintaining present markets or creating new or larger markets for canola or rapeseed, or both. The programs shall be directed toward increasing the sale of canola and rapeseed without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of canola or rapeseed nor disparage the quality, value, sale or use of any other agricultural commodity.

(2) Provide for research in the production, processing or distribution of canola and rapeseed and expend the necessary funds for the purposes. Insofar as practicable, the research must be carried out by experiment stations of Washington State University, but if in the judgment of the board that the experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(3) Provide by rules for:

(a) Establishing uniform grades and standards of quality, condition, maturity, size, weight, pack, packages and, or label for canola and rapeseed or any products thereof;

(b) Requiring producers, handlers or other persons to conform to the grades and, or standards in packing, packaging, processing, labeling, selling or otherwise commercially disposing of canola or rapeseed in offering, advertising and delivering it therefor;

(c) Providing for inspection and enforcement to ascertain and effectuate compliance;

(d) Establishing rules respecting the foregoing;

(e) Providing that the board shall execute inspection and enforcement of, and may (within the general provisions of the order) establish detailed provisions relating to, the standards and grades and the rules. Any modification not of a substantial nature, such as the modification of standards within a certain grade may be made without a hearing and shall not be considered an amendment for the purposes of the act and order.

(4) Provide for the prevention, modification or removal of trade barriers which obstruct the free flow of the affected commodity to market.

(5) Provide for marketing information and services to affected producers and for the verification of grades, standards, weights, tests and sampling of quality and quantity of canola and rapeseed purchased by handlers from affected producers.

(6) Prohibit making or publishing false or misleading advertising. The regulation may authorize uniform trade practices applicable to all similarly situated handlers and, or other persons.

NEW SECTION

WAC 16-573-040 Assessments and collections. (1) Assessments.

(a) The assessment on all varieties of canola or rapeseed subject to this marketing order shall be ten cents per hundredweight and shall be deducted by the first purchaser from the price paid to the grower. The assessment shall be

remitted to the board in accordance with procedures adopted by the board.

(b) The assessments shall not be payable on any canola or rapeseed used by the affected producer on their premises for feed, seed and personal consumption.

(2) **Collections.** Excess moneys collected by the board under the order during the fiscal year may be carried over and used during the next successive fiscal year. The board may also recommend that excess moneys at the close of a fiscal year be refunded on a pro rata basis to the affected producers from whom the moneys were collected.

(3) **Penalties.** Any due and payable assessment levied in the specified amount as may be determined by the board under the act and the order is a personal debt of the person assessed or who owes the debt, and it is due and payable to the board when payment is called for by the board. If a person fails to pay the board the full amount of the assessment by the date due, the board may add to the unpaid assessment or sum an amount not exceeding ten percent of the amount owed. In the event of failure of the person or persons to pay the full amount due, the board may bring a civil action against the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

NEW SECTION

WAC 16-573-041 Time—Place—Method for payment and collection of assessments. Effective with the growing season of 1997, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-573-040:

(1) All first handlers of canola and rapeseed grown in the state of Washington, or the person acting on behalf of a first buyer, shall withhold the amount of assessment from their remittance to growers of canola or rapeseed and transmit it to the board.

(2) All assessments will be due and payable to the board within thirty days of collection. With the submission of the assessments, a report listing the name, address, volume handled or purchased and amount deducted or collected for each producer must be submitted to the board on forms provided by or approved by the board.

(3) Any assessments paid after the above deadlines shall be accompanied by a penalty fee of ten percent in accordance with RCW 15.65.440 of the act.

NEW SECTION

WAC 16-573-050 Obligations of the board. Obligations incurred by the board or employee or agent pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under the order were a corporation. No liability for the debts or actions of the board, employee or agent incurred in their official capacity under this order shall exist either against the board, officers, employees or agents in their individual capacity, nor against the state of Washington or any subdivision or

instrumentality thereof nor against any other organization, administrator or board (or employee or agent) established under this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person or employee, except for their own individual acts of dishonesty or crime. No person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

NEW SECTION

WAC 16-573-060 Termination of the order. The order shall be terminated if the director finds that fifty-one percent by numbers and fifty-one percent by volume of production of the affected producers favor or assent to the dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether the termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production of the affected producers file written application with the director for the termination. The termination shall not, however, become effective until the expiration of the marketing season.

NEW SECTION

WAC 16-573-070 Effective time. (1) This marketing order for canola and rapeseed shall become effective after May 31, 1997.

(2) This order shall remain in full force and effect until May 31, 2002, unless terminated before under chapter 15.65 RCW as set forth in WAC 16-536-060. If the order remains in effect until May 31, 2002, the director shall conduct a referendum election as required for the approval of an order under chapter 15.65 RCW at a time before that date to determine if the affected producers desire that the order be terminated on that date or continued in full force and effect beyond the date. All the costs of conducting the election shall be defrayed from the funds of the board.

NEW SECTION

WAC 16-573-080 Separability. If any provisions of the order are declared invalid, or the applicability to any person, circumstances or thing is held invalid, the validity of the remainder provisions or of the applicability to any other person, circumstances or thing shall not be affected.

WSR 97-11-085
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 21, 1997, 11:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-083.

PROPOSED

Title of Rule: WAC 16-536-040, increase the grower assessments on dry peas and lentils.

Purpose: To consider a proposal from the dry pea and lentil growers to increase the assessment on all varieties of dry peas and lentils from one percent of net receipts at first point of sale to two percent.

Statutory Authority for Adoption: Washington State Agricultural Enabling Act of 1961-Commodity Boards, RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: The proposal, if adopted, will increase the assessment on dry peas and lentils grown in the state of Washington from one percent of net receipts at the first point of sale to two percent.

Reasons Supporting Proposal: The director of agriculture received a petition from the producers of dry peas and lentils to increase the assessment. The Dry Pea and Lentil Commission received approval from the 55th legislature (ESB 5514) to increase assessment above the fiscal growth factor as required by I-601. The assessment increase must also be approved by a vote of the growers.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, 1111 Washington Street, 2nd Floor, Olympia, WA, (360) 902-1928; **Implementation and Enforcement:** Tim McGreevy, 5071 Highway 8 West, Moscow, ID, (208) 882-3023.

Name of Proponent: United States Dry Pea and Lentil Council, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Affected producers must approve the assessment increase by a referendum vote before the increase becomes effective.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will increase the assessment of dry peas and lentils grown in the state of Washington from one percent of net receipts at the first point of sale to two percent. The rule is proposed because the dry pea and lentil industry faces reduced federal funding in the area of research and market development. Without an assessment increase, the industry may lose its entire research program and its competitive position in the domestic and export markets.

Proposal Changes the Following Existing Rules: The rule, if approved by a majority vote of the growers, would increase the assessment on dry peas and lentils from one percent of net receipts at the first point of sale to two percent.

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

Small Business Economic Impact Statement

Rule Summary: The proposed rule change will allow the growers of dry peas and lentils in the state of Washington to determine by referendum vote, whether to increase their assessment rate from one percent of the net receipts at the first point of sale to two percent.

Background: In every commodity commission marketing order, the director of agriculture prescribes the rate of assessment and method of collection. This rate of assessment and collection method may be adjusted or amended

from time to time, but only upon compliance with the procedural requirements of the Washington Agricultural Enabling Act of 1961, chapter 15.65 RCW. The procedure requires an assent, or approval, by a majority of the growers. The marketing order for dry peas and lentils was issued in 1965. The rate of assessment has not been increased since 1987.

The director of agriculture received a petition from the dry pea and lentil industry to conduct a referendum of the growers to increase the rate of assessment. The dry pea and lentil industry faces reduced federal funding in the area of research and market development. Without an assessment rate increase, the industry may lose its entire research program and its competitive position in the domestic and international markets.

Cost of Compliance: If approved by the growers, the assessment rate on dry peas and lentils will increase from one percent of receipts at the first point of sale to two percent. The effect this rate increase will have on assessments paid by a grower is shown on an average per acre basis in the following table:

**Washington Dry Pea and Lentil Commission
Assessment Comparison
(Based on five year average)**

	Green Peas	Yellow Peas	Austrian Peas	Lentils
Harvested Acres	90,455	8,554	600	92,000
Yield/Acre (lbs)	1,850	1,880	1,147	1,143
Grower Price (cents/lb.)	0.0832	0.0793	0.0878	0.1565
Per Acre				
Assessment @ 1%	\$1.54	\$1.49	\$1.01	\$1.79
Per Acre				
Assessment @ 2%	\$3.08	\$2.98	\$2.02	\$3.58

Businesses in the dry pea and lentil industry are defined as producers and handlers. A producer is any person, firm, association or corporation engaged in the production of dry peas and lentils in commercial quantities. There are approximately 3000 affected producers in the state engaged in the production of dry peas and lentils. The cost of compliance for each producer is in direct proportion to harvested acres, yield, and grower price. The factors that affect cost are variable such as management, market conditions and growing conditions. Generally, the cost of compliance can be stated as twice the amount a grower would pay in assessments on the same amount of production prior to the increase in the assessment rate, assuming grower price remains constant. Businesses affected by the assessment rate increase will not incur any additional cost in equipment, supplies, labor or administrative cost.

Handlers collect the assessments from the producer at the first point of sale and remit the funds to the board of the Dry Pea and Lentil Commission. Handlers are defined as any person who acts as principal or agent in processing, selling, marketing or distributing dry peas and lentils not produced by the handler. Handlers of dry peas and lentils currently collect assessments from the growers and remit to the board of the commission and will not incur any addition-

al cost in equipment, supplies, labor or administrative cost as a result of the assessment rate increase.

Mitigation: The concept of commodity commissions is based on the theory that every producer benefits in proportion to the volume of the affected commodity they produce. Commodity commissions are organized by agricultural industries to provide the means for producers to assess themselves to finance programs to solve some of their immediate and long-term economic problems. The dry pea and lentil marketing order was issued to provide for advertising and promotion programs, research in production and processing, and to establish uniform grades and standards of quality. Growers affected by the assessment rate increase have the authority, following procedures in chapter 15.65 RCW, to amend the assessment rate if the programs funded by the assessments are determined by the majority of growers to be ineffective.

Prepared: May 1997.

A copy of the statement may be obtained by writing to Walter Swenson, Washington State Department of Agriculture, Agricultural Programs Administrator, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1928, FAX (360) 902-2089.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Colfax Public Works Building, Auditorium (1st Floor), 310 North Main, Colfax, WA 99111, on June 24, 1997, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 17, 1997, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Walter Swenson, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, FAX (360) 902-2089, by June 24, 1997.

Date of Intended Adoption: July 23, 1997.

May 21, 1997
William E. Brookreson
Assistant Director
Agency Operations

AMENDATORY SECTION (Amending Order 1895, filed 7/3/86, effective 8/4/86)

WAC 16-536-040 Assessments and collections. (1) Assessments.

(a) The assessment on all varieties of dry peas and dry lentils subject to this marketing order shall be ~~((one))~~ two percent of the net receipts at the first point of sale and shall be deducted by the first purchaser from the price paid to the grower. Such assessment shall be remitted to the commission board in accordance with procedures adopted by the commission board: *Provided*, That such assessment on commercial wrinkled pea seed shall not become effective unless approved by a referendum vote of the affected wrinkled pea seed producers.

(b) Such assessments shall not be payable on any such dry peas and/or lentils used by the producer thereof on his premises for feed, seed and personal consumption.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or

with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

WSR 97-11-087
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed May 21, 1997, 11:55 a.m.]

Original Notice.

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

Title of Rule: Home health, hospice and home care licensing fees, WAC 246-327-990, 246-331-990, and 246-336-990.

Purpose: Adjust fees to cover program costs.

Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250.

Statute Being Implemented: RCW 43.70.110 and 43.70.250.

Summary: The department is adjusting home health, home care and hospice agencies' licensing fees to cover actual program operating costs.

Reasons Supporting Proposal: Fees are based upon the cost of regulatory activity which includes salaries and benefits, goods and services such as rent, telephone and mail, printing, training, attorney general support; travel and equipment; and indirect costs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Fern Bettridge, Program Manager, 2725 Harrison Avenue N.W., Olympia, 98502, (360) 705-6620.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendments will increase licensing fees 3.94% to cover actual costs of operating the regulatory program for home health, hospice and home care licensing fees.

Proposal Changes the Following Existing Rules: [No information supplied by agency.]

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal is exempt under RCW 34.05.310(4) and therefore does not require a small business economic impact statement. However, the department prepared an economic analysis identifying the necessity of the 3.94% fee increase.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995, does not apply to rules that set or adjust fees or rates pursuant to legislative standards according to RCW 34.05.328 (5)(b)(vi).

Hearing Location: Facilities and Services Licensing, Target Plaza, Training Room, 2725 Harrison Avenue, Olympia, WA 98502, on June 27, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jennell Prentice by June 13, 1997, TDD (360) 664-0064, or (360) 705-6661.

Submit Written Comments to: Jennell Prentice, P.O. Box 47852, Olympia, WA 98504-7852, FAX (360) 705-6654.

Date of Intended Adoption: June 30, 1997.

May 21, 1997

Bruce A. Miyahara
Secretary

AMENDATORY SECTION (Amending WSR 96-12-026, filed 5/30/96, effective 6/30/96)

WAC 246-327-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of ~~((three))~~ four hundred ~~((ninety-seven))~~ twelve dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, eight hundred ~~((twenty-seven))~~ fifty-nine dollars;

(B) Sixteen through fifty FTEs, ~~((nine hundred ninety-five))~~ one thousand thirty-four dollars; or

(C) Fifty-one or more FTEs, one thousand ~~((three hundred fifty-eight))~~ four hundred eleven dollars;

(b) ~~((A fee of one half the fees specified in (a) of this subsection for an initial twelve-month license for:~~

(i) ~~New firms;~~

(ii) ~~Businesses not currently licensed to provide home health care in Washington state; or~~

(iii) ~~Currently licensed businesses which have had statement of charges filed against them; and))~~ An initial twelve-month license fee for new firms, businesses not currently licensed to provide home health care in Washington state, or currently licensed businesses which have had statement of charges filed against them as follows:

(i) A base fee of two hundred six dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, four hundred twenty-nine dollars;

(B) Sixteen through fifty FTEs, five hundred sixteen dollars;

(C) Fifty-one or more FTEs, seven hundred five dollars;
and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional hospice and/or home care license.

(3) The department may charge and collect from a licensee a fee of ~~((one hundred ninety-nine))~~ two hundred six dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

AMENDATORY SECTION (Amending WSR 96-12-025, filed 5/30/96, effective 6/30/96)

WAC 246-331-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of ~~((three hundred ninety-seven))~~ four hundred twelve dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, two hundred ~~((ten))~~ eighteen dollars;

(B) Sixteen through fifty FTEs, five hundred ~~((six))~~ twenty-five dollars; or

(C) Fifty-one or more FTEs, one thousand ~~((forty-eight))~~ eighty-nine dollars;

(b) ~~((A fee of one half the fees specified in (a) of this subsection for an initial twelve-month license for:~~

(i) ~~New firms;~~

(ii) ~~Businesses not currently licensed to provide hospice care in Washington state; or~~

(iii) ~~Currently licensed businesses which have had statement of charges filed against them; and))~~ An initial twelve-month license fee for new firms, businesses not currently licensed to provide hospice care in Washington state, or currently licensed businesses which have had statement of charges filed against them as follows:

(i) A base fee of two hundred six dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred nine dollars;

(B) Sixteen through fifty FTEs, two hundred sixty-two dollars;

(C) Fifty-one or more FTEs, five hundred forty-three dollars; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or home care license.

(3) The department may charge and collect from a licensee a fee of ~~((one hundred ninety-nine))~~ two hundred six dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies;

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed the cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

AMENDATORY SECTION (Amending WSR 96-12-028, filed 5/30/96, effective 6/30/96)

WAC 246-336-990 Fees. (1) A licensee or applicant shall submit to the department:

(a) A biennial renewal fee based on the number of full-time equivalents (FTEs), which is a measurement based on a forty-hour week and is applicable to paid agency personnel or contractors, as follows:

(i) A base fee of two hundred ~~((sixty-four))~~ seventy-four dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred ~~((forty))~~ forty-five dollars;

(B) Sixteen through fifty FTEs, one hundred ~~((sixty-nine))~~ seventy-five dollars; or

(C) Fifty-one or more FTEs, two hundred ~~((forty-two))~~ fifty-one dollars;

(b) An initial twelve-month license fee for new firms, businesses not currently licensed to provide home care in Washington state, or currently licensed businesses which have had statement of charges filed against them as follows:

(i) A base fee of ~~((one hundred ninety-nine))~~ two hundred six dollars; and

(ii) For agencies with:

(A) Fifteen or less FTEs, one hundred ~~((five))~~ nine dollars;

(B) Sixteen through fifty FTEs, one hundred ~~((twenty-seven))~~ thirty-two dollars;

(C) Fifty-one or more FTEs, one hundred ~~((eighty-five))~~ ninety-two dollars; and

(c) A transfer of ownership fee of fifty dollars. A transferred license will be valid for the remainder of the current license period.

(2) An applicant or licensee shall pay one-half the base fee in addition to the full fee for FTEs for each additional home health and/or hospice license.

(3) The department may charge and collect from a licensee a fee of one hundred ~~((eighty-nine))~~ ninety-six dollars for:

(a) A second on-site visit resulting from failure of the licensee or applicant to adequately respond to a statement of deficiencies; and

(b) A complete on-site survey resulting from a substantiated complaint; or

(c) A follow-up compliance survey.

(4) A licensee with deemed status shall pay fees according to this section.

(5) A licensee shall submit an additional late fee in the amount of ten dollars per day, not to exceed the cost of the base fee, from the renewal date until the date of mailing the fee, as evidenced by the postmark.

WSR 97-11-003
PERMANENT RULES
LOTTERY COMMISSION
 [Filed May 7, 1997, 4:16 p.m.]

Date of Adoption: May 2, 1997.

Purpose: Establishes game play rules and criteria for determining winners of Instant Game Nos. 192, 193, 194, and 195.

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 97-07-062 on March 19, 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 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 4, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 7, 1997
 Merritt D. Long
 Director

NEW SECTION

WAC 315-11A-192 Instant Game Number 192. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 192, on file at the lottery headquarters office.

(2) **Price per ticket:** One dollar.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$8, \$10, \$20, \$50, \$100, \$200, and \$1,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match any of the "Your Symbols" to the "Winning Symbol." Uncover a fish symbol to win instantly.

NEW SECTION

WAC 315-11A-193 Instant Game Number 193. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 193, on file at the lottery headquarters office.

(2) **Price per ticket:** Two dollars.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$6, \$7, \$8, \$10, \$15, \$50, \$100, \$200, \$250, \$500, \$1,000, \$2,000, \$4,000, and \$6,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match either of the "Your Numbers" to any of the "Winning Numbers." Uncover a movie tickets symbol to double the prize instantly.

NEW SECTION

WAC 315-11A-194 Instant Game Number 194. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 194, on file at the lottery headquarters office.

(2) **Price per ticket:** Two dollars.

(3) **Prizes available:** \$2, \$4, \$6, \$12, \$24, \$48, \$100, \$500, \$1,000, and \$10,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match three or more consecutive "Game Cards" within a game hand to the "Draw Cards" to win the corresponding amount shown in the legend on the ticket.

NEW SECTION

WAC 315-11A-195 Instant Game Number 195. (1) **Essential game elements** shall appear as set forth in the executed working papers for Instant Game Number 195, on file at the lottery headquarters office.

(2) **Price per ticket:** One dollar.

(3) **Prizes available:** \$1, \$2, \$3, \$4, \$5, \$6, \$7, \$8, \$9, \$10, \$20, \$60, \$400, and \$1,000. Players may win more than one prize per ticket.

(4) **Manner of selecting winning tickets:** Match "Your Numbers" to the "Winning Number."

WSR 97-11-014
PERMANENT RULES
BELLINGHAM TECHNICAL COLLEGE
 [Filed May 9, 1997, 4:14 p.m.]

Date of Adoption: March 20, 1997.

Purpose: Adopt policy on hazing, prohibiting college sponsored organizations, associations, or living groups from engaging individually or collectively in hazing of students.

Citation of Existing Rules Affected by this Order: Amending chapter 495B-120 WAC.

Statutory Authority for Adoption: RCW 28B.10.140, 42.30.075, and chapter 34.05 RCW.

Adopted under notice filed as WSR 96-21-086 [97-03-071] on October 17, 1996 [January 14, 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 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 8, 1997
 Jody McBee
 Rules Coordinator

WSR 97-11-015
 PERMANENT RULES
 DEPARTMENT OF AGRICULTURE
 [Filed May 12, 1997, 10:40 a.m.]

NEW SECTION

WAC 495B-120-035 Hazing. (1) Bellingham Technical College prohibits college-sponsored organizations, associations or living groups and their members from engaging individually or collectively in hazing activities.

(2) Hazing is defined as any method of initiation into a student organization, association or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or postsecondary institution. "Hazing" does not include customary athletic events or other similar contests or competitions.

(3) Penalties.

(a) Any organization, association or student living group that knowingly permits hazing shall:

(i) Be liable for harm caused to persons or property resulting from hazing; and

(ii) Be denied recognition by Bellingham Technical College as an official organization, association or student living group on the Bellingham Technical College campus. If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) The student conduct code, WAC 495-120-040 through 495-120-150, may be applicable to hazing violations.

(c) Members of student organizations, associations or living groups who participate in or conspire to participate in hazing activities will be subject to appropriate college disciplinary actions in accordance with the student conduct code.

(d) Other disciplinary actions for individuals of student organizations, associations or living groups participating in hazing activities may include forfeiture of any entitlement to state-funded grants, scholarships or awards for a period of time determined by the college.

(e) Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

(i) Impermissible conduct associated with initiation into a student organization, association or living group or any pastime or amusement engaged in, with respect to the organization, association or living group, will not be tolerated.

(ii) Impermissible conduct which does not amount to hazing may include conduct which causes embarrassment, sleep deprivation or personal humiliation, or may include ridicule or unprotected speech amounting to verbal abuse.

(iii) Impermissible conduct not amounting to hazing is subject to any sanctions available under the student conduct code, WAC 495-120-040 through 495-120-150, depending upon the seriousness of the violation.

Date of Adoption: May 12, 1997.

Purpose: Prevention of introduction of the plant disease anthracnose of lentils into Washington.

Statutory Authority for Adoption: RCW 17.24.041.

Adopted under notice filed as WSR 97-05-059 on February 19, 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 5, 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 5, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 12, 1997

Jim Jesernig
 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 97-11-019
PERMANENT RULES
GAMBLING COMMISSION**

[Filed May 13, 1997, 1:40 p.m.]

Date of Adoption: May 9, 1997.

Purpose: This rule establishes how progressive prizes are made, how progressive jackpots accrue, and the method for calculating the required percentage payout. CR-103 (emergency rule) WSR 97-05-062.

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).

Adopted under notice filed as WSR 97-05-057 on February 19, 1997.

Changes Other than Editing from Proposed to Adopted Version: Subsection (4)(a) reworded to state that the instant winners shall be equal to or greater than 40% of total gambling receipts; and subsection (4)(d) reworded to clarify that the \$5,000 limit applies to contributions to jackpots, not the jackpot size itself.

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 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: Thirty-one days after filing.

May 13, 1997

Soojin Kim

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. 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~~) The following definitions apply to this section:

(a) "Progressive jackpot (~~prize~~)" (~~(-A minimum jackpot prize plus the accumulation of a predetermined dollar amount of each pull tab sale. The jackpot shall increase for each pull tab sale until a player redeems the winning jackpot tab-)~~) means a prize awarded to the player who presents a pull tab designated as the winning progressive jackpot pull tab. The progressive jackpot is comprised of the starting jackpot prize and the accrued jackpot prize for that specific series, plus any accrued jackpot prize carried over from previous series;

(b) "Jackpot accrual rate" means the rate at which a progressive jackpot increases for each pull tab sold. The rate may be expressed as a percentage of gross gambling receipts or as a dollar value based on the price of a single pull tab;

(c) "Starting jackpot prize" means the base or minimum amount of a progressive jackpot for each series prior to any additions that are based on the jackpot accrual rate;

(d) "Accrued jackpot prize" means the dollar value of all additions to a progressive jackpot that relate to the number of pull tabs sold prior to the progressive jackpot being won or the series being removed from play;

(e) "Instant winners" means all prizes that are available from a progressive jackpot pull tab series, excluding the progressive jackpot;

(f) "Bank system" (~~(-a set 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 jackpot prize-)~~) means a group of pull tab dispensing devices that are connected by an electronic computer network. This computer network determines the total gross gambling receipts received by all the devices in the network and calculates the level of a progressive jackpot associated with a pull tab series being played in the networked devices.

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 remaining pull 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;

~~((Under what conditions may)) What are the additional requirements for operating 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 ~~((games))~~ series. 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 ~~((games))~~ series;

(b) ~~((F))~~ Pull 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 ~~((games))~~ series:

(i) Substitute flares;

(ii) Merchandise prizes; ~~((and))~~

(iii) Last sale prizes ~~((-))~~;

~~((F))~~ (g) 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

(h) 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 ~~((games))~~ series:

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

(b) The starting jackpot must be at least equal to the value of the highest level instant winner;

(c) The minimum jackpot accrual rate shall be set at a level that will generate an accrued jackpot prize which, when added to the starting jackpot prize and instant winners, will equal or exceed sixty percent of the total gross gambling receipts available from the series;

(d) The manufacturer shall determine the ~~((minimum))~~ starting jackpot ~~((amount))~~ prize 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;

~~((Operators may increase jackpot prize shall not exceed putting the game in play;))~~

~~((d))~~ The maximum progressive jackpot prize 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) For each progressive individual pull tab series, the maximum contribution to a progressive jackpot shall be five thousand dollars. This contribution amount shall specifically exclude any portion carried over from a previous series;

(f) 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 remove a series from play only under the following conditions:

(i) The series is removed only prior to the beginning or at the end of any business day;

(ii) The accrued jackpot prize from the series and any previously carried over accrued jackpot prize shall be carried over to a new series within twenty-four hours;

(iii) The accrued jackpot prize shall be added to the starting jackpot amount from the new series when it is placed out for play; and

(iv) The starting jackpot of the subsequent series must be equal to or greater than the starting 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 of compliance with federal tax provisions;

(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))~~ The following record keeping requirements apply to progressive jackpot pull tab series:

(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 were removed from play))~~ All record keeping requirements outlined in WAC 230-08-010 must be followed. Licensees shall record progressive jackpot series on a separate monthly record, in a format prescribed by the commission. The following additional information must be recorded for each series:

(i) The starting jackpot amount;

- (ii) The jackpot accrual rate;
 - (iii) The number of pull tabs sold out of each dispensing device;
 - (iv) If the progressive jackpot was awarded, the progressive jackpot amount;
 - (v) If the series was removed from play prior to the jackpot being won, the ending progressive jackpot amount;
 - (vi) All regular prizes awarded, excluding the progressive jackpot; and
 - (vii) Prizes paid by check;
- ~~(b) (Licensees shall record progressive jackpot series on a separate monthly record, in a format prescribed by the commission. This format must contain the following in addition to the information required by WAC 230-08-010(9):) In addition to the retention requirements in WAC 230-30-072, progressive jackpot winning tabs and winner information, along with the flares, must be retained for one year from the date in which the series was removed from play.~~

- ~~(i) ((Dollar amount of each pull tab sale contributed to the jackpot;))~~
- ~~(ii) ((Separate prizes paid figures for jackpot prizes and regular prizes; and))~~
- ~~(iii) ((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 ~~((games))~~ series; 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: 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.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 97-11-020
PERMANENT RULES
GAMBLING COMMISSION**

[Filed May 13, 1997, 1:44 p.m., effective July 1, 1997]

Date of Adoption: May 9, 1997.

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.

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-070.

Statutory Authority for Adoption: RCW 9.46.070 (1), (11), (14), (17), and (19).

Adopted under notice filed as WSR 97-05-060 on February 19, 1997.

Changes Other than Editing from Proposed to Adopted Version: Rule restructured to clarify that nonsupervisory, nonmanagement activities do not constitute "operation of games."

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 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.

May 13, 1997
Soojin Kim
Rules and Policy Coordinator

PERMANENT

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:

What restrictions apply to persons involved in the operation of amusement games and raffles?

(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.)~~ for purposes of this section, performing functions that are not of a supervisory or management nature shall not be considered taking part in the operation of amusement games or raffles if:

(a) Such functions are performed by:

(i) Employees of the organization, who are hired on a regular or part time basis, and who are employed primarily for purposes other than the conduct of such activities; or

(ii) Individuals who are volunteers, when they are under the supervision of a member and are not directly or indirectly compensated for such functions;

(b) The organization keeps records that will allow the commission to determine the amount of gross gambling receipts received from such activities and to identify individuals responsible for receiving and controlling such. Records shall include at least the following:

(i) The full names, addresses, and phone numbers of employees and members involved in the activity; and

(ii) The number of tickets issued, sold, or returned by each employee or member involved in raffle ticket sales.

(c) Any additional cost to administer raffles authorized under authority of this section is paid by the licensee.

What restrictions apply to persons involved in the operation of bingo games?

(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.

What special exceptions apply to agricultural fairs?

(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 97-11-021

PERMANENT RULES

GAMBLING COMMISSION

[Filed May 13, 1997, 2:48 p.m., effective July 1, 1997]

Date of Adoption: May 9, 1997.

Purpose: For games located where school-aged minors are allowed to play, this rule increases the limit on cost of prizes offered from \$100 to \$250. WSR 96-20-026 (CR-101) and WSR 97-03-093 (CR-102).

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-685.

Statutory Authority for Adoption: RCW 9.46.070 (3), (11), (14), (20).

Adopted under notice filed as WSR 97-03-093 on January 17, 1997.

Changes Other than Editing from Proposed to Adopted Version: The maximum wager limit stays at \$.50 instead of rising to \$1.00; the limit on the cost of prizes rises to \$250, not \$500.

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 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.

May 13, 1997

Soojin Kim

Rules and Policy Coordinator

AMENDATORY SECTION (Amending WSR 93-12-082, filed 5/28/93, effective 7/1/93)

WAC 230-20-685 Commercial amusement games—Wager and prize limitations. For locations authorized under WAC 230-04-138 (1)(g), (i), (j), or (k) where school-aged minors are allowed to play, the following limitations shall apply.

(1) Prize limitations. No prize offered shall exceed a cost to the operator of ~~(one)~~ two-hundred fifty dollars.

(2) Consideration. The maximum wager for play shall not exceed fifty cents.

WSR 97-11-022
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed May 13, 1997, 3:42 p.m.]

Date of Adoption: May 13, 1997.

Purpose: WAC 458-20-174 explains the retail sales tax exemptions provided for sales of motor vehicles, trailers, and parts used by motor carriers operating in interstate or foreign commerce. WAC 458-20-17401 explains the use tax exemptions provided for the use of motor vehicles, trailers, and parts by motor carriers operating in interstate or foreign commerce. These rules are being amended to implement the statutory changes included in chapter 63, Laws of 1995 (HB 1157).

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-174 Sales of motor vehicles, trailers, and parts to motor carriers operating in interstate or foreign commerce and 458-20-17401 Use tax liability for motor vehicles, trailers, and parts used by motor carriers operating in interstate or foreign commerce.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 97-07-079 on March 19, 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 2, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 2, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 13, 1997

Russell W. Brubaker

Assistant Director

AMENDATORY SECTION (Amending WSR 94-18-003, filed 8/24/94, effective 9/24/94)

WAC 458-20-174 Sales of motor vehicles, trailers, and parts to motor carriers operating in interstate or foreign commerce (~~(of motor vehicles, trailers, parts, etc)~~). (1) **Introduction.** This section explains the retail sales tax exemptions provided by RCW 82.08.0262 and 82.08.0263 for sales to for hire motor carriers operating in interstate or foreign commerce. Addressed are the requirements which must be met and the documents which must be preserved to substantiate a claim of retail sales tax exemption. Motor carriers should refer to WAC 458-20-17401 for a discussion of the use tax and use tax exemptions available to motor carriers for the purchase or use of vehicles and parts under RCW 82.12.0254.

(2) **Business and occupation tax.** Business and occupation (B&O) tax is due on all sales to motor carriers when delivery is made in Washington, notwithstanding that the retail sales tax may not apply because of the specific statutory exemptions provided by RCW 82.08.0262 and 82.08.0263.

(a) **Retailing of interstate transportation equipment.** This B&O tax classification, with respect to sales to motor carriers, applies to retail sales which are exempt from retail sales tax because of the provisions of RCW 82.08.0262 or 82.08.0263. (See RCW 82.04.250.) The retailing of interstate transportation B&O tax applies to the following, but only when the retail sales tax exemption requirements for RCW 82.08.0262 or 82.08.0263 are met:

(i) Sales of motor vehicles, trailers, and component parts thereof;

(ii) The lease of motor vehicles and trailers without operator; and

(iii) Charges for labor and services rendered in respect to constructing, cleaning, repairing, altering or improving vehicles and trailers or component parts thereof. The term "component parts" means any tangible personal property

which is attached to and becomes an integral part of the motor vehicle or trailer. It includes such items as motors, motor and body parts, batteries, paint, permanently affixed decals, and tires. "Component parts" includes the axle and wheels, referred to as "converter gear" or "dollies," which is used to connect a trailer behind a tractor and trailer. "Component parts" can include tangible personal property which is attached to the vehicle and used as an integral part of the motor carrier's operation of the vehicle, even if the item is not required mechanically for the operation of the vehicle. It ~~((would))~~ includes cellular telephones, communication equipment, fire extinguishers, and other such items, whether themselves permanently attached to the vehicle or held by brackets which are permanently attached. If held by brackets, the brackets must be permanently attached to the vehicle in a definite and secure manner with these items attached to the bracket when not in use and intended to remain with that vehicle. It does not include antifreeze, oil, grease, and other lubricants which are considered as consumed at the time they are placed into the vehicle, even though required for operation of the vehicle. It does include items such as spark plugs, oil filters, air filters, hoses and belts.

(b) **Retailing.** The retailing B&O tax applies to the following:

(i) Sales and services as described in (a)(i) through (iii) of this subsection, which do not meet the exemption requirements provided in RCW 82.08.0262 or 82.08.0263;

(ii) Sales of equipment, tools, parts and accessories which do not become a component part of a motor vehicle or trailer used in transporting persons or property therein;

(iii) Sales of consumable supplies, such as oil, anti-freeze, grease, other lubricants, cleaning solvents and ice; and

(iv) Towing charges.

(c) **Interstate sales deduction for lease income.** Persons who lease motor vehicles and trailers to motor carriers at retail (without operator) may claim an interstate sales deduction for the amount of the lease income attributable to the actual out-of-state use of the vehicles and trailers. Documentation substantiating such a claim must be retained by the lessor. This deduction may be taken even if the vehicle is not used substantially in interstate hauls for hire. The B&O tax applies to that portion of use of the vehicle while the vehicle is being used in Washington, even if the usage is in connection with interstate hauls and the vehicle is used substantially in hauling for hire in interstate commerce. See also WAC 458-20-193.

(3) **Retail sales tax.** RCW 82.08.0262 and 82.08.0263 provide ~~((exemption from the))~~ retail sales tax exemptions for certain sales to motor carriers when delivery is made in Washington.

(a) **Sales of motor vehicles and trailers.** RCW 82.08.0263 provides an exemption from the retail sales tax for sales of motor vehicles and trailers to be used for transporting therein persons or property for hire in interstate or foreign commerce. This exemption is available whether such use is by a for hire motor carrier, or by persons operating the vehicles and trailers under contract with a for hire motor carrier. ~~((The following requirements must be met to perfect any claim for exemption:~~

~~((i))~~ The for hire carrier must hold a carrier permit issued by the Interstate Commerce Commission~~((; and~~

~~((ii))~~ ~~The vehicle will move upon the highways of this state from the point of delivery in this state to a point outside the state under the authority of a trip permit, also known as a one transit permit, issued under the provisions of RCW 46.16.160.~~

~~In some cases the vehicle may require servicing or alterations to prepare it for use as carrier property. This may include such things as installing signs, adding accessories, changing tires, custom painting, etc. Movement of the vehicle to a Washington site where the servicing or alterations will take place will not result in a loss of the exemption when all conditions for exemption are met. Nor shall the exemption be lost simply because the motor carrier first moves the vehicle to a Washington site for the purposes of obtaining a payload which is immediately hauled to an out-of-state destination by the same vehicle.~~

~~((iii))~~ or its successor agency to qualify for this exemption. The seller, at the time of the sale, must retain as a part of its records ~~((a copy of the trip permit, or other satisfactory evidence that a trip permit was obtained, and))~~ an exemption certificate~~((, both of))~~ which must be completed in ~~((their))~~ its entirety. The exemption certificate must be in substantially the following form:

Exemption Certificate

The undersigned hereby certifies that it is, or has contracted to operate for, the holder of carrier permit No., issued by the Interstate Commerce Commission~~((;))~~ or its successor agency, and that the vehicle this date purchased from you being a (specify truck or trailer and make), Motor No., Serial No. ~~((; will move on the highways of this state from (point of origin in state) to (out of state destination) or to (location) for servicing or alteration in preparation for use as carrier property, under the authority of a trip permit dated, issued under the provisions of RCW 46.16.160; and that the sale of this vehicle))~~ is entitled to exemption from the Retail Sales Tax under the provisions of RCW 82.08.0263. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Dated
.....
(name of carrier-purchaser)

By
.....
(title)
.....
(address)

((Certificate of Dealer

~~I hereby certify that upon the delivery of the above described vehicle to said purchaser there was affixed thereto trip permit No., and that the same authorized the transit of this vehicle between the points of origin and destination as hereinabove set forth.~~

.....
(name of dealer)
.....
(title)

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(iv)) The lease of motor vehicles and trailers to motor carriers, without operator, must satisfy all conditions and requirements provided by RCW 82.08.0263 to qualify for the retail sales tax exemption. Failure to meet these requirements will require the lessor to collect the retail sales tax on the lease. However, where the exemption from retail sales tax has not been met, a retail sales tax exemption may continue to apply to that portion of the lease while the vehicle is being used outside Washington, provided the lessor can substantiate the usage outside Washington. (See WAC 458-20-193.)

(b) Sales of component parts of motor vehicles and trailers and charges for repairs, etc. RCW 82.08.0262 provides an exemption from the retail sales tax for sales of component parts and repairs of motor vehicles and trailers. This exemption is available only if the user of the motor vehicle or trailer is the holder of a carrier permit issued by the Interstate Commerce Commission or its successor agency which authorizes transportation by motor vehicle across the boundaries of Washington. Since ~~((the Interstate Commerce Commission requires))~~ carriers are required to obtain these permits only when the carrier is hauling for hire, the exemption applies only to parts and repairs purchased for vehicles which are used in hauling for hire. The exemption includes labor and services rendered in constructing, repairing, cleaning, altering, or improving such motor vehicles and trailers.

(i) This exemption is available whether the motor vehicles or trailers are owned by, or operated under contract with, persons holding the carrier permit. This exemption applies even if the motor vehicle or trailer to which the parts are attached will not be used substantially in interstate hauls, provided the vehicles are used in hauling for hire.

(ii) The seller must retain as a part of its records a completed exemption certificate. This certificate may be:

(A) Issued for each purchase;

(B) Incorporated in or stamped upon the purchase order;

or
(C) In blanket form certifying all future purchases as being exempt from sales tax. Blanket forms must be renewed every four years.

(iii) This certificate ~~((should))~~ must be in substantially the following form:

Exemption Certificate

The undersigned hereby certifies that it is, or has contracted to operate for, the holder of a carrier permit, No., issued by the Interstate Commerce Commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state. The undersigned further certifies that the motor truck or trailer to be constructed, repaired, cleaned, altered, or improved by you, or to which the subject matter of this purchase is to become a component part, will be used in direct connection with the business of transporting therein persons or property for hire; and that such sale and/or charges are exempt from the Retail Sales Tax under the provisions of RCW 82.08.0262. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Dated

.....
(name of carrier-purchaser)

.....
(address)

By
(title)

(c) Taxable sales. The following sales do not qualify for exemption under the provisions of RCW 82.08.0262 or 82.08.0263, and are subject to the retail sales tax when delivery is made in Washington.

(i) Sales of equipment, tools, parts and accessories which do not become a component part of a motor vehicle or trailer used in transporting persons or property for hire. This includes items such as tire chains and tarps which are not custom made for a specific vehicle.

(ii) Sales of consumable supplies, such as oil, antifreeze, grease, other lubricants, cleaning solvents and ice.

(iii) Towing charges.

AMENDATORY SECTION (Amending WSR 94-18-004, filed 8/24/94, effective 9/24/94)

WAC 458-20-17401 Use tax ~~((of))~~ liability for motor vehicles, trailers, and parts used by motor carriers operating in interstate or foreign commerce ~~((for motor vehicles, trailers, parts, etc)).~~

(1) Introduction. This section explains the use tax and the use tax exemptions provided by RCW 82.12.0254 which apply to for hire motor carriers operating in interstate or foreign commerce. For hire motor carriers should refer to WAC 458-20-174 for a discussion of the retail sales tax and retail sales tax exemptions which apply to motor carriers for the purchase of vehicles and parts under RCW 82.08.0262 and 82.08.0263.

(2) Use tax. The use tax ~~((supplements))~~ complements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any tangible personal property purchased at retail, where the user has not paid retail sales tax with respect to the purchase of the property used. (See also WAC 458-20-178.) If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the ~~((deferred))~~ retail sales or use tax directly to the department unless the purchase and/or use is exempt from the retail sales and/or use tax.

(3) Motor vehicles and trailers. Purchasers of motor vehicles and trailers should note the differences in the conditions and requirements for the retail sales and use tax exemptions provided by RCW 82.08.0263 and 82.12.0254, respectively. The purchaser of a motor vehicle or trailer may qualify for the retail sales tax exemption at the time of purchase, yet incur a use tax liability for the subsequent use of the same vehicle or trailer.

(a) For vehicles purchased in Washington, RCW 82.12.0254 provides a use tax exemption for the use of any motor vehicle or trailer while being operated under the authority of a trip permit and moving from the point of delivery in this state to a point outside this state. ~~((However, any subsequent use in Washington of the vehicle by a Washington-based carrier could be subject to use tax unless the first use was in actual transportation for hire across the state boundaries. Carriers who purchase a vehicle outside of~~

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~~Washington are not required to obtain a trip permit on the first trip into Washington as a condition for use tax exemption, but the first use must be in an interstate haul for hire.)~~

(b) RCW 82.12.0254 also provides a use tax exemption for the use of any motor vehicle or trailer owned by, or operated under contract with, a for hire motor carrier engaged in the business of transporting persons or property in interstate or foreign commerce ~~((--All))~~ if both of the following conditions ~~((must be))~~ are met ~~((for the exemption to apply))~~:

(i) The user is, or operates under contract with, a holder of ~~((an ICC))~~ a carrier permit issued by the Interstate Commerce Commission (ICC) or its successor agency; and

(ii) The vehicle is used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of the state ~~((--and~~

~~((iii))~~ The first use in Washington is actual use in conducting interstate or foreign commerce. Notwithstanding this requirement, the use tax exemption will not be lost simply because a motor carrier holding an ICC permit moves the vehicle to a Washington site for servicing or modification in preparation for use as a carrier vehicle. Nor shall the exemption be lost simply because the motor carrier first moves the vehicle to a Washington site for the purposes of obtaining a payload which is immediately hauled to an out-of-state destination by the same vehicle).

~~((iv))~~ "In substantial part" means that the motor vehicle or trailer for which exemption is claimed actually crosses Washington boundaries and is used a minimum of twenty-five percent in interstate hauling for hire.

(c) ~~((The following examples show how the exemption from use tax on motor vehicles and trailers would apply to specific situations. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.~~

~~((i))~~ ABC Trucking, a carrier with ICC authority, purchased a used truck from XYZ Truck Sales. The required exemption certificate was completed and a trip permit was obtained. ABC Trucking moved the vehicle from the seller's lot in Washington to its maintenance shop located at its terminal in Seattle where ICC identification numbers were painted on the doors and new tires were installed by the purchaser's employees. Ten days later the truck was placed in service with the first haul being a laden haul destined for an out-of-state location with movement under the authority of a second trip permit.

This purchase and first use is exempt of retail sales and use tax. Since the first movement of the truck to the purchaser's maintenance shop was solely for the purpose of preparing the truck for use, the exemption was not lost. All other requirements for exemption were met. A reasonable interruption in the direct out-of-state movement of the vehicle will be allowed to permit such activities as the painting of belt lines and bumpers, the installation of signs, the inspection of the vehicle, the installation of tires, and installation of accessory items. The purchase of the vehicle was exempt from retail sales tax by meeting the trip permit requirements. However, any subsequent use of the vehicle in Washington would have been subject to use tax if the vehicle's first use in Washington had not been in hauling for

hire in interstate or foreign commerce. Since that requirement was met, the use of this vehicle will continue to be exempt of use tax as long as it continues to be used substantially in interstate hauls for hire.

~~((ii))~~ HB Company is a for hire carrier which maintains tractor/trailer fleets at terminals located in Montana and Washington. HB Company holds a carrier permit issued by the Interstate Commerce Commission. HB reassigned a truck to its Washington terminal which previously had been used at HB's Montana terminal. This truck had been used exclusively in Montana and previously had never been brought into Washington. The truck is brought into Washington unladen, but immediately picks up a load for delivery outside Washington.

The movement of the truck into Washington is treated as being part of the subsequent haul outside Washington and the requirement that the first use be in a laden interstate haul has been met. Use tax would have been due on the truck if the first use was in transporting goods from a Washington location to a Washington location.

~~((d))~~ The motor carrier must continue to substantially use the motor vehicle or trailer in interstate for hire hauls ~~((for hire))~~ during each calendar year to retain the exemption from use tax. This requires that at the start of each calendar year the carrier review the usage of each vehicle and trailer for a "view period" consisting of the previous calendar year. If a particular vehicle was purchased or sold during the year so that the vehicle was not available for use during the entire calendar year, the taxpayer at its option may elect to review the usage during the portion of the year during which the vehicle was owned or may use a twelve-month period beginning with the date of purchase of a vehicle or ending with the date of sale of a vehicle. For example, if a vehicle is traded-in on May 30, ~~((1994))~~ 1996, the taxpayer must meet the substantial use test for this vehicle for either the period January through May ~~((1994))~~ 1996 or for the period June 1, ~~((1993))~~ 1995, through May 30, ~~((1994))~~ 1996. Use tax is due for those vehicles which have not been used substantially in interstate commerce and on which retail sales or use tax has not been paid.

~~((e))~~ (d) Carriers who maintain their records on a fiscal year basis may, at their option, elect to review the usage of their vehicles using their fiscal year rather than the calendar year. If a fiscal year is used, it must be used for the entire fleet of vehicles. These carriers may not change to a calendar year basis without first obtaining prior approval from the department.

~~((f))~~ (e) Usage will be reviewed on a calendar or fiscal year basis and not on a "moving" twelve-month period. For example, a tractor purchased on August 1, ~~((1992))~~ 1996, will need to have met the substantial use test for the period August ~~((1, 1992,))~~ through December ~~((31, 1992))~~ 1996, or for the period August 1, ~~((1992))~~ 1996, through July 31, ~~((1993))~~ 1997, ~~((f))~~ the period selected being at the taxpayer's option ~~((h))~~, and for the calendar year ~~((1993))~~ 1997 and each calendar year thereafter in order to retain the use tax exemption.

~~((g))~~ (f) The motor carrier may select one of the methods from those listed below to determine if its motor vehicles and trailers satisfy the substantial use threshold for exemption under RCW 82.12.0254. The particular method must be applied to all trucks, tractors, and trailers within the

fleet. Regardless of the method selected, a vehicle will not be considered as used in interstate hauls unless the vehicle actually crosses the boundaries of the state and is used in part outside Washington. The motor carrier may change the method with the prior written consent of the department of revenue. The methods are:

(i) Line crossing. The line crossing method compares the number of interstate for hire hauls made by a particular motor vehicle or trailer to the total number of for hire hauls. The motor vehicle or trailer must actually cross the boundaries of this state or be used for hauls which begin and end outside this state, for the haul to be considered an interstate haul.

(ii) Mileage. The mileage method compares the interstate mileage associated with the for hire hauls made by a particular motor vehicle or trailer, to the total mileage associated with its for hire hauls. All mileage associated with a specific haul which requires the motor vehicle or trailer to actually cross the boundaries of this state, or haul exclusively outside this state, is considered to be interstate mileage. Where a vehicle is returning empty after having delivered an interstate load or is empty on its way to pickup an interstate load, the empty mileage will be considered to be part of the mileage from an interstate haul.

(iii) Revenue. The revenue method compares the interstate for hire revenue generated by the particular motor vehicle or trailer to the total for hire revenue generated. The revenue generated by the motor vehicle or trailer actually crossing the boundaries of this state, or hauling exclusively outside this state, is considered to be interstate revenue for the purposes of determining use tax liability. If the motor carrier uses more than one motor vehicle or trailer to transport the cargo, the revenue generated from hauling this cargo must be allocated between the motor vehicles and/or trailers used. For the purposes of determining use tax liability, a vehicle will not be considered as having interstate revenue even if the haul originates or ends outside Washington unless the vehicle actually crosses the boundaries of the state.

(iv) Other. Any other method may be used when approved in advance and in writing by the department of revenue.

~~((h))~~ (g) The following examples show how the methods of determining substantial interstate use would be applied to various situations. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(i) ARC Trucking picks up a load of cargo in Spokane, Washington and delivers it to the dock in Seattle, Washington, for subsequent shipment to Japan. While ARC may claim an interstate and foreign sales deduction on its excise tax return for the income attributable to this haul if all of the requirements of RCW 82.16.050(8) are met, the haul itself is considered to be intrastate for the purposes of determining whether the tractor/trailer rig meets the substantial use threshold discussed in RCW 82.12.0254. Both the pickup and delivery points are within the state of Washington.

(ii) DMG Express picks up a load of cargo in Yakima, Washington for ultimate delivery in Billings, Montana. The cargo is initially hauled from the Yakima location to DMG's hub terminal in Spokane, Washington by truck A. It is

unloaded from truck A at the hub terminal, reloaded on truck B, and delivered to Billings. For the purposes of determining qualification for the use tax exemption provided by RCW 82.12.0254, two hauls have taken place. The haul performed by truck A is considered to be an intrastate haul since truck A did not cross the borders of Washington, while the haul performed by truck B is considered interstate for purposes of determining continued exemption from use tax on the trucks, even though the entire hauling income may be deductible from the motor transportation tax.

(iii) AA Express operates one tractor/trailer rig, which has previously met the retail sales and use tax exemption requirements. AA verifies compliance with the twenty-five percent substantial use threshold on a calendar year basis, using the line crossing method. AA makes one hundred for hire hauls within the calendar year (~~(of 1992)~~). Of these hauls, seventy-one are entirely in Washington, ten are performed entirely outside Washington, and nineteen require AA to cross the borders of Washington. AA Express has not incurred a use tax liability on the tractor/trailer rig as twenty-nine percent of the for hire hauls were interstate in nature.

(iv) BDC Hauling operates one tractor/trailer rig which has previously met the retail sales and use tax exemption requirements. BDC verifies compliance with the twenty-five percent substantial use threshold on a calendar year basis, using the mileage method. BDC makes one hundred for hire hauls within the calendar year (~~(of 1992)~~), for a total of one hundred thousand miles. Included in this mileage figure are the unladen or "empty" miles BDC incurs from delivery points to its terminal. Fifteen of these hauls were interstate in nature and involved laden travel of twenty thousand miles, including the Washington miles of the interstate hauls where the rig made border crossings. BDC's rig also incurred an additional eight thousand miles as a result of having to drive unladen from the delivery point of an interstate haul to its Washington terminal. BDC Hauling has not incurred a use tax liability for its use of the tractor/trailer rig. Under the mileage method, twenty-eight percent of the tractor/trailer's usage was in interstate hauling.

(v) GV Trucking operates one tractor/trailer rig which has previously met the retail sales and use tax exemption requirements. GV verifies compliance with the twenty-five percent substantial use threshold on a calendar year basis, using the revenue method. GV makes one hundred for hire hauls within the calendar year (~~(of 1992)~~), for which GV earns eighty thousand dollars. Fifteen of these hauls were interstate in nature, for which GV earned twenty thousand dollars. GV Trucking has not incurred a use tax liability for its use of the tractor/trailer rig. Under the revenue method, twenty-five percent of GV's usage of the tractor/trailer rig was in interstate hauling.

(vi) XYZ Trucking operates a single tractor/trailer rig which has previously met the retail sales and use tax exemption requirements. XYZ picks up two loads of cargo in Seattle, one load for delivery to Kent, Washington and another for delivery to Portland, Oregon. Upon delivery of the cargo to Kent, XYZ picks up another load for delivery to Portland, Oregon. XYZ has performed three separate hauls, even if the loads are combined on the same rig. The Seattle to Portland and Kent to Portland hauls are considered interstate hauls, the Seattle to Kent haul intrastate. If using

the mileage method the mileage associated with the Seattle to Portland and Kent to Portland hauls would be combined to determine total interstate miles, even though the rig made only one trip to Portland. If using the revenue method, the revenue generated by the Seattle to Portland and Kent to Portland hauls would be considered interstate. The mileage and/or revenue associated with the Seattle to Kent haul would be considered intrastate.

(4) **Special application to trailers.** Motor carriers must keep appropriate records and determine qualification for the use tax exemption provided by RCW 82.12.0254 for each individual truck and tractor. Motor carriers are encouraged to keep similar records for each individual trailer. Where records are maintained to document the use of individual trailers, use tax liability for trailers must be determined on the basis of those records. However, it is recognized that some motor carriers have no system of tracking or documenting the travel of their trailers and it would be an undue burden to require such recordkeeping, particularly where a tractor may be used to pull multiple trailers and the trailers are not assigned to a specific tractor. These motor carriers may elect to determine the use tax liability attributable to their use of trailers on the basis of their actual use of the tractors.

(a) Under this method, it is assumed that there is a direct correlation between the use of tractors and the use of trailers. Whenever use tax is incurred on a tractor because of the failure to maintain the twenty-five percent interstate usage, use tax will also be due on one or more trailers. The number of trailers subject to the use tax under this method shall correspond to the fleetwide trailer to tractor ratio. Any trailer to tractor ratio resulting in a fraction shall be rounded up when determining the number of trailers subject to the use tax. For example, if the fleetwide ratio of trailers to tractors is two and one quarter to one, and one tractor fails to maintain the substantial use threshold in a given year, the motor carrier shall incur a use tax liability on three trailers. However, if two tractors fail to maintain the substantial use threshold in a given year, the motor carrier shall incur a use tax liability on five trailers.

(b) The trailer or trailers subject to use tax under this method shall be those acquired nearest to the purchase date of the tractor triggering the use tax liability for those trailers meeting the following conditions:

(i) The trailer or trailers are compatible for towing with the tractor upon which use tax is incurred; and

(ii) The trailer or trailers have not previously incurred a retail sales or use tax liability; and

(iii) The trailer or trailers have been actively used in hauling for hire in the year tax liability is incurred.

(c) Under this method of reporting, use tax liability is generally incurred on one or more trailers whenever a tractor is subject to the use tax. If a tractor is purchased with the intent that less than twenty-five percent of the hauls will be across state borders, it will be presumed the tractor will also be pulling a trailer or trailers on which use tax is also due. ~~((However, the motor carrier will not incur use tax on a trailer simply because the initial use of the tractor was not a laden for hire haul across the borders of this state, provided the tractor would meet the substantial interstate use for future hauls under RCW 82.12.0254.~~

~~(d) In any event and irrespective of the method of reporting, carriers must document that the first use of each trailer was in interstate hauling for the use tax exemption to apply to the first use. If the trailer was purchased in Washington, the carrier must retain evidence of having obtained a trip permit to document that retail sales tax was not due at the time of purchase. (See also WAC 458-20-174.)~~

~~(e) The following examples show how this method would be applied to typical situations. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.~~

~~(i)) For example, ABC Trucking has eight tractors and fifteen trailers in its fleet. The tractors and trailers met the exemption from retail sales tax and use tax at the time they were purchased, and it was determined during previous annual reviews that the tractors continued to be substantially used on interstate hauls. However, at the time of the annual review ((which was made in January 1993,)) for the just-completed calendar year it was determined that ((a Kenworth)) one tractor ((which had been purchased in June 1985)) was not used at least twenty-five percent in interstate hauls ((during 1992)). Use tax is due on this tractor. Under this method, use tax is also due on two trailers. The two trailers on which use tax must be reported are the two purchased most nearly to ((June 1985,)) the purchase date of the ((Kenworth purchase)) tractor.~~

~~((ii) DC Hauling has no system of tracking or documenting the travel of its trailers and has elected to determine its trailer use tax liability on the basis of its actual use of tractors. DC Hauling has a fleetwide ratio of two trailers to one tractor. DC purchases a tractor, the initial use of which is a laden for hire haul entirely within the borders of this state. DC Hauling must pay retail sales tax upon the purchase of the tractor or, if retail sales tax is not paid, use tax upon the first use within this state. Unless DC Hauling elects to document that the tractor otherwise continues to satisfy the substantial interstate use provision of RCW 82.12.0254 for future hauls, use tax is also due on two trailers.))~~

(5) **Valuation.** The value of the motor vehicle or trailer subject to the use tax is its fair market value at the time of first use within the review period for which the exemption cannot be maintained. However, because the taxpayer will not know until the close of the period whether the usage met the exemption requirements, the use tax is due and should be reported on the last excise tax return for that review period. For example, a motor carrier who has previously met the exemption requirements for a particular truck determines this truck no longer was substantially used in interstate hauls during calendar year ((1992)) 1996. Use tax should be reported on the last tax return filed for ((1992)) 1996 with the taxable value based on the value of the truck at January 1, ((1992)) 1996.

(a) The department of revenue will accept independent publications containing values of comparable vehicles if those values are generally accepted in the industry as accurately reflecting the value of used vehicles. The department will also consider notarized valuation opinions signed by qualified appraisers and/or dealers as evidence of the fair market value. In the absence of a readily available fair

market value, the department will accept a value based on depreciation schedules used by the department of licensing to determine the value of vehicles for licensing purposes.

(b) The following examples show how use tax liability would be determined in typical situations. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(i) ABC Trucking purchased five trailers for use in both interstate and intrastate for hire hauls on January 1, ~~((1990))~~ 1996. All the necessary conditions for exemption under RCW 82.08.0263 were met; delivery was made in Washington, and the trailers were purchased without payment of the retail sales tax. The taxpayer uses the "line crossing" method for determining interstate use.

ABC Trucking keeps a journal showing the origin and destination for each haul which identifies each truck/tractor and trailer used on a per unit basis. This journal is reviewed at the end of each calendar year to verify compliance with the statutory provision that motor vehicles and trailers be substantially used for transporting therein persons or property for hire across the boundaries of the state. During the first year of use, all five of the trailers met the "substantial use" threshold. However, in reviewing this journal for the ~~((period of January 1991 through December 1991))~~ 1997 calendar year, ABC Trucking determines that two of the trailers ~~((purchased on January 1, 1990,))~~ failed to meet the twenty-five percent "substantial use" threshold ~~((during 1991))~~. ABC Trucking must remit use tax directly to the department on its December ~~((1991))~~ 1997 excise tax return, based on the fair market values of the two trailers as of January 1, ~~((1991))~~ 1997. Since the taxpayer maintained specific usage records for each trailer, the "substantial use" in interstate hauling must be met by each trailer for which exemption is claimed. If detailed records for usage of trailers had not been kept, use tax liability of the trailers would have been based on the tractors. In any event, use tax liability may not be determined based on the overall experience of a fleet of vehicles. If a vehicle is used both in hauling for hire and in hauling the carrier's own products, the "substantial use" is determined solely on the usage in hauling for hire.

(ii) DB Carriers is a motor carrier which is engaged in both intrastate and interstate for hire hauls. DB purchases and first uses a truck in Washington on January 1, ~~((1992))~~ 1997. All the necessary conditions for exemption under RCW 82.08.0263 were met; delivery was made in Washington, and the truck was purchased without payment of the retail sales tax. DB Carriers uses the "line crossing" method for determining interstate use.

DB Carriers keeps a journal showing the origin and destination for each haul which identifies each truck used on a per unit basis. This journal is reviewed at the end of the ~~((1992))~~ 1997 calendar year, and DB determines that the truck failed to meet the twenty-five percent "substantial use" threshold. DB Carriers must remit use tax directly to the department on its December ~~((1992))~~ 1997 excise tax return, based on the fair market value of the truck as of January 1, ~~((1992))~~ 1997. DB Carriers may not compute the use tax liability based upon the December 31, ~~((1992))~~ 1997, fair market value as the vehicle never satisfied the substantial interstate use provision of RCW 82.12.0254.

(6) Leased vehicles. The use tax exemption requirements are the same for leased vehicles as for purchased vehicles. Motor vehicles and trailers, leased without operator are exempt from the use tax ~~((when all the conditions and requirements expressed in subsection (3)(b) of this section are satisfied. This includes meeting the requirement that first use be in hauling across the boundaries of the state. As a condition for retail sales tax exemption, a trip permit must be obtained if the vehicle is first used in Washington. For continued use tax exemption, the vehicle must also meet the twenty-five percent "substantial use" threshold. For leased vehicles,))~~ if the user is, or operates under contract with, a holder of a permit issued by the ICC or its successor agency and the vehicle is used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of the state. This requires that the leased vehicle be used a minimum of twenty-five percent in interstate hauls. The taxpayer may elect to use either the fiscal year of the business or a calendar year to determine if the leased vehicle was used substantially in interstate hauls for hire. Where the vehicle lease does not begin or end at the start of the calendar year (or fiscal year if the business uses a fiscal year view period), the same requirements apply to leased vehicles as to purchased vehicles (see subsection (3)~~((d))~~ (c) of this section). ~~((The carrier will be required to obtain a trip permit and have a laden interstate haul on only the first haul at the start of the lease and not each month, each year, or the start of each lease period, provided there is no change in the vehicle being leased.))~~

(a) If the leased vehicle does not meet the substantial use requirement during the "view period," the use tax applies only to the portion of the lease payment which is for use in Washington during the "view period." See the examples in subsection (6)(b) of this section. Mileage is an acceptable basis for determining in-state and out-of-state use. For the purposes of determining in-state and out-of-state use of leased vehicles or trailers where use tax is determined to be due, all miles traveled in Washington by the leased vehicle are in-state miles, notwithstanding that they may be associated with an interstate haul. The motor carrier must maintain accurate records of actual in-state and out-of-state use to substantiate any claim that a portion of any lease payment was exempt of use tax because of out-of-state use. Use tax will be determined for each "view period." For example, if a truck was leased for the years ~~((1992 and 1993))~~ 1996 and 1997 and failed to meet the substantial use requirement in ~~((1992))~~ 1996, but met the requirement in ~~((1993))~~ 1997, use tax would only be due for the usage in Washington which occurred in ~~((1992))~~ 1996.

(b) The following examples show how this method would be applied to typical situations. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(i) BG Hauling is a for hire carrier which on January 1, ~~((1994))~~ 1996, enters into a lease agreement for a truck without operator. All the necessary conditions for the retail sales and use tax exemptions for the first year of the lease were met. BG Hauling verifies compliance with the twenty-five percent substantial use threshold on a calendar year basis.

BG determines that this truck failed to meet the twenty-five percent substantial use threshold for calendar year ~~((1992))~~ 1997. Use tax will be due beginning with the period for which the exemption was not met, in this case beginning with January ~~((1992))~~ 1997. However, BG Hauling may report use tax only on that portion of each lease payment attributable to actual in-state use, provided it maintains accurate records substantiating the truck's in-state and out-of-state activity. Only mileage incurred while actually outside Washington will be considered out-of-state mileage. If BG Hauling continues to lease this truck in ~~((1993))~~ 1998, usage will again be reviewed for that period and use tax may or may not be due for the ~~((1993))~~ 1998 lease payments, depending on whether the vehicle was used substantially in interstate hauls during that year.

(ii) MG Inc. is an equipment distributor which, in addition to hauling its own product to customers, is engaged in hauling for hire activities. MG is a holder of an ICC permit. MG enters into a lease agreement for a truck without operator on January 1, ~~((1992))~~ 1996. All conditions for retail sales and use tax exemption are satisfied for the first year of the lease.

Based upon the truck's for hire hauling activities during the ~~((1993))~~ 1997 calendar year, MG determines that the use of the truck failed to satisfy the twenty-five percent substantial use threshold. MG must remit use tax upon the amount of lease payments made during ~~((1993))~~ 1997 at the time it files its last tax return in ~~((1993))~~ 1997. Provided accurate records are maintained to substantiate in-state and of out-of-state use, MG may remit use tax only upon that portion of each lease payment attributable to actual in-state use. While only the hauling for hire activities are reviewed when determining whether the truck satisfies the substantial interstate use threshold, once it is established the exemption cannot be maintained, the use tax liability is based upon all in-state activity, including the motor carrier's hauling of its own product.

(7) **Component parts.** RCW 82.12.0254 also provides a use tax exemption for the use of tangible personal property which becomes a component part of any motor vehicle or trailer used for transporting therein persons or property for hire. This exemption is available ~~((whether the))~~ for motor vehicles or trailers ~~((is))~~ owned by, or operated under contract with, a person holding a carrier permit issued by the Interstate Commerce Commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state. Since ~~((the Interstate Commerce Commission requires))~~ carriers are required to obtain these permits only when the carrier is hauling for hire, the exemption applies only to tangible personal property purchased for vehicles which are used in hauling for hire. The exemption for component parts will apply even if the parts are for use on a motor vehicle or trailer which is used less than twenty-five percent in interstate hauls for hire, provided the vehicle is used in hauling for hire.

(a) For the purposes of this section, the term "component parts" means any tangible personal property which is attached to and becomes an integral part of the motor vehicle or trailer. It includes such items as motors, motor and body parts, batteries, paint, permanently affixed decals, and tires. "Component parts" includes the axle and wheels, referred to as "converter gear" or "dollies," which is used to connect a

trailer behind a tractor and trailer. "Component parts" can include tangible personal property which is attached to the vehicle and used as an integral part of the motor carrier's operation of the vehicle, even if the item is not required mechanically for the operation of the vehicle. It ~~((would))~~ includes cellular telephones, communication equipment, fire extinguishers, and other such items, whether themselves permanently attached to the vehicle or held by brackets which are permanently attached. If held by brackets, the brackets must be permanently attached to the vehicle in a definite and secure manner with these items attached to the bracket when not in use and intended to remain with that vehicle. It does not include antifreeze, oil, grease, and other lubricants which are considered as consumed at the time they are placed into the vehicle, even though required for operation of the vehicle. It does include items such as spark plugs, oil filters, air filters, hoses and belts.

(b) The following items do not qualify for exemption from the use tax under the provisions of RCW 82.12.0254:

(i) Equipment, tools, parts and accessories which do not become a component part of a motor vehicle or trailer used in transporting persons or property for hire; and

(ii) Consumable supplies, such as oil, grease, other lubricants, cleaning solvents and ice.

WSR 97-11-028

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed May 14, 1997, 12:20 p.m.]

Date of Adoption: May 14, 1997.

Purpose: Revise existing rules and standards for certification of seed potatoes.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-324-360, 16-324-380, 16-324-390, 16-324-400, 16-324-410, 16-324-430, 16-324-435, 16-324-445, 16-324-450, 16-324-460, 16-324-470, 16-324-480, 16-324-490, 16-324-500, 16-324-510, 16-324-520, 16-324-530, 16-324-540, 16-324-600, 16-324-605, 16-324-610, 16-324-620, 16-324-630, 16-324-650, 16-324-660, 16-324-670 and 16-324-680; and amending WAC 16-324-370, 16-324-375, and 16-324-420.

Statutory Authority for Adoption: RCW 15.14.030.

Adopted under notice filed as WSR 97-07-075 on March 19, 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 16, amended 3, repealed 27.

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 3, amended 1, repealed 2.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 16, amended 3, repealed 27.

Effective Date of Rule: Thirty-one days after filing.
 May 14, 1997
 Jim Jesernig
 Director

NEW SECTION

WAC 16-324-361 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

- (1) "Certification" means that the lot of seed potatoes was inspected and meets the requirements of this chapter.
- (2) "Cull" means any lot of potatoes rejected for certification for any reason. Seed lots failing to meet the minimum requirements of Washington state's rules and standards for certification shall be considered culls.
- (3) "Department" means the department of agriculture of the state of Washington.
- (4) "Director" means the director of the department of agriculture or his/her duly appointed representative.
- (5) "Disease tested" means tested for potato viruses, PVA, PVM, PVS, PVX, PVY, leafroll, spindle tuber viroid, *Erwinia carotovora* ssp. *carotovora* (soft rot), *Erwinia carotovora* ssp. *atroseptica* (black leg) and *Clavibacter michiganense* spp. *sepedonicum* (ring rot).
- (6) "In vitro" means in an artificial environment outside the living organism.
- (7) "Micropropagated" means potato stock propagated using aseptic laboratory techniques and culture media to promote plant tissue growth.
- (8) "Microtubers" means tubers produced in vitro by a micropropagated plant or plantlet.
- (9) "Minitubers" means tubers produced under controlled greenhouse conditions.
- (10) "Nematode" means a disease (infestation) of plant parasitic nematodes of potatoes including but not limited to the genus *Meloidogyne*.
- (11) "Nuclear stock" means plantlets, microtubers, minitubers, or seed potatoes produced from prenuclear stock, and grown in the field for the first time.
- (12) "Plot" means a seed potato planting that is 0.25 acre or less in size.
- (13) "Powdery scab" means the disease caused by the fungus *Spongospora subterranea*.
- (14) "Prenuclear" means micropropagated plants in vitro or tubers in vitro. Also included are plants or minitubers produced in a greenhouse.
- (15) "Recertification" means the process of certifying a seed lot that was certified the previous year.
- (16) "Ring rot" means the disease caused by the bacterium *Clavibacter michiganense* spp. *sepedonicum*.
- (17) "Rogue" means a method of removing undesired plant specimens from a lot whereby all plant parts including vines, tubers, and seed pieces are completely removed from a field. Rogueing for plant disease shall also include removing all plants and their parts immediately adjacent to the diseased suspect plant.
- (18) "Seed lot" means a field, in whole or in part, or a group of fields producing seed potatoes, or the potato tubers harvested from a seed potato field.
- (19) "Seed potatoes" mean vegetatively propagated tubers used for potato production that have been produced

outside of or within the state of Washington and are being handled for seed purposes, propagation, or reproduction within the state of Washington.

(20) "Seed source" means seed potatoes produced by an individual grower within a particular seed production area.

(21) "Trace" means a barely perceivable indication of plant disease that amounts to less than 0.001 percent of sample.

(22) "Tolerance" means the maximum acceptable percentage of potato plants or tubers exhibiting visual symptoms of disease or defect during inspection of a representative sample.

(23) "Unit method" means a method of planting in which cut seed pieces from one tuber are dropped consecutively in a row, or in which all tubers from one plant are dropped consecutively in a row.

AMENDATORY SECTION (Amending Order 1587, filed 11/21/78)

WAC 16-324-370 General guidance. (1) Participation in this program shall be voluntary and may be withdrawn at the option of the applicant. Farming and sanitation practices are the responsibility of the grower. Certification, approvals, determinations, and supervision mentioned herein shall be conducted by the department.

(2) ~~((All applications and department records will be maintained as public records for a period of seven years.~~

(3) Failure to comply with the requirements of these rules shall be cause for refusal or cancellation of approval of any planting or the certification of any seed as certified seed potatoes.

~~((4) Certification means that the lot of seed potatoes was inspected and meets the requirements of this order.~~

(5) (3) The state of Washington department of agriculture makes no warranty, expressed or implied, or representation as to the freedom from disease or quality of certified seed. Certification is based solely on visual inspections of sample plants and tubers of each lot which were found to meet tolerances prescribed in this ~~((order))~~ chapter.

AMENDATORY SECTION (Amending Order 2083, filed 4/24/91, effective 5/25/91)

WAC 16-324-375 ~~((Certified seed potato))~~ Application and withdrawal. (1) Application shall be made on a form provided by the department. Applications for certification shall reach the state department of agriculture, ~~((seed branch, Yakima, Washington,))~~ on or before June 15 of each year. Late applications, without prior approval, will be assessed a late application fee of twenty dollars per application. Applications shall be accompanied by the appropriate fee, as well as tags, certificates or other evidence of eligibility. ~~((An application shall be made for each variety.))~~

(2) Prospective growers entering the certification program for the first time shall be interviewed by the department before their applications are processed. This is in order that the applicant knows what is expected and what may be expected from the certifying agency.

(3) Separate applications shall be required for each variety, seed source, and seed lot.

(4) Separate applications shall be required for each seed source field location that is separated by more than one hundred feet.

(5) Applications shall be accompanied by a field location map so that any inspector can identify each lot and the lot location.

(6) Withdrawal of a seed lot from the certification program shall be made on a form provided by the department (~~which shall become part of the permanent public record~~).

NEW SECTION

WAC 16-324-381 Certified seed potato stock—Fees.

(1) Seed potato certification fees shall be twenty-nine dollars per acre or fraction thereof.

(2) The certification fee for a field plot shall be twenty dollars per application.

(3) The department may assess an additional fee charged on a time and mileage basis.

(4) Applications shall be accompanied by fifty percent of the total certification fee and payable on or before June 15 of each year. For purposes of certification fee assessment, acreage may be adjusted by no more than ten percent on or before July 15 of each year.

(5) Final payment of the certification fees is due and payable November 1 of each year: *Provided*, That fees for five acres or less must be paid in full at the time of application.

(6) Refunds of the certification fee may be made only if the withdrawal form is received by the department prior to the first field inspection.

(7) Lots rejected before the second inspection shall not be subject to the final one-half payment of the certification fee.

(8) Certification fees shall not be refunded after two field inspections have been completed.

(9) Failure to pay fees when due shall result in removing the applicant from this program.

(10) No application from any grower owing the Washington state department of agriculture for previous fees may be considered.

NEW SECTION

WAC 16-324-382 Seed potato classification. (1) All seed potatoes entered for certification shall be classified on the basis of production phases as follows:

(a) Prenuclear (PN) - Prefield seed stocks for laboratory and greenhouse production or direct field plantings.

(b) Nuclear (N) - First field production year.

(c) Generation 1 (G1) - Second field production year.

(d) Generation 2 (G2) - Third field production year.

(e) Generation 3 (G3) - Fourth field production year.

(f) Generation 4 (G4) - Fifth field production year.

(g) Generation 5 (G5) - Sixth field production year.

(2) The class of any seed lot shall be determined by its production phase as defined in subsection (1) of this section. If a seed lot fails to meet the standards established in this chapter for its production phase, then it shall be reclassified to the next later generation for which it meets established standards. If a seed lot fails to meet minimum standards established for G5, it shall be rejected from certification.

NEW SECTION

WAC 16-324-391 Eligibility requirements. (1) Planting stocks shall be derived from seed stocks that have been disease tested, certified by an official seed certifying agency and continued identity maintained in an approved manner.

(2) To be eligible for recertification, a seed stock shall meet or exceed the minimum requirements for field inspection, latent virus testing, and post harvest testing as established in this chapter. A seed stock that has more than a trace amount of virus disease noted during any field inspection shall not be recertified, unless it has been post harvest tested and meets the minimum standards established in WAC 16-324-420.

(3) Planting stocks from other states or countries shall be eligible for current season certification if the planting stock meets or exceeds the minimum requirements of Washington standards for certification of seed potatoes and is eligible for recertification in the state or country of origin.

(4) A seed lot shall not be eligible for current season certification if it is blended from two or more different sources of seed.

(5) Tubers culled out during the grading process shall not be eligible for recertification.

(6) Seed stocks shall be eligible for current season certification for a maximum of six field production years.

(7) Generation 5 (G5), shall not be eligible for recertification.

NEW SECTION

WAC 16-324-392 Isolation requirements. (1) Prenuclear stock shall be produced in a laboratory or greenhouse approved by the department.

(2) Nuclear and Generation 1 shall be produced only in field locations approved by the department.

(3) Generation 2 through Generation 5 shall be isolated by at least three hundred fifty feet from other potatoes except seed potatoes entered for certification.

(4) When ring rot is found in a field planted with more than one lot of seed, the entire field shall be rejected unless at least six feet between lots has been left unplanted or planted to some other crop.

NEW SECTION

WAC 16-324-393 Land requirements. (1) Any land known to be infested with parasitic potato nematode shall not be accepted.

(2) Any land planted with seed potatoes found to have ring rot shall not be eligible for certified seed potato production for at least three years. Presence of volunteer potato plants in a field with ring rot history shall disqualify the current field crop for certification. Plants outside of the defined row shall be considered volunteers. Exceptions to this may be approved by the department when cultural practice has been proven to be successful. Cultural practices may include, but are not limited to, mechanical means (such as deep plowing) and/or chemical means (such as fumigants or other material) for seed bed preparation. Materials and methods shall be recorded with the department. Whichever

method is used, it shall be approved by the department and shall be adequate to maintain variety and disease purity.

(3) Nuclear class shall be produced on land that has not been planted with potatoes for any of the previous six years. (New ground is preferred.)

(4) Generation 1 class shall be produced on land that has not been planted with potatoes for any of the previous four years.

(5) Generation 2, 3, 4, and 5 classes shall be produced on land that has not been planted with potatoes during the previous year unless the prior potato crop was certified seed potatoes of a higher class and of the same variety. Volunteer plants from a previously planted seed potato crop that are present at the time of the field inspection shall cause the designated class of the current crop to be changed to an appropriate later generation designation.

NEW SECTION

WAC 16-324-394 Production requirements—Prenuclear class. Requirements for production of pre-nuclear class of seed potatoes are as follows:

(1) Basic requirements for plant material increase:

(a) All micropropagation facilities shall be approved by the department.

(b) All material shall be documented as to source of variety and shall be a variety approved by the department.

(c) All tests required shall be conducted by a laboratory approved by the department.

(d) Entry level material shall be isolated from all other material and limited to fifty in vitro propagules per line selection. All plant material to be mass micropropagated shall be disease tested.

(2) Testing requirements for mother plants. Yearly testing of one hundred percent of the mother plants shall be required as follows:

(a) *Clavibacter michiganense* ssp. *sepedonicum* by gram stain, or immunofluorescent antibody stain, or Richardson's Media, or other methods approved by the department.

(b) *Erwinia species* by crystal violet pectate, or other methods approved by the department.

(c) Potato viruses - X, Y, S, M, A, and leafroll by ELISA.

(d) Potato spindle tuber viroid by cDNA, dot hybridization or gel electrophoresis.

(e) All plant material to be mass propagated shall test negative for the pathogens listed above in this subsection.

(3) Sampling requirements for mass propagated plants or tubers.

(a) Samples shall be taken prior to kill down or shipping plantlets. A minimum of one percent (of no less than twenty samples) of the plants or tuber population shall be tested for potato virus X, potato virus Y, potato virus S, potato leafroll virus, *Erwinia* spp. and *Clavibacter michiganense* ssp. *sepedonicum* in the manner described for testing requirements for mother plants in subsection (2) of this section. No more than five plants or tubers shall be bulked per sample.

(b) Prenuclear class stock shall have a zero tolerance for all pathogens listed above.

(4) Private micropropagation labs shall make samples of propagation material available to the department for further testing when requested.

(5) Propagators shall select tubers or mother plants that are true-to-type. Such material shall be derived from more than a single tuber; ten to twenty tubers shall be selected to maximize the genetic base of each line and to avoid selecting a tuber or mother plant that may carry a genetic mutation uncharacteristic of the variety. Micropropagated plants shall not be derived from callus culture due to the possibility of somatic mutations or variants.

(6) Detailed records of the progress of all increases shall be maintained by the department or private labs engaged in the production of pre-nuclear material. These records shall include:

(a) A numbering code or system used to identify the explants or clones and their origins;

(b) The amount of time this material has been in tissue culture, and the dates and numbers of transfers that have occurred since initiation or selection;

(c) The testing/inspection history of all such material.

(7) Material planted for recertification at a pre-nuclear level shall have been produced either under standard aseptic microbiological techniques (i.e., in vitro micropropagation) or in an insect proofed greenhouse using sterilized potting media and water known to be free of bacterial potato pathogens. Material shall be produced under phytosanitary standards established in this chapter.

(8) The laboratory and/or greenhouses used to produce material to be accepted as pre-nuclear shall be open to inspection by department personnel on a periodic basis, and contain only material that has satisfied initial testing requirements.

(9) All greenhouse-produced material shall be inspected by the certification agency in the state of origin for disease and off-types during the growing cycle. One inspection shall be performed for transplant material and at least two inspections shall be performed for tuber-producing plants.

(10) Tubers and tuber storage facilities shall be inspected by the certification agency in the state of origin and satisfy requirements for sanitation and proper storage as approved by the department.

(11) All lines used in the production of pre-nuclear material shall be field-plot tested on at least an annual basis with particular emphasis on the evaluation of the phenotype (trueness-to-type), yield ability, and freedom from disease symptoms. Such testing shall be the responsibility of the participant and the certification agency in the state of origin.

(12) Well water shall be the source of irrigation for pre-nuclear stock.

NEW SECTION

WAC 16-324-395 Production requirements—Field grown seed potatoes. (1) Nuclear class.

(a) Material planted for recertification at a nuclear level shall have been produced either under standard aseptic microbiological techniques or in an insect proofed greenhouse using sterilized potting media and water known to be free of bacterial potato pathogens.

(b) Each lot shall be distinctly separated in the field and in storage.

(c) If a ground rig is used for spraying, a wide enough spray row shall be allowed so that tires will not touch plants during the growing season.

(d) Cut seed and single drop seed shall be sorted and planted separately, with single drop seed identified.

(e) Access to fields shall be severely restricted. Entrance shall only be allowed in the presence of the grower.

(2) To produce nuclear, Generation 1 and Generation 2 stock, a grower shall have successfully produced certified seed potatoes the previous two years with no ring rot disease noted during this period. Exceptions to this are possible on approval by the department.

(3) Generations 1, 2, 3, 4 and 5.

(a) A distinct separation of at least six feet shall be left unplanted or planted to some other crop between lots of a different class and between different varieties of potatoes that have a similar enough tuber type, color skin or shape characteristics that varietal mixture would not be readily identifiable during the storage, sorting and grading process.

(b) No separation shall be required between lots of a red variety and another variety with obviously different skin color.

(c) When more than one lot of seed potatoes is planted in the same field, each lot shall be staked or marked so that any inspector not previously having been at the location can identify each lot, variety, single drop planting and different seed source.

NEW SECTION

WAC 16-324-396 Sanitation requirements. (1) Chemicals used in the sanitation of equipment shall be those recommended by the *Pacific Northwest Plant Disease Control Handbook*. Vector control shall be maintained throughout the growing season as recommended by the *Pacific Northwest Plant Disease Control Handbook*.

(2) Seed stocks entered for certification shall be planted and harvested prior to handling any other seed stock. The earliest generation shall be handled prior to lower classes within the program. All equipment used in the cutting, planting, digging, storage, and sorting process shall be sanitized between lots and varieties. When cutting nuclear stock, gloves and knives shall be sanitized between each tuber cut.

(3) Precautions shall be taken when roguing, irrigating, or cultivating to prevent the spread of potato pathogens. Only sanitized footwear shall be allowed in the field.

(4) Only department-approved containers shall be used during the digging, storage, and packing process.

(5) Appropriate procedures for sanitizing shall include steam cleaning or use of a pressure washer to eliminate all dirt and dry matter, followed by application of an approved chemical to kill bacteria.

NEW SECTION

WAC 16-324-397 Field inspection. (1) Each seed lot shall be visually inspected on a sample basis. Seed lots shall be subjected to at least two inspections. The first inspection shall be made before the rows have filled in or the vines touch in the row. The seed lots shall be traversed sufficiently to accurately evaluate the factors to be considered with a minimum sample of one hundred plants per acre. Seed lots shall be considered ready for inspection at all times. Notification shall be given to grower or grower representa-

tive when the first inspection is to be performed. A second inspection shall be performed at a time determined by the inspector, considering the variety and the growing season. Additional inspections shall be made when deemed necessary.

(2) Seed lots not meeting minimum field inspection standards at the time of inspection shall be rejected.

(3) The grower shall be responsible for notifying the department of unusual field conditions which will cause premature dying from any cause prior to the final reading of the field.

(4) Any field condition, i.e., weeds, frost, insect, disease, premature dying from any cause, or any condition making inspection evaluation impossible will be cause for the following actions:

(a) Post harvest testing shall be required for any seed lot with any field condition preventing adequate field evaluation at the time of the first field inspection.

(b) At the discretion of the department, inability to perform the final field inspection evaluation of a seed lot for any reason may be cause for rejection from certification, and/or the seed lot shall not be eligible for recertification and shall be required to be post harvest tested.

(5) Ring rot found in a seed lot of a seed operation shall be cause for removing the lot from certification. Additional inspections shall be required on remaining seed lots. All other seed lots associated with or planted after the rejected lot shall be ineligible for recertification.

(6) In the suspected presence of ring rot disease in plants and tubers, or nematode infestation of tubers, or powdery scab disease on tubers, samples shall be submitted to a department-approved laboratory for testing. Samples may be sent to more than one laboratory to determine the presence or absence of plant disease or infestation.

(7) A certified seed production growers list shall be published annually after the final field inspection showing the inspection results.

(8) At the option of the grower, seed sources shall be represented in a seed lot source trial. The presence of ring rot in the sample shall be cause for rejection of seed lots planted from the same seed source by the grower submitting the sample.

NEW SECTION

WAC 16-324-398 Field inspection disease tolerance.

(1) 0.0% tolerance is not intended, nor shall be construed, to mean that the lot inspected is free from the disease. In case of ring rot, nematode, or powdery scab, it means that the disease was not identified during any visual inspection.

(2) First and second field inspection tolerances.

Factor	Nuclear		G 1		G 2		G 3		G 4		G 5	
	1st	2nd	1st	2nd	1st	2nd	1st	2nd	1st	2nd	1st	2nd
Varietal mixture	0.00	0.00	0.00	0.00	0.02	0.01	0.05	0.01	0.08	0.05	0.20	0.10
Mosaic	0.00	0.00	0.00	0.00	0.01	TR (*)	0.50	0.25	0.50	0.25	2.00	1.00
Leafroll	0.00	0.00	0.00	0.00	0.01	TR (*)	0.03	0.01	0.08	0.05	0.40	0.20
Total visible virus	0.00	0.00	0.10	0.00	0.50	0.50	2.00	1.00	2.00	1.00	2.00	2.00
Phytoplasmas	0.00	0.00	0.00	0.00	0.10	0.10	0.20	0.20	0.50	0.50	1.00	1.00
Black leg	0.00	0.00	0.10	0.10	0.50	0.50	1.00	1.00	2.00	2.00	4.00	2.00
Ring rot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Nematode	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Spindle tuber viroid	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Powdery scab	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

*TR=Trace

NEW SECTION

WAC 16-324-401 Latent virus testing requirements.

(1) PVX testing shall be required for Nuclear, Generation 1 and Generation 2 class seed potatoes. PVX testing shall be optional for all other classes.

(2) Petiole samples shall be submitted by the grower in late August, or prior to vine kill, to a laboratory approved by the department. The cost of laboratory testing shall be borne by the applicant.

(3) The minimum number of plants per seed lot to be sampled for latent virus determination shall be one hundred. For nuclear class, a minimum of ten percent of the total number of plants per lot shall be sampled. For Generation 1, a minimum of two percent of the total number of plants per lot shall be sampled. For Generation 2, a minimum of fifty leaves per acre shall be sampled. For Generation 3, 4 and 5, a minimum of twenty leaves per acre shall be sampled. No more than five leaves shall be bulked per sample. The department may require additional testing.

NEW SECTION

WAC 16-324-402 Latent virus tolerance.

(1) Latent virus disease tolerances listed in the table that follows and shall be based on positive ELISA test results.

PVX TOLERANCE TABLE: PERCENT DISEASE

NUCLEAR	G1	G2	G3	G4	G5
0.00	0.50	1.00	3.00	4.00	5.00

NEW SECTION

WAC 16-324-409 Post harvest test requirements.

(1) Post harvest testing of all seed classes shall be optional. Seed lots which fail the minimum requirements of the field inspection standards shall not be eligible for post harvest testing.

(2) The purpose of this test is to visually detect virus and virus-like plant symptoms in seed potato samples submitted by the grower. Diseases which cannot be observed visually at the time of inspection may be present.

(3) A minimum of four hundred tubers shall be submitted for each seed lot entered for post harvest testing. Seed lots less than one acre in size shall submit four tubers per

total hundred weight with a minimum of fifty tubers. The applicant shall have the option of submitting additional tubers greater than the minimum number.

(4) The cost of post harvest testing shall be borne by the applicant.

(5) Seed stocks represented in the post harvest test which fail to meet the disease tolerance requirements set forth in this chapter shall not be eligible for recertification.

(a) The applicant shall notify in writing all receivers of a seed stock or seed lot that failed to meet post harvest test requirements set forth in WAC 16-324-420.

(b) Acceptance of this seed lot shall be based on a written buyer/seller agreement. A copy of the written notice and buyer/seller agreement shall be provided to the department as soon as practicable.

(6) Upon request of the applicant, the department shall submit samples of seed potatoes to an approved laboratory for ELISA testing to confirm a finding of visual virus disease symptoms. The applicant shall bear the cost of ELISA testing.

(7) In the event of a serious malfunction of the post harvest test facility, certification eligibility shall be based on field inspection readings.

AMENDATORY SECTION (Amending Order 4014, filed 10/22/92, effective 11/22/92)

WAC 16-324-420 ((Winter)) Post harvest test tolerances. ~~((1) The unit of certification will be each lot. (2) Specific requirements. The diseases tolerated will be within the percentages listed in the table below, based on visual symptoms showing in the sample inspected. ELISA testing of samples shall be made upon request by the applicant at his or her expense.~~

Disease or defect	Foundation	Certified
Well-defined mosaic	1.5%	2.0%
Leaf-roll	0.5%	2.0%

~~(3) Diseases which cannot be observed visually at time of inspection may be present.)~~

PERMANENT

TOLERANCE TABLE: PERCENT DISEASE

Factor	NUCLEAR	G1	G2	G3	G4	G5
<u>Leafroll</u>	<u>0.00</u>	<u>0.25</u>	<u>0.50</u>	<u>0.75</u>	<u>1.00</u>	<u>2.00</u>
<u>Mosaic (well defined)</u>	<u>0.00</u>	<u>0.25</u>	<u>0.50</u>	<u>1.00</u>	<u>1.50</u>	<u>2.00</u>
<u>Total virus</u>	<u>0.00</u>	<u>0.50</u>	<u>0.75</u>	<u>1.00</u>	<u>1.50</u>	<u>3.00</u>

NEW SECTION

WAC 16-324-431 Digging, storage and premarketing. (1) Each seed lot shall be stored so as to maintain its identity. The storage bin or room (an area with a controlled access and enclosed by solid barriers) shall be so marked that any inspector not previously having been in the room or storage bin could identify each lot. All tubers from a unit planting method shall be numbered and stored as an identifiable unit for the next year's planting.

(2) Each storage or room containing more than one seed lot shall have a solid barrier between each lot that is not of the same seed source, variety or classification.

(a) The presence of ring rot or nematode in a seed lot that is stored with other seed lots shall be cause for rejection of all seed lots that are not isolated or separated by a solid barrier.

(b) Seed lots previously known or found to be infected with ring rot at time of storage or noncertified potatoes shall not be stored within the same storage with certified seed potatoes.

(3) The applicant shall notify in writing receivers of a seed stock or receivers of a lot associated with a seed stock that has been found to be infected with ring rot. The applicant shall provide the department with a copy of this notification when it is sent to the receiver.

(4) All seed classes shall be graded according to state of Washington standards for seed potatoes and United States Standards for Grades of Seed Potatoes.

(5) Each container or sack shall be identified with the official Washington seed potato tags which shall show the grower's name, address, seed lot number, net weight, variety and classification unless such information is printed on the sacks or containers.

(6) The department shall issue tags to the grower. The grower shall:

(a) Tag the sack or container as the potatoes are sorted;

(b) Allow inspection of graded seed potatoes at any time;

(c) If seed potatoes are out-of-grade, remove the tags under the supervision of the inspector; and

(d) Return all unused tags to the inspector.

(7) Failure to comply with any of the requirements of this chapter shall be cause for the inspector to withhold the privilege of permitting the grower to tag at the grower's convenience.

(8) Failure to comply with subsection (6)(b) and (c) of this section shall be cause to reject a grower from the certification program.

(9) In order to maintain its certification status, a bulk shipment must be identified with information required in subsection (5) of this section.

NEW SECTION

WAC 16-324-446 Grading inspection. (1) The quality of the grading of seed potatoes is the full responsibility of the grower. The department shall monitor grading activities for compliance with the United States Standards for Seed Potatoes and established state standards for seed potatoes.

(2) Upon request, shipping point inspections for seed potatoes shall be performed by the department at the established rate for time and mileage. A federal-state inspection certificate shall be issued.

(3) Three colors of tags shall be permitted for use.

(a) Blue tags shall be used for seed potatoes which meet or exceed minimum requirements of United States Standards for US Number 1 grade of seed potatoes.

(b) Yellow tags shall indicate a contract grade between buyer and seller.

(c) White tags shall be used for seed potatoes which meet or exceed minimum requirements of US Number 1 standards for grade of seed potatoes: *Provided*, That the size shall not be less than one ounce or more than three ounces in weight.

(4) Compliance with the provisions of these standards shall not relieve the applicant or grower from responsibility for conforming with compliance agreements and applicable provisions of federal and state laws.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-324-360 Definitions.
- WAC 16-324-380 Certified seed potato stock—Fees.
- WAC 16-324-390 Requirements for production of foundation and/or certified seed potato stock.
- WAC 16-324-400 Certified seed potato—Field inspection standards.
- WAC 16-324-410 Winter test.
- WAC 16-324-430 Certified seed potato—Digging, storage and premarketing.
- WAC 16-324-435 Storage restrictions.
- WAC 16-324-445 Certified seed potato—Grading inspection—Diseases and grades.
- WAC 16-324-450 Certified seed potato—Specific requirements.
- WAC 16-324-460 Washington No. 1 certified seed potatoes (blue tag stock).
- WAC 16-324-470 Washington No. 2 certified seed potatoes (red tag stock).
- WAC 16-324-480 Washington single drop certified seed potatoes (white tag stock).
- WAC 16-324-490 Washington buff certified seed potatoes (buff tag stock).
- WAC 16-324-500 Marking requirements.
- WAC 16-324-510 Certified seed potato—Tolerances.

PERMANENT

WAC 16-324-520	Certified seed potato—Definition of terms.
WAC 16-324-530	Certified seed potato—Definition—Damage.
WAC 16-324-540	Certified seed potato—Definition—Serious damage.
WAC 16-324-600	Limited generation (L.G.) certified seed potato production.
WAC 16-324-605	Limited generation certified seed potato—Requirements for production and eligibility of prenuclear stock.
WAC 16-324-610	Limited generation certified seed potato—Land requirements.
WAC 16-324-620	Limited generation certified seed potato—Isolation requirements.
WAC 16-324-630	Limited generation certified seed potato—Field inspection tolerances.
WAC 16-324-650	Limited generation certified seed potato—Production phases.
WAC 16-324-660	Limited generation certified seed potato—Sanitation.
WAC 16-324-670	Limited generation certified seed potato—Tags.
WAC 16-324-680	Limited generation certified seed potato—Storage.

WSR 97-11-033**PERMANENT RULES****DEPARTMENT OF REVENUE**

[Filed May 15, 1997, 1:56 p.m., effective July 1, 1997]

Date of Adoption: May 15, 1997.

Purpose: New section WAC 458-20-14601, to adopt a rule providing a method of apportionment for financial institutions that is consistent with uniform rules developed by the states, as required by RCW 82.04.460(2).

Statutory Authority for Adoption: RCW 82.04.460(2) and 82.32.300.

Adopted under notice filed as WSR 96-22-091 on November 6, 1996.

Changes Other than Editing from Proposed to Adopted Version: In subsection (2)(c), there were several comments that the part of the subsection discussing the filings and apportionment calculations were unclear, and that there was no discussion of what to do in the case of mergers or divestitures. This subsection was reworked to clarify that the apportionment factors are calculated annually, and used to compute each monthly return, and a single reconciliation with recalculated apportionment factors is due for each calendar year within thirty days of the date the taxpayer files its federal income tax returns, but not later than October 30 of the following year. A sentence was added to state that in the case of consolidations, mergers, or divestitures, the appropriate adjustments to the factors are to be made by the taxpayer.

In subsection (3)(j)(vii), the subsection discussing credit unions was changed in response to a comment regarding the tax liability of out-of-state credit unions to clarify that only credit unions without a state or federal exemption from tax are required to apportion under the rule.

In subsection (3)(j)(x), the subsection that explains that a company that derives more than fifty percent of its income from finance leases is considered a financial institution under the rule, a sentence was added to the subsection explaining that to determine whether a taxpayer fit into this category the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than fifty percent requirement. The language in this subsection was changed from the MTC proposal in response to comments from leasing companies.

In subsection (4)(m)(i), in response to a comment, language was restored that was in the original MTC model but had been dropped in the CR-102 draft, which just clarified that the investment and trading assets and activities described in the subsection included those listed in the following subsections.

In subsection (7)(a), in response to a comment, a sentence was added explaining that the alternative factors calculation required that all three alternative factors be used, rather than choosing between the factors.

In subsection (7)(b), in response to a comment, the example regarding real property was changed to one regarding tangible personal property.

In subsection (7)(c), the example in the property factor was clarified.

In subsection (8)(a), the effective date was changed from January 1, 1997, to July 1, 1997, as a result of the time delay between the public hearing and adoption of the rule.

In subsection (8)(b), in response to comments, the transition period election discussion was reworked to clarify that the transition decision was at the election of the taxpayer and did not require permission from 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 1, 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 1, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

May 15, 1997
Russell W. Brubaker
Assistant Director
Legislation and Policy

PERMANENT

NEW SECTION**WAC 458-20-14601 Financial institutions—Income apportionment. (1) Introduction.**

(a) This section provides tax reporting instructions for financial institutions doing business both inside and outside the state of Washington. Financial businesses that do not meet the definition of "financial institution" in subsection (3)(j) of this section and other businesses taxable under RCW 82.04.290 should refer to WAC 458-20-194 (Doing business inside and outside the state).

(b) Financial institutions engaged in making interstate sales of tangible personal property should also refer to WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property).

(2) Apportionment and allocation.

(a) Except as otherwise specifically provided, a financial institution taxable under RCW 82.04.290 and taxable in another state shall allocate and apportion its apportionable income as provided in this section. All gross income that is not includable in apportionable income shall be allocated pursuant to the provisions of chapter 82.04 RCW. A financial institution organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or a territory or possession of the United States, except such institutions that are exempt under RCW 82.04.315, whose effectively connected income (as defined under the Federal Internal Revenue Code) is taxable both in this state and another state, other than the state in which it is organized, shall allocate and apportion its gross income as provided in this section.

(b) The apportionment percentage is determined by adding the taxpayer's receipts factor (as described in subsection (4) of this section), property factor (as described in subsection (5) of this section), and payroll factor (as described in subsection (6) of this section) together and dividing the sum by three. If one of the factors is missing, the two remaining factors are added together and the sum is divided by two. If two of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero, but it is not missing merely because its numerator is zero.

(c) Each factor shall be computed according to the method of accounting (cash or accrual basis) used by the taxpayer for Washington state tax purposes for the taxable period. Persons should refer to WAC 458-20-197 (When tax liability arises) and WAC 458-20-199 (Accounting methods) for further guidance on the requirements of each accounting method. Generally, financial institutions are required to file returns on a monthly basis. To enable financial institutions to more easily comply with the provisions of this section, financial institutions will file returns using factors calculated based on the most recent calendar year for which information is available. A reconciliation shall be filed for each year within thirty days of the time that the taxpayer files its federal income tax returns for that year, but not later than October 30th of the following year. For example, for returns filed for taxable activities occurring during calendar 1998, a taxpayer would use factors calculated based on its 1996 information. A reconciliation would be filed for 1998 using factors based on 1998 information as soon as the information was available to the taxpayer, but not later than thirty days after the time federal income tax returns were due for 1998,

or October 30, 1999. In the case of consolidations, mergers, or divestitures, a taxpayer shall make the appropriate adjustments to the factors to reflect its changed operations.

(d) If the allocation and apportionment provisions of this section do not fairly represent the extent of its business activity in this state, the taxpayer may petition for, or the department may require, in respect to all or any part of the taxpayer's business activity:

(i) Separate accounting;

(ii) A calculation of tax liability utilizing the cost of doing business method outlined in RCW 82.04.460(1);

(iii) The exclusion of any one or more of the factors;

(iv) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(v) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's receipts.

(3) **Definitions.** The following definitions apply throughout this section:

(a) **"Apportionable income"** means the gross income of the business taxable under RCW 82.04.290, including income received from activities outside this state if the income would be taxable under RCW 82.04.290 if received from activities in this state, less the exemptions and deductions allowable under chapter 82.04 RCW.

(b) **"Billing address"** means the location indicated in the books and records of the taxpayer on the first day of the taxable period (or on such later date in the taxable period when the customer relationship began) as the address where any notice, statement and/or bill relating to a customer's account is mailed.

(c) **"Borrower or credit card holder located in this state"** means:

(i) A borrower, other than a credit card holder, that is engaged in a trade or business which maintains its commercial domicile in this state; or

(ii) A borrower that is not engaged in a trade or business or a credit card holder, whose billing address is in this state.

(d) **"Commercial domicile"** means:

(i) The headquarters of the trade or business, that is, the place from which the trade or business is principally managed and directed; or

(ii) If a taxpayer is organized under the laws of a foreign country, or of the Commonwealth of Puerto Rico, or any territory or possession of the United States, such taxpayer's commercial domicile is deemed for the purposes of this section to be the state of the United States or the District of Columbia from which such taxpayer's trade or business in the United States is principally managed and directed. It is presumed, subject to rebuttal by a preponderance of the evidence, that the location from which the taxpayer's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the taxable period.

(e) **"Compensation"** means wages, salaries, commissions and any other form of remuneration paid to employees for personal services that are included in such employee's

gross income under the Federal Internal Revenue Code. In the case of employees not subject to the Federal Internal Revenue Code, e.g., those employed in foreign countries, the determination of whether such payments would constitute gross income to such employees under the Federal Internal Revenue Code shall be made as though such employees were subject to the Federal Internal Revenue Code.

(f) "**Credit card**" means credit, travel or entertainment card.

(g) "**Credit card issuer's reimbursement fee**" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

(h) "**Department**" means the department of revenue.

(i) "**Employee**" means, with respect to a particular taxpayer, any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(j) "**Financial institution**" means:

(i) Any corporation or other business entity chartered under Titles 30, 31, 32, 33 RCW, or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

(ii) A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. §§ 21 et seq.;

(iii) A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(b)(1);

(iv) Any bank or thrift institution incorporated or organized under the laws of any state;

(v) Any corporation organized under the provisions of 12 U.S.C. §§ 611 to 631;

(vi) Any agency or branch of a foreign depository as defined in 12 U.S.C. § 3101 that is not exempt under RCW 82.04.315;

(vii) Any credit union, other than a state or federal credit union exempt under state or federal law;

(viii) A production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired;

(ix) Any corporation or other business entity who receives gross income taxable under RCW 82.04.290, and whose voting interests are more than fifty percent owned, directly or indirectly, by any person or business entity described in (j)(i) through (viii) of this subsection other than an insurance company liable for the insurance premiums tax under RCW 48.14.020 or any other company taxable under chapter 48.14 RCW;

(x) A corporation or other business entity that derives more than fifty percent of its total gross income for federal income tax purposes from finance leases. For purposes of this subsection, a "finance lease" means a lease which meets two requirements:

(A) It is the type of lease permitted to be made by national banks (see 12 U.S.C. 24(7), 12 U.S.C. 24(10), Comptroller of the Currency-Regulations, Part 23-Leasing (added by 56 Fed. Reg. 28314, June 20, 1991, effective July 22, 1991), and Regulation Y of the Federal Reserve System 12 CFR 225.25, as amended); and

(B) It is the economic equivalent of an extension of credit, i.e., the lease is treated by the lessor as a loan for federal income tax purposes. In no event does a lease qualify as an extension of credit where the lessor takes depreciation on such property for federal income tax purposes.

For this classification to apply, the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than fifty percent requirement;

(xi) Any other person or business entity, other than an insurance general agent taxable under RCW 82.04.280(5), an insurance business exempt from the business and occupation tax under RCW 82.04.320, a real estate broker taxable under RCW 82.04.255, a securities dealer or international investment management company taxable under RCW 82.04.290(2), that derives more than fifty percent of its gross receipts from activities that a person described in (j)(ii) through (viii) and (x) of this subsection is authorized to transact. For purposes of this subparagraph, the computation of apportionable income shall not include income from nonrecurring, extraordinary items;

(xii) The department is authorized to exclude any person from the application of (j)(xi) of this subsection upon such person proving, by clear and convincing evidence, that the activity producing the receipts of such person is not in substantial competition with those persons described in (j)(ii) through (viii) and (x) of this subsection.

(k) "**Gross income of the business,**" "**gross income,**" or "**income**" has the same meaning as in RCW 82.04.080 and means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(l) "**Gross rents**" means the actual sum of money or other consideration payable for the use or possession of real property. "Gross rents" includes, but is not limited to:

(i) Any amount payable for the use or possession of real property whether designated as a fixed sum of money or as a percentage of receipts, profits or otherwise;

(ii) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs or any other amount required to be paid by the terms of a lease or other arrangement; and

(iii) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or grantor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable period. However, where a building is erected on leased land by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight and the value of the building is determined in the same manner as if owned by the taxpayer.

(iv) The following are not included in the term "gross rents":

(A) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

(B) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

(C) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and

(D) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.

(m) "**Loan**" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, and/or the purchase, in whole or in part, of such extension of credit from another. "Loan" includes participations, syndications, and leases treated as loans for federal income tax purposes. "Loan" does not include: Properties treated as loans under Section 595 of the Federal Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; non-interest bearing balances due from depository institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a REMIC, or other mortgage-backed or asset-backed security; and other similar items.

(n) "**Loan secured by real property**" means that fifty percent or more of the aggregate value of the collateral used to secure a loan or other obligation was real property, when valued at fair market value as of the time the original loan or obligation was incurred.

(o) "**Merchant discount**" means the fee (or negotiated discount) charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(p) "**Participation**" means an extension of credit in which an undivided ownership interest is held on a *pro rata* basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(q) "**Person**" has the meaning given in RCW 82.04.030.

(r) "**Principal base of operations**" with respect to transportation property means the place of more or less permanent nature from which said property is regularly directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly:

(i) Starts his or her work and to which he or she customarily returns in order to receive instructions from his or her employer; or

(ii) Communicates with his or her customers or other persons; or

(iii) Performs any other functions necessary to the exercise of his or her trade or profession at some other point or points.

(s) "**Real property owned**" and "**tangible personal property owned**" mean real and tangible personal property, respectively:

(i) On which the taxpayer may claim depreciation for federal income tax purposes; or

(ii) Property to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes (or could claim depreciation if subject to federal income tax).

Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(t) "**Regular place of business**" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied and used by employees of the taxpayer.

(u) "**State**" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any foreign country.

(v) "**Syndication**" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(w) "**Taxable in another state**" means either:

(i) That a taxpayer is subject in another state to a gross receipts or franchise tax for the privilege of doing business, a franchise tax measured by net income, a corporate stock tax (including a bank shares tax), a single business tax, or an earned surplus tax, or any other tax which is imposed upon or measured by gross or net income; or

(ii) That another state has jurisdiction to subject the taxpayer to any of such taxes regardless of whether, in fact, the state does or does not.

(x) "**Taxable period**" means the calendar year during which tax liability is incurred.

(y) "**Transportation property**" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers or the like.

(4) **Receipts factor.**

(a) **General.** Except as provided in subsection (7) of this section, the receipts factor is a fraction, the numerator of which is the gross income of the taxpayer in this state during the taxable period and the denominator of which is the gross income of the taxpayer inside and outside this state during the taxable period. The method of calculating receipts for purposes of the denominator is the same as the method used in determining receipts for purposes of the numerator.

(b) **Receipts from the lease of real property.** The numerator of the receipts factor includes income from the lease or rental of real property owned by the taxpayer if the property is located within this state or income from the sublease of real property if the property is located within this state.

(c) **Receipts from the lease of tangible personal property.**

(i) Except as described in (c)(ii) of this subsection, the numerator of the receipts factor includes income from the lease or rental of tangible personal property owned by the

taxpayer if the property is located within this state when it is first placed in service by the lessee.

(ii) Income from the lease or rental of transportation property owned by the taxpayer is included in the numerator of the receipts factor to the extent that the property is used in this state. The extent an aircraft is used in this state and the amount of income that is to be included in the numerator of this state's receipts factor is determined by multiplying all the income from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(d) Interest from loans secured by real property.

(i) The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the income described in this subparagraph is included in the numerator of the receipts factor if more than fifty percent of the fair market value of the real property is located within this state. If more than fifty percent of the fair market value of the real property is not located within any one state, then the income described in this subparagraph shall be included in the numerator of the receipts factor if the borrower is located in this state.

(ii) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(e) Interest from loans not secured by real property.

The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(f) Net gains from the sale of loans. The numerator of the receipts factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Federal Internal Revenue Code.

(i) The amount of net gains (but not less than zero) from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to subsection (4)(d) and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The amount of net gains (but not less than zero) from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to (e) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(g) Receipts from credit card receivables. The numerator of the receipts factor includes interest and fees or

penalties in the nature of interest from credit card receivables and income from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(h) Net gains from the sale of credit card receivables.

The numerator of the receipts factor includes net gains (but not less than zero) from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to (g) of this subsection and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(i) Credit card issuer's reimbursement fees. The numerator of the receipts factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to (g) of this subsection and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(j) Receipts from merchant discount. The numerator of the receipts factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

(k) Loan servicing fees.

(i)(A) The numerator of the receipts factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor under (d) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The numerator of the receipts factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor under (e) of this subsection and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(ii) If the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor includes such fees if the borrower is located in this state.

(l) Receipts from services. The numerator of the receipts factor includes receipts from services not otherwise apportioned under this subsection if the service is performed in this state. If the service is performed both inside and outside this state, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the activity producing the receipts is performed in this state based on cost of performance.

(m) Receipts from investment assets and activities and trading assets and activities.

(i) Interest, dividends, net gains (but not less than zero) and other income from investment assets and activities and from trading assets and activities are included in the receipts

factor. Investment assets and activities and trading assets and activities include but are not limited to: Investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in (m)(i)(A) and (B) of this subsection, the receipts factor includes the following:

(A) The receipts factor includes the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(B) The receipts factor includes the amount by which interest, dividends, gains and other receipts from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(ii) The numerator of the receipts factor includes interest, dividends, net gains (but not less than zero) and other receipts from investment assets and activities and from trading assets and activities described in (m)(i) of this subsection that are attributable to this state.

(A) The amount of interest, dividends, net gains (but not less than zero) and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in (m)(i)(A) of this subsection from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(C) The amount of interest, dividends, gains and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, (but excluding amounts described in (m)(ii)(A) or (B) of this subsection), attributable to this state and included in the numerator is determined by multiplying the amount described in (m)(i)(B) of this subsection by a fraction, the numerator of which is the average value of such trading assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(D) For purposes of this paragraph, average value shall be determined using the rules for determining the average

value of tangible personal property set forth in subsection (5) of this section.

(iii) In lieu of using the method set forth in (m)(ii) of this subsection, the taxpayer may elect, or the department may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in this paragraph.

(A) The amount of interest, dividends, net gains (but not less than zero) and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross receipts from such assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in (m)(i)(A) of this subsection from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(C) The amount of interest, dividends, gains and other receipts from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions, (but excluding amounts described in (m)(ii)(a) or (B) of this subsection), attributable to this state and included in the numerator is determined by multiplying the amount described in (m)(i)(B) of this subsection by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(iv) If the taxpayer elects or is required by the department to use the method set forth in (m)(iii) of this subsection, it shall use this method on all subsequent returns unless the taxpayer receives prior permission from the department to use, or the department requires a different method.

(v) The taxpayer has the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. If the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state, such asset or activity is considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Such policies and guidelines are presumed, subject to rebuttal by preponderance of the evidence, to be established at the commercial domicile of the taxpayer.

(n) **Attribution of certain receipts to commercial domicile.** All receipts which would be assigned under this section to a state in which the taxpayer is not taxable are included in the numerator of the receipts factor, if the taxpayer's commercial domicile is in this state.

(5) Property factor.

(a) **General.** Except as provided in subsection (7) of this section, the property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable period, the average value of the real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable period, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable period, and the denominator of which is the average value of all such property located or used inside and outside this state during the taxable period.

(b) Value of property owned by the taxpayer.

(i) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation or amortization.

(ii) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically allocated reserve established under regulatory or financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(iii) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(c) **Average value of property owned by the taxpayer.** The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable period and the value on the last day of the taxable period and dividing the sum by two. If averaging on this basis does not properly reflect average value, the department may require averaging on a more frequent basis. The taxpayer may elect to average on a more frequent basis. When averaging on a more frequent basis is required by the department or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property inside and outside this state and on all subsequent returns unless the taxpayer receives prior permission from the department or the department requires a different method of determining average value.

(d) Average value of real property and tangible personal property rented to the taxpayer.

(i) The average value of real property and tangible personal property that the taxpayer has rented from another and which is not treated as property owned by the taxpayer for federal income tax purposes, shall be determined annually by multiplying the gross rents payable during the taxable year by eight.

(ii) Where the use of the general method described in this subsection results in inaccurate valuations of rented

property, any other method which properly reflects the value may be adopted by the department or by the taxpayer when approved in writing by the department. Once approved, such other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the department or the department requires a different method of valuation.

(e) Location of real property and tangible personal property owned by or rented to the taxpayer.

(i) Except as described in (e)(ii) of this subsection, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated or used within this state.

(ii) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere during the tax reporting period. If the extent of the use of any transportation property within this state cannot be determined, then the property is deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle is deemed to be used wholly in the state in which it is registered. Thus, a motor vehicle will not be considered as used in Washington if there is no requirement for the vehicle to be licensed or registered in Washington.

(f) Location of loans.

(i)(A) A loan is located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(B) A loan is properly assigned to the regular place of business with which it has a majority of substantive contacts. A loan assigned by the taxpayer to a regular place of business outside the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the loan to such regular place of business; and

(III) The taxpayer uses said records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(ii) The presumption of proper assignment of a loan provided in (f)(i)(A) of this subsection may be rebutted by a preponderance of the evidence, showing that the majority of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan is located within this state if: The taxpayer had a regular place of business within this state at the time the loan was made; and the taxpayer fails to show, by a preponderance of the evidence, that the majority of

substantive contacts regarding such loan did not occur within this state.

(C) If a loan is assigned by the taxpayer to a place outside this state which is not a regular place of business, it is presumed, subject to rebuttal on a preponderance of evidence, that the majority of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile, as defined in subsection (3)(d) of this section, was within this state.

(D) To determine the state in which the majority of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis and consideration shall be given to such activities as the solicitation, investigation, negotiation, approval and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval" and "administration" are defined as follows:

(I) *Solicitation.* Solicitation is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business which the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(II) *Investigation.* Investigation is the procedure whereby employees of the taxpayer determine the credit worthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business which the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(III) *Negotiation.* Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement (e.g., the amount, duration, interest rate, frequency of repayment, currency denomination and security required). Such activity is located at the regular place of business which the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(IV) *Approval.* Approval is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business which the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(V) *Administration.* Administration is the process of managing the account. This process includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business which oversees this activity.

(g) **Location of credit card receivables.** For purposes of determining the location of credit card receivables, credit card receivables are treated as loans and are subject to the provisions of (f) of this subsection.

(h) **Period for which properly assigned loan remains assigned.** A loan that has been properly assigned to a state shall remain assigned to that state for the length of the original term of the loan, absent any change in material fact. If the original term of the loan is modified (extended or reduced), the loan may be properly assigned to another state if the loan has a majority of substantive contact to a regular place of business there.

(6) **Payroll factor.**

(a) **General.** Except as provided in subsection (7) of this section, the payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable period by the taxpayer for compensation of employees and the denominator of which is the total compensation paid both inside and outside this state during the taxable period. The payroll factor shall include all compensation paid to employees.

(b) **Compensation relating to independent contractors.** Payments made to any independent contractor or any other person not properly classifiable as an employee is excluded from both the numerator and denominator of the factor.

(c) **When compensation paid in this state.** Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(i) The employee's services are performed entirely within this state.

(ii) The employee's services are performed both inside and outside the state, but the service performed without the state is incidental to the employee's service within the state. The term "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.

(iii) If the employee's services are performed both inside and outside this state, the employee's compensation will be attributed to this state:

(A) If the employee's principal base of operations is inside this state; or

(B) If there is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

(C) If the principal base of operations and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

(7) **Alternative factor calculation.**

(a) **General.** A taxpayer may elect to use the alternative factors calculation as provided in this subsection. The alternative factors calculation requires the use of all three factors provided below. A taxpayer making such an election must keep books and records sufficient to explain the calculations. Such an election, once made, must continue for a full calendar year.

(b) **Receipts factor.** The alternative receipts factor may be calculated by excluding from both the numerator and the denominator of the receipts factor as calculated in subsection (4) of this section gross income attributable to items that

would not be subject to tax under the provisions of RCW 82.04.290, whether from activities inside or outside of the state. For example, a taxpayer making the election to use the alternative factors calculation must exclude all receipts from the rental of tangible personal property in Washington from the numerator and all receipts from the rental of tangible personal property, wherever located, in the denominator.

(c) **Property factor.** The alternative property factor may be calculated by excluding from both the numerator and the denominator of the property factor as calculated in subsection (5) of this section property, the income from which would be considered wholesale or retail sales under chapter 82.04 RCW, whether from activities inside or outside the state. For example, a taxpayer making the election to use the alternative factors calculation must exclude all tangible personal property rented to customers in Washington from the numerator and all tangible personal property rented to customers, wherever located, in the denominator.

(d) **Payroll factor.** The alternative payroll factor may be calculated by excluding from both the numerator and the denominator of the payroll factor as calculated in subsection (6) of this section that amount paid to employees in connection with earning gross income which would not be subject to tax under RCW 82.04.290, whether earned from activities inside or outside of the state. For example, a taxpayer making the election to use the alternative factors calculation must exclude all compensation paid to employees in connection with activities that are not taxable under RCW 82.04.290 from the numerator and all compensation paid to employees wherever located that would not be taxable under RCW 82.04.290 if it had been earned in Washington.

(8) **Effective date.**

(a) **General.** This section applies to gross income that is reportable with respect to periods beginning on and after July 1, 1997.

(b) **Transition period election.** A financial institution may notify the department of its intention to apportion its gross receipts in the manner prescribed in RCW 82.04.460(1) and WAC 458-20-194. Such election may continue until the earlier of the date the financial institution elects to report in accordance with this section, but not later than January 1, 2000.

WSR 97-11-049
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed May 19, 1997, 3:19 p.m.]

Date of Adoption: May 19, 1997.

Purpose: To incorporate the effects of SSB 6271, chapter 26, Laws of 1996, into the procedures for reporting destroyed vehicles.

Citation of Existing Rules Affected by this Order:
Amending WAC 308-58-010, 308-58-030, and 308-58-040.

Statutory Authority for Adoption: RCW 46.01.110 and 46.12.075.

Adopted under notice filed as WSR 97-08-005 on March 20, 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 1, amended 3, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, amended 3, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 14, 1997

Evelyn P. Yenson
Director

AMENDATORY SECTION (Amending WSR 91-04-025, filed 1/29/91, effective 3/1/91)

WAC 308-58-010 Definitions. (1) For the purpose of RCW 46.12.070, destruction of a vehicle or total loss, less salvage value, shall mean the vehicle is:

(a) Dismantled with the intention of never again operating it as a vehicle; or

(b) Damaged to the extent that the cost of repair exceeds its market value immediately prior to the damage; or

(c) Damaged to the extent that the cost of repairing it plus its salvage value in its damaged condition exceeds or approximately equals the market value in its repaired or restored condition; or

(d) Damaged to the extent that the owner, an insurer, or other person acting on behalf of the owner, has determined the vehicle is uneconomical to repair. "Uneconomical to repair" means the cost of parts, labor, and salvage value is greater than the economic value placed on the repaired vehicle by the owner.

(2) For the purpose of RCW 46.12.070, the settlement of an insurance claim as a total loss, less salvage value shall mean the date on which an insurance company actually makes payment to the claimant for the damage.

AMENDATORY SECTION (Amending Order TL/RG 44, filed 9/30/88)

WAC 308-58-030 Sale of salvage. (1) ~~After ((the title has been sent to the department of licensing as a part of the report of destruction, and the owner decides to sell the damaged vehicle, it)) a vehicle has been reported destroyed pursuant to RCW 46.12.070, the vehicle may be sold by the insurer using a bill of sale instead of ((the title)) a release of interest on a certificate of ownership. The bill of sale must ((include the statement that the vehicle's title has been sent to Olympia as a part of the report of destruction. In the case of a registered owner, his signature on the bill of sale must be notarized to convey his interest in the vehicle to a purchaser unless the purchaser is a licensed auto wrecker or dealer in which case a bill of sale need not be notarized. In~~

~~the case of an insurer, the bill of sale must~~) be signed by ~~((someone authorized by the insurance company to sign on its behalf. The title of the person signing for the insurance company must be shown on the bill of sale))~~ a representative of the insurer and provide their appellative title. The representative's signature need not be notarized.

~~((An auto))~~ (2) After a vehicle has been reported destroyed pursuant to RCW 46.12.070 and the vehicle is retained by the registered owner, the vehicle may be sold in its present condition using a bill of sale. The bill of sale must be signed by the owner of record and the signature notarized.

(3) A motor vehicle wrecker licensed ~~((under))~~ pursuant to chapter 46.80 RCW may utilize a bill of sale issued in accordance with ~~((the preceding paragraph))~~ subsections (1) and (2) of this section in lieu of a ~~((title))~~ certificate of ownership to comply with RCW 46.80.090.

AMENDATORY SECTION (Amending WSR 92-15-022, filed 7/6/92, effective 8/6/92)

WAC 308-58-040 ~~((Destroyed))~~ Salvage vehicles rebuilt. ~~((Certificates of ownership and registration reissued for a))~~ (1) Salvage vehicles ~~((reported destroyed that is less than four years old will contain the word "rebuilt" in an appropriate location on the))~~ defined in RCW 46.12.005 whose certificate of ownership or other authorized documentation has been turned in to the department pursuant to RCW 46.12.070, shall be issued certificates of ownership and ~~((the certificate of))~~ registration pursuant to RCW 46.12.075. Certificates of ownership and registration shall prominently display a REBUILT inscription on the face of the document. ~~((This description))~~ The inscription will continue to appear on every subsequent certificates of ownership and registration issued ~~((by the department))~~ for this vehicle.

(2) The application for certificate of ownership of ~~((the))~~ a rebuilt salvage vehicle will be accompanied by a release of interest or a bill of sale transferring ownership to the applicant and a Washington state patrol inspection ~~((if the vehicle is to be operated in Washington)),~~ as provided in WAC 308-56A-460.

NEW SECTION

WAC 308-58-050 Destroyed vehicle retitled. The application for certificate of ownership to a vehicle shown on department records as destroyed, pursuant to RCW 46.12.070, must be accompanied by the following:

(1) A release of interest on the certificate of ownership, a notarized release of interest or notarized bill of sale from the owner of record, or a bill of sale from a licensed vehicle wrecker or insurer; and

(2) A Washington state patrol inspection as provided in WAC 308-56A-460.

Purpose: Chapter 296-400 WAC, Certification of competency for journeyman plumbers, state-initiated revisions to chapter 296-400 WAC, Certification of competency for journeyman plumbers, were made to comply with RCW 34.05.220(5). Consequently, clear rule-writing techniques were used to rewrite the entire chapter. Following the recommendation of the Office of the Code Reviser, chapter 296-400 WAC was repealed in its entirety and replaced with chapter 296-400A WAC.

Chapter 296-400A WAC, Certification of competency for journeyman plumbers, state-initiated clear rule-writing amendments to chapter 296-400A WAC, Certification of competency for journeyman plumbers were made to:

- Move existing chapter 296-400 WAC requirements into new sections in chapter 296-400A WAC.
- Rewrite the rules in a clear rule-writing style, which means:
 - a. Remove outdated and redundant language to make the rules easier to read.
 - b. Use questions for section titles to better describe the information contained in each rule section and to better engage the reader.
 - c. Use a less formal voice in the rules and eliminate the passive voice when possible.
 - d. Reorganize some rules sections to make them easier to use.

In addition to the clear rule-writing amendments, other state-initiated amendments clarify current department policies and practices, increase plumber fees by 4.45% and increase trainee hours to more closely approach national norms and reciprocal agreements. The 4.45% fee increase figure was obtained from the Office of Financial Management and is the maximum allowable fiscal growth rate factor for fiscal year 1997. All fee increases have been rounded down to the nearest quarter of a dollar. It has been several years since plumbing fees have been increased, therefore, these increases are necessary to help offset increased operating costs in the plumbing program. These state-initiated amendments do establish additional compliance requirements.

Legislative-initiated amendments to chapter 296-400A WAC, Certification of competency of journeyman plumbers, were made to comply with recent amendments to chapter 18.106 RCW. These legislative-initiated amendments do establish additional compliance requirements.

New section WAC 296-400A-005 What definitions do I need to know to understand these rules? Reason for Adopting Rule: Legislative-initiated changes were made to add a definition for medical gas piping systems and to include medical gas piping system in the definition of "plumbing." Both changes are required by HB 1445 (1995).

New section WAC 296-400A-020 How do I obtain a certificate of competency? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into new sections in chapter 296-400A WAC.
- Rewrite the rules in a clear rule-writing style.
- Delete the "grandfather clause" relating to the 1973 Plumbers Licensing Act (chapter 175, Laws of 1973 1st ex. sess.) because it is outdated and no longer affects the trade.

**WSR 97-11-052
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed May 20, 1997, 10:51 a.m., effective June 30, 1997]

Date of Adoption: May 20, 1997.

New section WAC 296-400A-030 Do I need a temporary permit? Reason for Adopting Rule: State-initiated clear rule-writing amendments were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-031 How do I qualify for a temporary permit? Reason for Adopting Rule: State-initiated clear rule-writing amendments were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-032 How do I obtain a temporary permit? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Clarify the fees that a trainee must pay to obtain a temporary permit.

New section WAC 296-400A-033 What is the duration of a temporary permit? Reason for Adopting Rule: State-initiated clear rule-writing amendments were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-035 How can I be placed on inactive status? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Clarify the meaning of "inactive status."

New section WAC 296-400A-045 What fees will I have to pay? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Clarify the reciprocity fee charged by the department.
- Increase plumber fees by 4.45% to help offset increased program costs.

New section WAC 296-400A-050 When does the advisory board of plumbers meet? Reason for Adopting Rule: State-initiated clear rule-writing amendments were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-070 Can I work as a certified plumber in Washington without taking the Washington state plumbers competency examination? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Clarify the process of reciprocity.
- Identify the reciprocity fee charged by the department.
- Identify the department's contact person regarding reciprocity questions.

New section WAC 296-400A-100 For certification purposes, how are "years of employment" computed and

documented? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Increase trainee hours to levels more in line with national apprenticeship standards.
- Maintain reciprocity agreements with other states.

New section WAC 296-400A-110 Does previous work experience count toward my trainee certificate? Reason for Adopting Rule: State-initiated clear rule-writing amendments were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-120 What do I need to know about plumber trainee certificates? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Increase trainee hours to levels more in line with national apprenticeship standards.
- Maintain reciprocity agreements with other states.

New section WAC 296-400A-121 What do I need to know about trainee experience and plumber examination requirements? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Increase trainee hours to levels more in line with national apprenticeship standards.
- Clarify, by referencing RCW 18.106.070(3), when a trainee, working without direct supervision, can take the journeyman plumber examination.
- Add subsection (4) which provides a more realistic study timeline for applicants who have failed the competency examination and puts in-state apprentices on an equal footing with out-of-state plumbers moving to Washington by eliminating the mandatory six-month waiting period for reexamination.

New section WAC 296-400A-130 What if I make a false statement or a material misrepresentation on an application, an employment report or a trainee certificate? Reason for Adopting Rule: State-initiated changes were made to:

- Move existing chapter 296-400 WAC requirements into a new section in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.
- Increase the employment hours that a trainee may be penalized from a maximum of 1,800 hours to a maximum of 2,000 hours.

New section WAC 296-400A-140 How does the department enforce plumber certification requirements? Reason for Adopting Rule: State-initiated clear rule-writing amendments were made to:

- Move existing chapter 296-400 WAC requirements into new sections in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-300 What procedures does the department follow when issuing a notice of infraction?

Reason for Adopting Rule: Legislative-initiated changes were made to implement ESHB 2626 (1994) which clarifies who the department may cite for an infraction of either chapter 18.106 RCW or chapter 296-400A WAC and the appeal procedures available to the individual who has been cited.

State-initiated amendments were made to:

- Move existing chapter 296-400 WAC requirements into new sections in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-400 What are the monetary penalties for violating certification requirements? Reason for Adopting Rule: Legislative-initiated new rule implements ESHB 2626 (1994) which authorizes the department to establish a schedule of penalties for plumbing infractions.

State-initiated amendments were made to:

- Move existing chapter 296-400 WAC requirements into new sections in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

New section WAC 296-400A-425 What if I owe outstanding penalties related to a department issued plumber infraction? Reason for Adopting Rule: Legislative-initiated new rule implements SHB 2498 (1996) which allows the department to deny renewing plumbing certificates if the holder owes the department infraction penalties.

State-initiated amendments were made to:

- Move existing chapter 296-400 WAC requirements into new sections in chapter 296-400A WAC.
- Rewrite the section in a clear rule-writing style.

Citation of Existing Rules Affected by this Order: Repealing chapter 296-400 WAC, Certification of competency for journeyman plumbers, WAC 296-400-005 Definitions, 296-400-020 Plumbers with license or practicing the plumbing trade at effective date of the act, 296-400-030 Issuing of temporary certificate, 296-400-035 Inactive status, 296-400-045 Plumber examination, certification, reinstatement, and temporary permit fees, 296-400-050 Meetings of governor's advisory board, 296-400-070 Reciprocity, 296-400-100 Computation of years of employment, 296-400-110 Previous experience credit, 296-400-120 Plumber trainee certificates, 296-400-130 Penalties for false statements or material misrepresentation, 296-400-140 Enforcement, and 296-400-300 Procedures for notices of infraction.

Statutory Authority for Adoption: RCW 18.106.050, [18.106.]070, [18.106.]110, [18.106.]125, [18.106.]140, and [18.106.]270.

Adopted under notice filed as WSR 97-03-084 on January 15, 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 2, amended 2, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 19, amended 0, repealed 13.

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 19, amended 0, repealed 13.

Effective Date of Rule: June 30, 1997.

May 16, 1997
Gary Moore
Director
by M. Watson

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-400-005	Definitions.
WAC 296-400-020	Plumbers with license or practicing the plumbing trade at effective date of the act.
WAC 296-400-030	Issuing of temporary certificate.
WAC 296-400-035	Inactive status.
WAC 296-400-045	Plumber examination, certification, reinstatement, and temporary permit fees.
WAC 296-400-050	Meetings of governor's advisory board.
WAC 296-400-070	Reciprocity.
WAC 296-400-100	Computation of years of employment.
WAC 296-400-110	Previous experience credit.
WAC 296-400-120	Plumber trainee certificates.
WAC 296-400-130	Penalties for false statements or material misrepresentation.
WAC 296-400-140	Enforcement.
WAC 296-400-300	Procedures for notices of infraction.

**Chapter 296-400A WAC
CERTIFICATION OF COMPETENCY FOR
JOURNEYMAN PLUMBERS**

NEW SECTION

WAC 296-400A-005 What definitions do I need to know to understand these rules? Unless a different meaning is clearly required by the context, the following terms and definitions are important:

"Advisory board" is the state advisory board of plumbers.

"Department" is the department of labor and industries.

"Director" is the director of the department of labor and industries.

"Journeyman plumber" is anyone who has learned the commercial plumbing trade and has been issued a journeyman certificate of competency by the department. A journeyman plumber may work on plumbing projects including residential, commercial and industrial worksite locations.

"Medical gas piping systems" are piping systems that convey or involve oxygen, nitrous oxide, high pressure nitrogen, medical compressed air and medical vacuum systems.

PERMANENT

"Plumbing" is that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems and medical gas piping systems within a building. The installation of water softening or water treatment equipment into a water system is not considered plumbing.

"Specialty plumber" is anyone who has been issued a specialty plumbers certificate of competency by the department. Specialty plumber certificates are limited to the installation, maintenance and repair of plumbing for single-family dwellings, duplexes and apartment buildings which do not exceed three stories.

"Trainee plumber" is anyone who has been issued a trainee certificate and is learning or being trained in the plumbing trade with direct supervision of either a journeyman plumber or specialty plumber working in their specialty.

NEW SECTION

WAC 296-400A-020 How do I obtain a certificate of competency? You can obtain a certificate of competency by completing the following requirements:

- (1) Submitting a competency examination application to the department; and
- (2) Paying the examination fee shown in WAC 296-400A-045; and
- (3) Submitting the required evidence of competency and experience to the department; and
- (4) Passing the competency examination.

NEW SECTION

WAC 296-400A-030 Do I need a temporary permit? If you are an out-of-state journeyman residing in a state that does not have a reciprocal agreement with Washington and you would like to work as a plumber in Washington, you need a temporary permit.

NEW SECTION

WAC 296-400A-045 What fees will I have to pay? The following are the department's plumbers fees:

<u>Type of Fee</u>	<u>Period Covered by Fee</u>	<u>Dollar Amount of Fee</u>
Examination application	Per examination	\$104.25
Reciprocity application	Per application	\$104.25
Trainee certificate*	One year	\$31.25
Trainee certificate	Less than one year	\$3.00 per month with a minimum fee of \$20.75
Temporary permit	90 days	\$52.00
Journeyman or specialty certificate**	Two years	\$83.50
Journeyman or specialty certificate	Less than two years	\$3.50 per month with a minimum fee of \$31.25
Reinstatement of a journeyman certificate		\$167.00
Replacement of all certificates		\$31.25

* The trainee certificate shall expire one year from the date of issuance and be renewed on or before the date of expiration.
 ** This fee applies to either the original issuance or a renewal of a certificate. If you have passed the plumbers certificate of competency examination and paid the certificate fee, you will be issued a certificate of competency that will expire on your birthdate.

If your birth year is:

- (1) In an even-numbered year, your certificate will expire on your birthdate in the next even-numbered year.
- (2) In an odd-numbered year, your certificate will expire on your birthdate in the next odd-numbered year.

NEW SECTION

WAC 296-400A-031 How do I qualify for a temporary permit? To qualify for a temporary permit, you must:

- (1) Have a state-issued journeyman plumbers certificate; and
- (2) Give the department sufficient qualifying evidence for a journeyman plumber certificate of competency; and
- (3) Never have taken the journeyman competency examination in Washington state; and
- (4) Not be an apprentice plumber.

NEW SECTION

WAC 296-400A-032 How do I obtain a temporary permit? If you qualify, you can obtain a temporary permit by applying to the department and paying both the examination application fee and the temporary permit fee shown in WAC 296-400A-045.

NEW SECTION

WAC 296-400A-033 What is the duration of a temporary permit? A temporary permit is valid for ninety days and is nonrenewable.

NEW SECTION

WAC 296-400A-035 How can I be placed on inactive status? To be placed on inactive status, you must meet these three requirements:

- (1) Be a currently registered plumber; and
- (2) Be at least sixty-two years of age; and
- (3) Not be working in the plumbing trade.

Inactive status means that you are not currently working in the plumbing trade and you are not required to pay the annual certificate renewal fee. You may return to active status, without reexamination, by paying the reinstatement of a journeyman certificate fee shown in WAC 296-400A-045.

PERMANENT

NEW SECTION

WAC 296-400A-070 Can I work as a certified plumber in Washington without taking the Washington state plumbers competency examination? You may be eligible to work in Washington state without taking an examination if:

- (1) You have a current plumbers certificate or license from another state; and
- (2) That state has a current reciprocal agreement with the department of labor and industries; and
- (3) You pay the reciprocity application fee and journeyman or specialty certificate fee shown in WAC 296-400A-045.

The director of labor and industries negotiates reciprocal agreements with states that have equivalent requirements for certification and licensing of journeyman and specialty plumbers. The agreement allows plumbers from those states to work in Washington and Washington-registered plumbers to work in the other state without taking competency examinations. To find out if your state has an agreement with the department, contact the plumber's certification clerk at the department's Tumwater, WA headquarters.

Reciprocity agreements cannot be used to take the Washington state competency examination instead of the examination in your home state.

NEW SECTION

WAC 296-400A-100 For certification purposes, how are "years of employment" computed and documented?

- (1) For certification purposes, 2,000 hours of employment is considered one year. See RCW 18.106.070(2).
- (2) When you renew your certificate, you must document your previous years' plumbing work by accurately completing the department's approved form and submitting it to the department.
- (3) If you have completed a one, two, three, four or more years plumbing construction trainee program, you must have the necessary training hours for the year in which you are registered. See RCW 18.106.040.

NEW SECTION

WAC 296-400A-110 Does previous work experience count toward my trainee certificate? If your work experience was in plumbing construction, you will be given credit for all verifiable hours that are properly submitted on the department's approved form. (Refer to the definition of "plumbing" in WAC 296-400A-005.)

NEW SECTION

WAC 296-400A-120 What do I need to know about plumber trainee certificates? (1) The department issues separate trainee certificates according to the following schedule:

<u>Certificate Year</u>	<u>Hours Employed As Plumber Trainee</u>
First	Less than 2,000 hours
Second	More than 1,999 hours but less than 4,000 hours

Third	More than 3,999 hours but less than 6,000 hours
Fourth	More than 5,999 hours

(2) You may apply for the next year's trainee certificate whenever you have the required documented work hours.

(3) You cannot be issued a training certificate for more than eight years unless the department determines that there are extenuating circumstances.

(4) If you are a trainee applying for a journeyman certificate, you must complete a minimum of two of the required four years commercial plumbing experience.

(5) A certified specialty plumber working on a commercial job site may work as a journeyman trainee only if they have a current trainee certificate on their person while performing commercial plumbing work.

(6) On a job site, the ratio of certified plumbers to noncertified plumbers must be:

(a) One specialty plumber or journeyman working on a specialty plumbing job may supervise no more than two trainees.

(b) One journeyman plumber working on a commercial job may supervise no more than one trainee.

NEW SECTION

WAC 296-400A-121 What do I need to know about trainee experience and plumber examination requirements? (1) If you possess a trainee certificate:

- (a) You may take the specialty plumber examination after completing 6,000 hours of documented training.
- (b) You may take the journeyman examination after completing 8,000 hours of documented training which must include 4,000 hours of commercial plumbing experience.

(2) All journeyman trainees must work under the direct supervision of a journeyman plumber until they have completed 7,500 hours of training. After completing the 7,500 supervised hours, a trainee may work without direct supervision until they complete 8,000 hours. (See RCW 18.106.070(3).)

When 8,000 training hours have been completed, the trainee must take the journeyman examination. Any trainee who has failed the journeyman plumber examination cannot retake the examination for at least one month and must work under the direct supervision of a journeyman plumber until the examination is passed.

(3) To be eligible for the specialty plumber's examination, a specialty trainee must complete 6,000 hours of training under the direct supervision of either a certified specialty plumber or a journeyman plumber. Any specialty trainee who has failed the specialty examination, cannot retake the examination for at least one month and must work under the direct supervision of a certified plumber until the examination is passed.

(4) **Any applicant** (trainee, specialty plumber or journeyman) who fails an examination, will be required to wait at least one month before retaking the examination. If an applicant fails the second attempt, the waiting period for reexamination will be extended to at least two months. An applicant who fails the examination a third time will have a mandatory waiting period of at least four months.

PERMANENT

NEW SECTION

WAC 296-400A-130 What if I make a false statement or a material misrepresentation on an application, an employment report or a trainee certificate? (1) All required applications and annual statements of employment hours are made under oath. Making false statements and/or material misrepresentations carry serious consequences. Any person who knowingly makes a false statement or material misrepresentation on an application, an affidavit of experience or a trainee certificate may be referred to the county prosecutor for criminal prosecution. In addition, the department may subtract a maximum of 2,000 employment hours from a trainee's acceptable total hours.

(2) The department's decisions, under this section, can be appealed to the advisory board. The appeal hearing will be conducted according to the appropriate provisions of chapter 34.05 RCW.

NEW SECTION

WAC 296-400A-140 How does the department enforce plumbers certification requirements? The department enforces plumber certification requirements by means of job-site inspections conducted by department compliance inspectors. The inspector must determine whether:

- (1) Each person doing plumbing work has a proper certificate on their person; and
- (2) The ratio of certified specialty and/or journeyman plumbers to certified trainees is correct; and
- (3) That each certified trainee is directly supervised by either a certified specialty plumber or a certified journeyman.

NEW SECTION

WAC 296-400A-300 What procedures does the department follow when issuing a notice of infraction?

(1) If a compliance inspector determines that an individual has violated plumber certification requirements, the department must issue a notice of infraction describing the reasons for the citation.

(2) The department may issue a notice of infraction to either:

- (a) An individual who is plumbing without a current plumber certificate; or
- (b) The employer of the individual who is plumbing without a current plumber certificate; or
- (c) The employer's authorizing agent or foreman that made the work assignment to the individual who is plumbing without a current plumber certificate.

(3) An individual may appeal a notice of infraction by complying with the appropriate provisions of RCW 18.106.-220.

(4) If good cause is shown, an administrative law judge may waive, reduce or suspend any monetary penalties resulting from the citation.

(5) Any monetary penalties collected under this chapter, must be deposited in the plumbing certificate fund.

NEW SECTION

WAC 296-400A-400 What are the monetary penalties for violating certification requirements? (1) A person cited for an infraction under RCW 18.106.020 (3)(a), (b) or (c) must be assessed a monetary penalty based upon the following schedule:

First Infraction	\$250.00
Second Infraction	\$500.00
Third Infraction	\$750.00
Fourth Infraction	Not more than \$1,000.00

(2) Each day a person is in violation must be considered a separate infraction.

(3) Each job site at which a person is in violation must be considered a separate infraction.

NEW SECTION

WAC 296-400A-425 What if I owe outstanding penalties related to a department issued plumber infraction? The department may deny renewal of your certificate of competency if you owe outstanding penalties. The department must notify you of their denial by registered mail, return receipt requested. This notice of denial will be mailed to the address on your application.

Upon receipt of the notice, you have twenty days to file a notice of appeal with the department. Your notice of appeal must be accompanied by a certified check for two hundred dollars. This amount will be returned to you if the department's decision is not upheld by the hearings officer. If the hearings officer upholds the department's decision, the two hundred dollars must be applied to the cost of the hearing.

The office of administrative hearings shall conduct the hearing under chapter 34.05 RCW.

**WSR 97-11-053
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed May 20, 1997, 10:55 a.m., effective June 30, 1997]

Date of Adoption: May 20, 1997.

Purpose: Specialty compliance fee increases elevators (including material lifts), FAS and contractor registration.

Chapter 296-86 WAC, Regulations and fees for freight and passenger elevators, manlifts, dumbwaiters, escalators, moving walks, automobile parking elevators, personnel elevators, and other lifting devices, state-initiated proposed amendments to chapter 296-86 WAC were made to increase the fees in this chapter by 4.45%. The 4.45% figure was obtained from the Office of Financial Management and is the maximum allowable fiscal growth rate factor for fiscal year 1997. All fee increases have been rounded down to the nearest quarter of a dollar. It has been several years since elevator fees have been increased, therefore, these increases are needed to help offset increased program operating costs.

In addition to the elevator fee increases, other state-initiated amendments were made to incorporate material lift fees (chapter 296-93 WAC) into chapter 296-86 WAC.

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These state-initiated amendments do not establish additional compliance requirements.

Amended section WAC 296-86-020 Construction and alteration fee. Reason for Adopting Rule: State-initiated amendments were made to:

- Exclude material lift installation, alteration and relocation fees from this section and include them in a new section WAC 296-86-090 Material lift installation, alteration and relocation fees.
- Increase material lift installation, alteration and relocation fees by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since conveyance fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Amended section WAC 296-86-030 Installation fee for personnel elevators and material hoists. Reason for Adopting Rule: State-initiated amendments were made to increase installation fees for personnel elevators and material hoists by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since conveyance fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Amended section WAC 296-86-050 Fee for checking plans for new installations. Reason for Adopting Rule: State-initiated amendments were made to increase the fee for checking plans for new installations by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since conveyance fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Amended section WAC 296-86-060 Annual operating permit fees. Reason for Adopting Rule: State-initiated amendments were made to:

- Include the annual operating permit fee for material lifts in this section.
- Increase the annual operating permit fee for material lifts 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since conveyance fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Amended section WAC 296-86-070 Supplemental inspections. Reason for Adopting Rule: State-initiated amendments were made to increase the fee for supplemental inspections by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since conveyance fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Amended section WAC 296-86-075 Reinspection fees. Reason for Adopting Rule: State-initiated amendments were made to increase the fees for reinspections by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since conveyance fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Amended section WAC 296-86-080 Fee for inspection of regular elevators being used as temporary personnel elevators. Reason for Adopting Rule: State-initiated amendments were made to increase the inspection fees for

regular elevators being used as temporary personnel elevators by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since conveyance fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

New section WAC 296-86-090 Material lift installation, alteration and relocation fees. Reason for Adopting Rule: State-initiated amendments were made to:

- Create a new section for material lift installation, alteration and relocation fees.
- Increase material lift installation, alteration and relocation fees by 4.45%.

Chapter 296-93 WAC, Material lifts, state-initiated amendments were made to remove material lift fees from this chapter and incorporate them into chapter 296-86 WAC, Regulations and fees for freight and passenger elevators, manlifts, dumbwaiters, escalators, moving walks, automobile parking elevators, personnel elevators, and other lifting devices. In addition, some sections of chapter 296-93 WAC were retitled in a question format and rewritten to clarify their content. These state-initiated amendments do not establish additional compliance requirements.

Amended section WAC 296-93-300 Submission of plans for new installations. Reason for Adopting Rule: State-initiated amendments were made to:

- Retitle the section to "When should plans for installation, alteration and relocation be submitted?"
- Rewrite the section in a clear rule-writing style and therefore comply with the Administrative Procedure Act (see RCW 34.05.220(5)).
- Replace the plan review fee in this section with a reference to WAC 296-86-050, which indicates the fee amount.

Amended [repealed] section WAC 296-93-320 Construction, alteration, and relocation fees. Reason for Adopting Rule: State-initiated amendments were made to repeal this section and move material lift construction, alteration and relocation fees to WAC 296-86-090.

Amended section WAC 296-93-330 Annual operating permit fee. Reason for Adopting Rule: State-initiated amendments were made to:

- Retitle the section to "What is the annual operating permit fee?"
- Rewrite the section in a clear rule-writing style and therefore comply with the Administrative Procedure Act (see RCW 34.05.220(5)).
- Replace the annual operating permit fee in this section with a reference to WAC 296-86-060, which indicates the fee amount.
- Delete the sentence "No operating permit will be issued until this annual fee is paid." because it is found in WAC 296-86-060.

Chapter 296-150C WAC, Commercial coaches. Amended section WAC 296-150C-3000 Commercial coach fees. Reason for Adopting Rule: State-initiated amendments were made to increase commercial coach fees by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since commercial coach fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Chapter 296-150F WAC, Factory-built housing and commercial structures. Amended section WAC 296-150F-3000 Factory-built housing and commercial structure fees. Reason for Adopting Rule: State-initiated amendments were made to increase factory-built housing and commercial structure fees by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since factory-built housing and commercial structure fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Chapter 296-150M WAC, Manufactured homes. Amended section WAC 296-150M-3000 Table of manufactured home fees. Reason for Adopting Rule: State-initiated amendments were made to:

- Retitle the section to "Manufactured homes fees" so it will be consistent with other factory assembled structures fee section titles.
- Increase manufactured home fees by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since manufactured home fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Chapter 296-150R WAC, Recreational vehicles and park trailers. Amended section WAC 296-150R-3000 Table of recreational vehicle and park trailer fees for insignia approval. Reason for Adopting Rule: State-initiated amendments were made to:

- Retitle the section to "Recreational vehicles and park trailer fees" so it will be consistent with other factory assembled structures fee section titles.
- Increase recreational vehicle and park trailer fees by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since recreational vehicle and park trailer fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Chapter 296-200 WAC, Contractor certificate of registration renewals—Security—Insurance, state-initiated amendments to chapter 296-200 WAC are made to increase the fees in this chapter by 4.45%. The 4.45% figure was obtained from the Office of Financial Management and is the maximum allowable fiscal growth rate factor for fiscal year 1997. All fee increases have been rounded down to the nearest quarter of a dollar. It has been several years since contractor registration fees have been increased, therefore, these increases are needed to help offset increased program operating costs.

In addition, state-initiated amendments are made to:

- Move the fee amounts listed in WAC 296-200-025 and 296-200-050 into WAC 296-200-900 so that all contractor registration fees are shown in one section.
- Retitle WAC 296-200-900 in a question format.
- Rewrite WAC 296-200-900 to clarify its content.
- Specify in WAC 296-200-900 a reinstatement fee which is authorized by RCW 18.27.070.

These state-initiated amendments do not increase compliance requirements.

Amended section WAC 296-200-025 Initial application for registration and renewal of registration. Reason for

Adopting Rule: State-initiated amendments were made to replace the registration fee in subsection (1)(e) with a reference to WAC 296-200-900 which indicates the fee amount.

Amended section WAC 296-200-050 Change in business structure, name, or business. Reason for Adopting Rule: State-initiated amendments were made to replace the registration fee in subsection (1) with a reference to WAC 296-200-900 which indicates the fee amount.

Amended section WAC 296-200-900 Fees. Reason for Adopting Rule: State-initiated amendments were made to:

- Retitle the section to "What fees does the department charge contractors for issuance, renewal and reinstatement of certificates of registration?"
- Rewrite the section in a clear rule-writing style and therefore comply with the Administrative Procedure Act (see RCW 34.05.220(5)).
- Specify a reinstatement fee which is authorized by RCW 18.27.070.
- Increase department fees for issuance, renewal and reinstatement of certificates of contractor registration by 4.45% which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 1997. Since these fees have not been increased in several years, the fee increases are necessary to offset program operating costs.

Citation of Existing Rules Affected by this Order: Amending WAC 296-86-020 Construction and alteration fee, 296-86-030 Installation fee for personnel elevators and material hoists, 296-86-050 Fee for checking plans for new installations, 296-86-060 Annual operating permit fees, 296-86-070 Supplemental inspections, 296-86-075 Reinspection fees, 296-86-080 Fee for inspection of regular elevators being used as temporary personnel elevators, 296-93-300 Submission of plans for new installations, 296-93-330 Annual operating permit fee, 296-150C-3000 Commercial coach fees, 296-150F-3000 Factory-built housing and commercial structure fees, 296-150M-3000 Table of manufactured home fees, 296-150R-3000 Table of recreational vehicle and park trailer fees for insignia approval, 296-200-025 Initial application for registration and renewal of registration, 296-200-050 Change in business structure, name, or address and 296-200-900 Fees; and repealing WAC 296-93-320 Construction, alteration, and relocation fees.

Statutory Authority for Adoption: RCW 70.87.030, 18.27.070, [18.27.]075, 43.22.350, [43.22.]355, [43.22.]434, and [43.22.]480(2).

Adopted under notice filed as WSR 97-03-132 on January 22, 1997.

Changes Other than Editing from Proposed to Adopted Version: As a result of written and oral comments received, the following section is being amended: WAC 296-200-900 Fees, the department replaced the word "after" in subsection (2)(a) with the word "before." WAC 296-200-900 (2)(a) now reads "A contractor **renews** its registration before it expires."

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 16, 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 1, amended 16, repealed 1.

Effective Date of Rule: June 30, 1997.

May 16, 1997
 Gary Moore
 Director
 by M. Watson

AMENDATORY SECTION (Amending Order 86-5, filed 1/10/86)

WAC 296-86-020 Construction and alteration fee. The construction and alteration fee schedule (except for material lifts) shall be:

TOTAL COST	FEE
\$250.00 to and including \$1,000	\$ ((27.50)) 28.50
\$1,001 to and including \$15,000	
For first \$1,001	((38.50)) 40.00
For each additional \$1,000 or fraction	((7.70)) 8.00
\$15,001 to and including \$100,000	
For first \$15,001	((46.30)) 152.75
For each additional \$1,000 or fraction	5.50
Over \$100,001	
For first \$100,001	((613.80)) 641.00
For each additional \$1,000 or fraction	((4.40)) 4.50

AMENDATORY SECTION (Amending WSR 92-24-065, filed 12/1/92, effective 1/1/93)

WAC 296-86-030 Installation fee for personnel elevators and material hoists. The fee for the installation of each personnel elevator and material hoist shall be ~~((90.00))~~ \$94.00.

AMENDATORY SECTION (Amending Order 70-5, filed 6/2/70)

WAC 296-86-050 Fee for checking plans for new installations. The fee for checking plans shall be ~~((20.00))~~ \$20.75 for each installation.

AMENDATORY SECTION (Amending WSR 95-04-005, filed 1/18/95, effective 3/1/95)

WAC 296-86-060 Annual operating permit fees. Fees for annual operation shall be paid in accordance with the following schedule and no operating permit shall be issued for the operation of a conveyance until such fees have been received.

CONVEYANCE

	ANNUAL FEE
Each hydraulic elevator	((70.00)) \$ 73.00
Each cable elevator	((90.00)) \$94.00 plus ((7.00)) \$7.25 for each hoistway opening in excess of two.
Each cable elevator traveling more than 25 ft.	((40.00)) \$10.25 for each 25 ft. of travel without openings.
Each sidewalk freight elevator	((70.00)) \$73.00
Each hand power freight elevator	((45.00)) \$47.00
Each hand power manlift	((45.00)) \$47.00
Each incline elevator in other than a private residence	((90.00)) \$94.00
Each belt manlift	((70.00)) \$73.00
Each boat launching elevator	((70.00)) \$73.00
Each auto parking elevator	((70.00)) \$73.00
Each escalator	((70.00)) \$73.00
Each moving walk	((70.00)) \$73.00
Each dumbwaiter in other than a private residence	((45.00)) \$47.00
Each people mover	((60.00)) \$62.50
Each stair lift in other than a private residence	((45.00)) \$47.00
Each wheel chair lift in other than a private residence	((45.00)) \$47.00
Each personnel elevator	((70.00)) \$73.00
Each material hoist	((70.00)) \$73.00
Each casket lift	((70.00)) \$73.00
Each material lift	((70.00)) \$62.50
Each inclined stairway chair lift in private residence	((15.00)) \$15.50
Each inclined wheelchair lift in private residence	((20.00)) \$20.75
Each vertical wheelchair lift in private residence	((25.00)) \$26.00
Each inclined elevator at a private residence	((70.00)) \$73.00
Each dumbwaiter in private residence	((20.00)) \$20.75
Each private residence elevator	((45.00)) \$47.00
Each private residence elevator installed with variance in other than a private residence	((70.00)) \$73.00

AMENDATORY SECTION (Amending Order 86-5, filed 1/10/86)

WAC 296-86-070 Supplemental inspections. Any person, firm, corporation or governmental agency may secure supplemental inspections of conveyances by paying to the department a fee of ~~((258.00))~~ \$269.25 per day plus the standard per diem and mileage allowed by the department to its inspectors.

AMENDATORY SECTION (Amending Order 86-5, filed 1/10/86)

WAC 296-86-075 Reinspection fees. No fee shall be charged for the yearly inspection or for the initial inspection after installation or alteration. If, however, the conveyance does not meet the requirements of the department, and if another inspection is required to confirm compliance by the person having control over the conveyance with the regulations of the department, then an inspection fee of ~~((70.00))~~ \$73.00 per conveyance to be inspected shall be charged for the reinspection, and if there is still failure to comply with the rules of the department, a fee of ~~((90.00))~~ \$94.00 shall be charged for every conveyance requiring a further reinspection. These fees are in addition to the fees charged under WAC 296-86-020 and must be paid before issuance of an operating permit. The department may waive the reinspection fee where, through no fault of the requesting

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person or agency, or of the person or agency responsible for payment of the reinspection fee, reinspection is not possible; or for other reasons that in justice or equity obviate the necessity of payment of the reinspection fee.

AMENDATORY SECTION (Amending Order 82-18, filed 5/20/82)

WAC 296-86-080 Fee for inspection of regular elevators being used as temporary personnel elevators. The fee for the inspection and testing of regular elevators for use as temporary personnel elevators shall be ~~((~~\$60.00~~))~~ \$62.50.

NEW SECTION

WAC 296-86-090 Material lift installation, alteration and relocation fees. The fees for installing, altering, or relocating a material lift are:

TOTAL COST	FEE
\$250.00 to and including \$1,000	\$ 26.00
\$1,001 to and including \$15,000	
For first \$1,001	\$ 36.50
For each additional \$1,000 or fraction	\$ 7.25
\$15,001 to and including \$100,000	
For first \$15,001	\$138.75
For each additional \$1,000 or fraction	\$ 5.00
Over \$100,001	
For first \$100,001	\$582.75
For each additional \$1,000 or fraction	\$ 4.00

AMENDATORY SECTION (Amending Order 84-7, filed 4/27/84)

WAC 296-93-300 ~~((Submission of plans for new installations.))~~ When should plans for installations, alterations and relocations be submitted? ~~((Plans shall be submitted in duplicate for approval to the conveyance section of the department before construction. The fee for checking plans is twenty dollars for each installation.))~~ All plans must be submitted, in duplicate, to the department for approval before construction begins. The department's fee for checking plans is shown in WAC 296-86-050.

AMENDATORY SECTION (Amending Order 84-7, filed 4/27/84)

WAC 296-93-330 What is the annual operating permit fee((?))? ~~((The fee for an annual operating permit is sixty dollars for each material lift. No operating permit shall be issued for the operation of a material lift until the department has received the fee.))~~ For each material lift in operation, an annual operating permit is required. The dollar amount of the fee is shown in WAC 296-86-060.

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 296-93-320 Construction, alteration, and relocation fees.

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AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-3000 Commercial coach fees.

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INITIAL FILING FEE	\$ 25.00
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DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN	170.00
INITIAL FEE-ONE YEAR DESIGN	70.00
RENEWAL FEE	30.00
RESUBMIT FEE	50.00
ADDENDUM	50.00
PLANS APPROVED BY PROFESSIONALS	35.00

DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION*	\$ 50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

INSIGNIA FEES	
FIRST SECTION	\$ 15.00
EACH ADDITIONAL SECTION	10.00
ALTERATION	25.00
REISSUED/LOST/DAMAGED	10.00

FIELD TECHNICAL SERVICE FEE (PER HOUR)	\$50.00
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* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 *** Actual charges incurred.

WAC 298-150C-3000 COMMERCIAL COACH FEES	
INITIAL FILING FEE	\$26.00
DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN	\$177.50
INITIAL FEE-ONE YEAR DESIGN	\$73.00
RENEWAL FEE	\$31.25
RESUBMIT FEE	\$52.00
ADDENDUM	\$52.00
PLANS APPROVED BY PROFESSIONALS	\$36.50
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION*	\$52.00
TRAVEL (PER HOUR)*	\$52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES	
FIRST SECTION	\$15.50
EACH ADDITIONAL SECTION	\$10.25
ALTERATION	\$26.00
REISSUED-LOST/DAMAGED	\$10.25
FIELD TECHNICAL SERVICE FEE (PER HOUR)	\$52.00
* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines.	
*** Actual charges incurred.	

PERMANENT

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

PERMANENT

INITIAL FILING FEE	\$ 35.00
DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN (CODE CYCLE)	\$70.00
INITIAL FEE-ONE YEAR DESIGN	100.00
RENEWAL FEE	35.00
RESUBMIT FEE	50.00
ADDENDUM	50.00
PLANS APPROVED BY PROFESSIONALS	35.00
DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$ 50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
NLEA CHARGE	21.00
DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES	
FIRST SECTION	\$ 140.00
EACH ADDITIONAL SECTION	14.00
REISSUED-LOST/DAMAGED	35.00
TEMPORARY INSIGNIA FEES	
FIRST SECTION	\$ 140.00
EACH ADDITIONAL SECTION	14.00
REPLACEMENT FOR TEMPORARY INSIGNIA	35.00
FIELD TECHNICAL SERVICE FEE (PER HOUR)	\$50.00

* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 *** Actual charges incurred.

WAC 296-150F-3000 FACTORY-BUILT HOUSING AND COMMERCIAL STRUCTURE FEES	
INITIAL FILING FEE	\$36.50
DESIGN PLAN FEES	
INITIAL FEE-MASTER DESIGN (CODECYCLE)	\$177.50
INITIAL FEE-ONE YEAR DESIGN	\$104.25
RENEWAL FEE	\$36.50
RESUBMIT FEE	\$52.00
ADDENDUM	\$52.00
PLANS APPROVED BY PROFESSIONALS	\$36.50
DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
NLEA CHARGE	\$21.75
DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES	
FIRST SECTION	\$146.00
EACH ADDITIONAL SECTION	\$14.50
REISSUED-LOST/DAMAGED	\$36.50
TEMPORARY INSIGNIA FEES	
FIRST SECTION	\$146.00
EACH ADDITIONAL SECTION	\$14.50
REPLACEMENT FOR TEMPORARY INSIGNIA	\$36.50
FIELD TECHNICAL SERVICE FEE (PER HOUR)	\$52.00
* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines.	
***Actual charges incurred.	

PERMANENT

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150M-3000 ((Table of)) Manufactured home fees.

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INITIAL FILING FEE	\$25.00
DESIGN PLAN	
STRUCTURAL ALTERATION-MASTER DESIGN (CODE CYCLE)	\$100.00
STRUCTURAL ALTERATION-ONE YEAR DESIGN	70.00
RENEWAL FEE	30.00
RESUBMIT FEE	50.00
ADDENDUM	50.00
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (PER HOUR)*	\$50.00
INSIGNIA FEES	
ALTERATION	\$25.00
REISSUED-LOST/DAMAGED	15.00
FIELD TECHNICAL SERVICE FEES(PER HOUR)*	\$50.00
IPIA	
DEPARTMENT AUDIT FEES	
PER SECTION(ONE TIME ONLY)	\$23.00
INCREASED FREQUENCY VISITS(PER HOUR)*	50.00
REINSPECTION(PER HOUR)*	50.00

NOTE: Local jurisdictions may have other fees that apply.

Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments.

WAC 298-150M-3000 MANUFACTURED HOME FEES	
INITIAL FILING FEE	\$26.00
DESIGN PLAN	
STRUCTURAL ALTERATION-MASTER DESIGN (CODE CYCLE)	\$104.25
STRUCTURAL ALTERATION-ONE YEAR DESIGN	\$73.00
RENEWAL FEE	\$31.25
RESUBMITAL	\$52.00
ADDENDUM	\$52.00
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (PER HOUR)*	\$52.00
INSIGNIA FEES	
ALTERATION	\$26.00
REISSUED-LOST/DAMAGED	\$15.50
FIELD TECHNICAL SERVICE FEES (PER HOUR)*	\$52.00
IPIA	
DEPARTMENT AUDIT FEES	
PER SECTION (ONE TIME ONLY)	\$24.00
INCREASED FREQUENCY VISITS (PER HOUR)*	\$52.00
REINSPECTION (PER HOUR)*	\$52.00
NOTE: Local jurisdictions may have other fees that apply.	
* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments.	

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AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150R-3000 ((Table of)) Recreational vehicle and park trailer fees ((for insignia approval)).

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STATE PLAN		SELF CERTIFICATION	
INITIAL FILING FEE	\$25.00	INITIAL FILING FEE	\$25.00

DESIGN PLAN		DESIGN PLAN	
NEW PLAN REVIEW FEE	\$70.00	NEW PLAN REVIEW FEE (ONE TIME FEE)	\$70.00
RESUBMIT FEE	50.00	RESUBMIT FEE	50.00
ADDENDUM	50.00	ADDENDUM	50.00

STATE PLAN/MANUAL FEES		SELF CERTIFICATION/MANUAL FEES	
INITIAL APPROVAL	\$10.00	INITIAL APPROVAL	\$10.00
RESUBMITTAL	50.00	RESUBMITTAL	50.00
ADDENDUM	50.00	ADDENDUM	50.00

DEPARTMENT AUDIT FEES		DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$50.00	AUDIT (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00	TRAVEL (PER HOUR)*	50.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	

DEPARTMENT INSPECTION FEES		DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$50.00	INSPECTION (PER HOUR)*	\$50.00
TRAVEL (PER HOUR)*	50.00	TRAVEL (PER HOUR)*	50.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	

INSIGNIA FEES		INSIGNIA FEES	
STATE CERTIFIED	\$10.00	SELF CERTIFIED	\$10.00
ALTERATION	25.00	ALTERATION	25.00
REISSUED-LOST/DAMAGED	10.00	REISSUED-LOST/DAMAGED	10.00

FIELD TECHNICAL SERVICE FEE (PER HR.)	\$50.00
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* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments
 ** Per state guidelines.
 *** Actual charges incurred.

WAC 296-150R-3000 RECREATIONAL VEHICLE FEES			
STATE PLAN		SELF CERTIFICATION	
INITIAL FILING FEE	\$26.00	INITIAL FILING FEE	\$26.00
DESIGN PLAN		DESIGN PLAN	
NEW PLAN REVIEW FEE	\$73.00	NEW PLAN REVIEW FEE (ONE TIME FEE)	\$73.00
RESUBMIT FEE	\$52.00	RESUBMIT FEE	\$52.00
ADDENDUM	\$52.00	ADDENDUM	\$52.00
STATE PLAN/MANUAL FEES		SELF CERTIFICATION/MANUAL FEES	
INITIAL APPROVAL	\$10.25	INITIAL APPROVAL	\$10.25
RESUBMITTAL	\$52.00	RESUBMITTAL	\$52.00
ADDENDUM	\$52.00	ADDENDUM	\$52.00
DEPARTMENT AUDIT FEES		DEPARTMENT AUDIT FEES	
AUDIT (PER HOUR)*	\$52.00	AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00	TRAVEL (PER HOUR)*	\$52.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	
DEPARTMENT INSPECTION FEES		DEPARTMENT INSPECTION FEES	
INSPECTION (PER HOUR)*	\$52.00	INSPECTION (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00	TRAVEL (PER HOUR)*	\$52.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	
INSIGNIA FEES		INSIGNIA FEES	
STATE CERTIFIED	\$10.00	SELF CERTIFIED	\$10.00
ALTERATION	\$26.00	ALTERATION	\$26.00
REISSUED-LOST/DAMAGED	\$10.00	REISSUED-LOST/DAMAGED	\$10.00
FIELD TECHNICAL SERVICE FEE (PER HR.)	\$52.00		
* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments			
** Per state guidelines.			
*** Actual charges incurred.			

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AMENDATORY SECTION (Amending Order 83-21, filed 8/2/83)

WAC 296-200-025 Initial application for registration and renewal of registration. (1) A contractor may register if it:

- (a) Completes an application for registration;
- (b) Provides the information required by RCW 18.27.030;
- (c) Obtains a surety bond, assigns a savings account to the department, or deposits cash or other security with the section. If a contractor obtains a bond, it must submit the original bond to the section (see RCW 18.27.040);
- (d) Obtains public liability and property damage insurance, and submits a copy of the insurance certificate to the section (see RCW 18.27.050); and

(e) (~~Pays a fee of \$40.00.~~) Pays the application/renewal fee shown in WAC 296-200-900.

(2) The section shall send a renewal notice to a contractor's last recorded address at least 45 days before the contractor's registration expires. The contractor may renew its registration if it submits the renewal card and provides the materials required in paragraphs (1)(b), (c), (d), and (e).

(3) The contractor must submit all of the materials to the section in one package. Each of the materials must name the contractor exactly as it is named on the application for registration or the renewal card, as appropriate. If the contractor is renewing its registration, each of the materials must include the contractor's registration number. If any of the materials are missing, do not properly name the contractor, or do not include the registration number, the section

shall refuse to register or renew the registration of the contractor.

(4) The contractor may request, in a letter filed with the application or renewal materials, that the registration period end on a particular day. The resulting registration period may not be longer than one year.

(5) When the section receives the required materials, it shall register or renew the registration of the contractor.

AMENDATORY SECTION (Amending Order 83-21, filed 8/2/83)

WAC 296-200-050 Change in business structure, name, or address. (1) If a contractor changes its business structure (for example, if it changes from a partnership to a corporation, or if the partners in a partnership change), the contractor must apply for a new registration in the manner required by WAC 296-200-025. The new registration must be accompanied by ~~((a \$40.00))~~ the registration fee shown in WAC 296-200-900. If a contractor does not reregister after a change in its business structure, its registration may be invalid. See RCW 18.27.040.

(2) If a registered contractor changes its name or address it must notify the section of the change. The contractor must include ~~((a \$40.00))~~ the registration fee (shown in WAC 296-200-900) with the notification of a change in name.

AMENDATORY SECTION (Amending Order 83-21, filed 8/2/83)

WAC 296-200-900 ~~((Fees-))~~ What fees does the department charge contractors for issuance, renewal and reinstatement of certificates of registration? (1) ~~The department ((shall charge a \$40.00 fee for each registration and renewal of registration. For purposes of this rule, a contractor renews its registration after its registration expires, or after the registration has been suspended because the contractor's bond or insurance has been cancelled. The department shall charge \$10.00 for providing a duplicate certificate of registration.~~

~~(2) The department will charge \$2.00 per copy for documents from a contractor's file. The department shall not charge more than a total of \$24.00 for copies from one contractor's file))~~ charges the following fees:

(a) \$41.75 for each issuance, renewal or reregistration of a certificate of registration.

(b) \$50.00 for the reinstatement of a certificate of registration.

(c) \$10.25 for providing a duplicate certificate of registration.

(d) \$2.00 per copy for documents copied from a contractor's file. The maximum copy charge for copies from one contractor's file will be \$25.00.

(2) For the purposes of this chapter:

(a) A contractor renews its registration before it expires.

(b) A contractor reinstates its registration after it has been suspended because its bond or insurance has been cancelled.

(c) A contractor reregisters when it changes its business structure.

**WSR 97-11-054
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed May 20, 1997, 10:56 a.m.]

Date of Adoption: May 20, 1997.

Purpose: Confidential witness statements.

Chapter 296-27 WAC, Safety standards for record-keeping and reporting, WAC 296-27-15503 Special exemptions for confidential reports within the department's files. State-initiated adopted amendments are made to:

- Correct a housekeeping error with respect to the release of confidential information when confidential witness statements are part of an investigative report that is available to the public upon request. This amendment will prohibit the release of confidential sources.

Citation of Existing Rules Affected by this Order: Amending chapter 296-27 WAC, Safety standards for recordkeeping and reporting, WAC 296-27-15503 Special exemptions for confidential reports within the department's files.

Statutory Authority for Adoption: RCW 49.17.040, [49.17.]050, [49.17.]060.

Adopted under notice filed as WSR 97-03-085 on January 15, 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 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 20, 1997

Gary Moore

Director

by M. Watson

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-27-15503 Special exemptions for confidential reports within the department's files. Whenever a departmental file contains an investigative report or information from a source who furnished such information under an express promise that the identity of such source would be held in confidence, such investigative report or information shall be exempt from disclosure to the extent that disclosure would reveal the identity of the source. If an investigative report can be disclosed in such a way as to conceal its source, the contents of such report may be withheld only to the extent necessary to do so. When such information is withheld, the records officer shall give a general character-

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ization of the information withheld (~~and~~) but not the identity of the information's source.

WSR 97-11-055
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 20, 1997, 10:58 a.m., effective August 1, 1997]

Date of Adoption: May 20, 1997.

Purpose: Cranes and derricks, hazard communication, personal protective equipment - General industry.

Chapter 296-24 WAC, General safety and health standards, federal-initiated adopted amendments relating to personal protective equipment, as published in Federal Register Volume 61, Number 86, dated May 2, 1996, and Federal Register Volume 61, Number 91, dated May 9, 1996, are made to be identical to the federal standard. These federal-initiated amendments will not establish additional compliance requirements.

WAC 296-24-07801 Eye and face protection, federal-initiated adopted amendments are made:

- To add the words "The employer shall ensure" that employees use eye and face protection where needed, that employees use side protection when needed on safety glasses, that the use of prescription lenses is addressed, and that employees use proper filter lenses when exposed to injurious light radiation.

WAC 296-24-084 Occupational head protection, federal-initiated amendments are made:

- To add the words, "The employer shall ensure" that employees wear protective helmets when needed, including helmets designed to reduce electrical shock hazards.

WAC 296-24-088 Occupational foot protection, federal-initiated adopted amendments are made to:

- Add the words, "The employer shall ensure" that employees wear protective footwear when needed.

Chapter 296-62 WAC, Occupational safety and health standards, federal-initiated adopted amendments relating to the hazard communication standard are made as a result of OSHA letter dated February 20, 1996, which stated the current WISHA standard is not at-least-as-effective-as the federal standard as published in Federal Register Volume 59, Number 245, dated December 12, 1994. Adopted amendments are identical to the federal standard and add additional compliance requirements.

WAC 296-62-05413 Material safety data sheets, federal-initiated adopted amendments are made to:

- Require wholesale distributors provide material safety data sheets (MSDS) upon request to employers who purchase hazardous chemicals over the counter.
- Require wholesale distributors to post a sign informing such employers that material safety data sheets are available.

Chapter 296-155 WAC, Safety standards for construction, federal-initiated adopted amendments relating to crane standards in construction are made as a result of OSHA letter dated March 21, 1996, which identified this standard as not at-least-as-effective-as the federal standard. The following federal-initiated amendments will make the

standard as effective as the federal standard and will not establish additional compliance requirements.

WAC 296-155-527 Appendix A to WAC 296-155-525, federal-initiated adopted amendments are made to:

- Correct a cable wear evaluation reference from "1/6" inch to "1/16" inch for diameters 7/8 inches to and including 1 1/8 inches.
- Add a cable wear evaluation reference (3/32 inch for diameters 1 1/4 inches to and including 1 1/2 inches).

Citation of Existing Rules Affected by this Order: Amending WAC 296-24-07801 General, 296-24-084 Occupational head protection, 296-24-088 Occupational foot protection, 296-62-05413 Material safety data sheets, and 296-155-527 Appendix A to WAC 296-155-525.

Statutory Authority for Adoption: RCW 49.17.040, [49.17.]050, [49.17.]060.

Adopted under notice filed as WSR 97-03-085 on January 15, 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 5, 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 5, repealed 0.

Effective Date of Rule: August 1, 1997.

May 20, 1997

Gary Moore

Director

by M. Watson

AMENDATORY SECTION (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

WAC 296-24-07801 General. (1) The employer shall ensure that each affected employee (~~shall~~) uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(2) The employer shall ensure that each affected employee (~~shall~~) uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(3) The employer shall ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards (~~shall~~) wears eye protection that incorporates the prescription in its design, or (~~shall~~) wears eye protection that can be worn over the

prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(4) Eye and face PPE shall be distinctly marked to facilitate identification of the manufacturer.

(5) The employer shall ensure that each affected employee ((shall)) uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations.

Filter Lenses for Protection Against Radiant Energy

Operations	Electrode Size 1/32 (inches)	Minimum* Protective Arc Current	Shade
Shielded metal arc welding	Less than 3	Less than 60	7
	3-5	60-160	8
	5-8	160-250	10
	More than 8	250-550	11
Gas metal arc welding and flux cored arc welding		Less than 60	7
		60-160	10
		160-250	10
		250-500	10
Gas Tungsten arc welding		Less than 50	8
		50-150	8
		150-500	10
Air carbon Arc cutting	(Light)	Less than 500	10
	(Heavy)	500-1000	11
Plasma arc welding		Less than 20	6
		20-100	8
		100-400	10
		400-800	11
Plasma arc cutting	(Light)	Less than 300	8
	(Medium)**	300-400	9
	(Heavy)**	400-800	10
Torch brazing			3
Torch soldering			2
Carbon arc welding			14

Filter Lenses for Protection Against Radiant Energy

Operations	Plate thickness (inches)	Plate thickness (mm)	Minimum* Protective Shade	
Gas welding:	Light	Under 1/8	Under 3.2	4
	Medium	1/8 to 1/2	3.2 to 12.7	5
	Heavy	Over 1/2	Over 12.7	6
Oxygen cutting:	Light	Under 1	Under 25	3
	Medium	1 to 6	25 to 150	4
	Heavy	Over 6	Over 150	5

* As a rule of thumb, start with a shade that is too dark to see the weld zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxyfuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the visible light of the (spectrum) operation.

** These values apply where the actual arc is clearly seen. Experience has shown that lighter filters may be used when the arc is hidden by the workpiece.

(6) Criteria for protective eye and face devices.

(a) Protective eye and face devices purchased after February 20, 1995, shall comply with ANSI Z87.1-1989, "American National Standard Practice for Occupational and Educational Eye and Face Protection," which is incorporated by reference, or shall be demonstrated by the employer to be equally effective.

(b) Eye and face protective devices purchased before February 20, 1995, shall comply with the ANSI standard "American National Standard Practice for Occupational and Educational Eye and Face Protection," ANSI Z87.1-1968 or shall be demonstrated by the employer to be equally effective.

AMENDATORY SECTION (Amending WSR 96-09-030, filed 4/10/96, effective 6/1/96)

WAC 296-24-084 Occupational head protection. (1) General requirements.

(a) The employer shall ensure that each affected employee ((shall)) wears a protective helmet((s)) when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer shall ensure that a protective helmet((s)) designed to reduce electrical shock hazard ((shall be)) is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(2) Criteria for protective helmets.

(a) Protective helmets purchased after February 20, 1995, shall comply with ANSI Z89.1-1986, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," which is incorporated by reference, or shall be demonstrated to be equally effective.

(b) Protective helmets purchased before February 20, 1995, shall comply with the ANSI standard "American National Standard Safety Requirements for Industrial Head Protection," ANSI Z89.1-1969, or shall be demonstrated by the employer to be equally effective.

(3) Persons working in the shops around machinery or in locations which present a hair catching or fire hazard shall wear caps or other type of head covering which completely covers the hair. Caps with metal buttons or metal visors shall not be worn around electrical hazards.

- Note 1: The following will define hair lengths considered hazardous:
- (a) When the length would exceed the circumference of exposed revolving shafts or tools in fixed machines by 200 percent.
 - (b) When the length would exceed the radius of pressure rolls with exposed in-running nip points.
 - (c) When the employee is exposed to an ignition source and the employee may, with hair aflame, run into an area containing class -1 flammable liquids or combustible atmospheres.
 - (d) When exposures require personal protective devices, such as mask-type respirators or ear-cup-type hearing protection devices, and hair, either facial or head, would interfere with a proper seal.

Note 2: When hair length is judged hazardous from a hair catching standpoint (instances (a) or (b) under interpretations in Note 1) minimal confinement shall be within netting which controls all loose ends.

Note 3: If hazardous from fire hazard aspects (instance (c) of Note 1) the hair must be confined within a solid-type material.

(4) Protective helmets shall be worn by employees who work around or under scaffolds or other overhead structures,

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or who are otherwise exposed to the hazards of falling materials and propelled objects.

AMENDATORY SECTION (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

WAC 296-24-088 Occupational foot protection. (1)

General requirements. The employer shall ensure that each affected employee (~~shall~~) wears protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards.

(2) Criteria for protective footwear.

(a) Protective footwear purchased after February 20, 1995, shall comply with ANSI Z41-1991, "American National Standard for Personal Protection—Protective Footwear," which is incorporated by reference, or shall be demonstrated by the employer to be equally effective.

(b) Protective footwear purchased before February 20, 1995, shall comply with the ANSI standard "USA Standard for Men's Safety-Toe Footwear," ANSI Z41.1-1967, which is incorporated by reference, or shall be demonstrated by the employer to be equally effective.

(3) Calks or other suitable footwear which will afford reasonable protection from slipping shall be worn while working on logs.

AMENDATORY SECTION (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

WAC 296-62-05413 Material safety data sheets. (1)

Chemical manufacturers and importers shall obtain or develop a material safety data sheet (MSDS) for each hazardous chemical they produce or import. Employers shall have a material safety data sheet in the workplace for each hazardous chemical which they use.

(2) Each material safety data sheet shall be in English (although the employer may maintain copies in other languages) and shall contain at least the following information:

(a) The identity used on the label, and, except as provided for in WAC 296-62-05417 on trade secrets:

(i) If the hazardous chemical is a single substance, its chemical and common name(s);

(ii) If the hazardous chemical is a mixture which has been tested as a whole to determine its hazards, the chemical and common name(s) of the ingredients which contribute to these known hazards, and the common name(s) of the mixture itself; or

(iii) If the hazardous chemical is a mixture which has not been tested as a whole:

(A) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise 1% or greater of the composition, except that chemicals identified as carcinogens under WAC 296-62-05407(4) shall be listed if the concentrations are 0.1% or greater; and

(B) The chemical and common name(s) of all ingredients which have been determined to be health hazards, and which comprise less than one percent (0.1% for carcinogens) of the mixture, if there is evidence that the ingredient(s) could be released from the mixture in concentrations which

would exceed an established WISHA or OSHA permissible exposure limit or ACGIH Threshold Limit Value, or could present a health risk to employees; and

(C) The chemical and common name(s) of all ingredients which have been determined to present a physical hazard when present in the mixture;

(b) Physical and chemical characteristics of the hazardous chemical (such as vapor pressure, flash point);

(c) The physical hazards of the hazardous chemical, including the potential for fire, explosion, and reactivity;

(d) The acute and chronic health hazards of the hazardous chemical, including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the chemical;

(e) The primary route(s) of entry;

(f) The WISHA or OSHA permissible exposure limit, ACGIH threshold limit value, and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the material safety data sheet (the PELs and TLVs include the 8-hour TWA, STEL, ceiling value and skin notation defined in WAC 296-62-05405), where available;

(g) Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Annual Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest editions), or by WISHA or OSHA;

(h) Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

(i) Any generally applicable control measures which are known to the chemical manufacturer, importer or employer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

(j) Emergency and first aid procedures;

(k) The date of preparation of the material safety data sheet or the last change to it; and

(l) The name, address and telephone number of the chemical manufacturer, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous chemical and appropriate emergency procedures, if necessary.

(3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, importer or employer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.

(4) Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, importer or employer may prepare one material safety data sheet to apply to all of these similar mixtures.

(5) The chemical manufacturer, importer or employer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific

evidence used in making the hazard determination. If the chemical manufacturer, importer or employer preparing the material safety data sheet becomes newly aware of any significant information regarding the hazards of a chemical, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three months. If the chemical is not currently being produced or imported the chemical manufacturer or importer shall add the information to the material safety data sheet before the chemical is introduced into the workplace again.

(6)(a) Chemical manufacturers or importers shall ensure that distributors and employers are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated;

(b) The chemical manufacturer or importer shall either provide material safety data sheets with the shipped containers or send them to the distributor or employer prior to or at the time of the shipment;

(c) If the material safety data sheet is not provided with a shipment that has been labeled as a hazardous chemical, the distributor or employer shall obtain one from the chemical manufacturer or importer as soon as possible; and

(d) The chemical manufacturer or importer shall also provide distributors or employers with a material safety data sheet upon request.

(7)(a) Distributors shall ensure that material safety data sheets, and updated information, are provided to other distributors and employers with their initial shipment and with the first shipment after a material safety data sheet is updated;

(b) The distributor shall either provide material safety data sheets with the shipped containers, or send them to the other distributor or employer prior to or at the time of the shipment;

(c) Retail distributors selling hazardous chemicals to employers having a commercial account shall provide a material safety data sheet to such employers upon request, and shall post a sign or otherwise inform them that a material safety data sheet is available;

(d) Wholesale distributors selling hazardous chemicals to employers over-the-counter may also provide material safety data sheets upon request of the employer at the time of the over-the-counter purchase, and shall post a sign or otherwise inform such employers that a material safety data sheet is available;

(e) If an employer without a commercial account purchases a hazardous chemical from a retail distributor not required to have material safety data sheets on file (i.e., the retail distributor does not have a commercial account and does not use the materials), the retail distributor shall provide the employer, upon request, with the name, address, and telephone number of the chemical manufacturer, importer, or distributor from which a material safety data sheet can be obtained;

(f) Wholesale distributors shall also provide material safety data sheets to employers or other distributors upon request; and

(g) Chemical manufacturers, importers, and distributors need not provide material safety data sheets to retail distributors that have informed them that the retail distributor does

not sell the product to commercial accounts or open the sealed container to use it in their own workplaces.

(8) The employer shall maintain in the workplace copies of the required material safety data sheets for each hazardous chemical, and shall ensure that they are readily accessible during each work shift to employees when they are in their work area(s). (Electronic access, microfiche, and other alternatives to maintaining paper copies of the material safety data sheets are permitted as long as no barriers to immediate employee access in each workplace are created by such options.)

(9) Where employees must travel between workplaces during a workshift, i.e., their work is carried out at more than one geographical location, the material safety data sheets may be kept at a central location at the primary workplace facility. In this situation, the employer shall ensure that employees can immediately obtain the required information in an emergency.

(10) Material safety data sheets may be kept in any form, including operating procedures, and may be designed to cover groups of hazardous chemicals in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous chemicals. However, the employer shall ensure that in all cases the required information is provided for each hazardous chemical, and is readily accessible during each work shift to employees when they are in their work area(s).

(11) Material safety data sheets shall also be made readily available, upon request, to designated representatives and to the director or his/her designee in accordance with the requirements of WAC 296-62-05209. NIOSH shall also be given access to material safety data sheets in the same manner.

(12) If a purchaser has not received a material safety data sheet within thirty calendar days after making a written request to the chemical manufacturer, importer, or distributor in accordance with WAC 296-62-05413(6), he/she may make a written request for assistance to the Department of Labor and Industries, Right-to-Know Program, P.O. Box 44610, Olympia, Washington 98504-4610. Such written request shall include:

(a) A copy of the purchaser's written request to the chemical manufacturer, importer, or distributor;

(b) The name of the product suspected of containing a hazardous chemical;

(c) The identification number of the product if available;

(d) A copy of the product label if available; and

(e) The name and address of the chemical manufacturer, importer, or distributor from whom the product was obtained.

Upon receipt of a written request for material safety data sheet, the department shall attempt to procure the material safety data sheet from the chemical manufacturer, importer or distributor and upon procurement, shall forward a copy of the material safety data sheet at no cost to the purchaser. In providing this service priority will be given to small employers.

AMENDATORY SECTION (Amending WSR 95-17-036, filed 8/9/95, effective 9/25/95)

WAC 296-155-527 Appendix A to WAC 296-155-

525. Due to crane design configuration to maintain mobility, sheave diameters and rope, design factors are limited. Because of these limited design parameters, inspection to detect deterioration in accordance with subsections below and timely replacement are essential.

(1) Frequent inspection.

(a) All running ropes in service should be visually inspected once each working day. A visual inspection shall consist of observation of all rope which can reasonably be expected to be in use during the day's operations. These visual observations should be concerned with discovering gross damage, such as listed below, which may be an immediate hazard:

(i) Distortion of the rope such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion. Loss of rope diameter in a short rope length or unevenness of outer strands should provide evidence that the rope or ropes must be replaced.

(ii) General corrosion.

(iii) Broken or cut strands.

(iv) Number, distribution and type of visible broken wires. (See subsection below for further guidance.)

(v) Core failure in rotation resistant ropes. When such damage is discovered the rope shall be either removed from service or given an inspection as detailed in periodic inspection.

(b) Care shall be taken when inspecting sections of rapid deterioration such as flange points, crossover points and repetitive pickup points on drums.

(c) Care shall be taken when inspecting certain ropes such as the following:

(i) Rotation resistant ropes, because of their higher susceptibility to damage and increased deterioration when working on equipment with limited design parameters. The internal deterioration of rotation resistant ropes may not be readily observable.

(ii) Boom hoist ropes, because of the difficulties of inspection and the important nature of these ropes.

(2) Periodic inspection.

(a) The inspection frequency shall be determined by a qualified person and shall be based on such factors as expected rope life as determined by experience on the particular installation or similar installations, severity of environment, percentage of capacity lifts, frequency rates of operation, and exposure to shock loads. Inspections need not be at equal calendar intervals and should be more frequent as the rope approaches the end of its useful life. This inspection shall be performed at least annually.

(b) Periodic inspections shall be performed by a qualified person. This inspection shall cover the entire length of rope. Only the surface wires of the rope need be inspected. No attempt should be made to open the rope. Any deterioration resulting in an appreciable loss of original strength, such as described below, shall be noted and determination made as to whether further use of the rope would constitute a hazard:

(i) Points listed in subsection (1) of this section (Frequent inspection).

(ii) Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires.

(iii) Severely corroded or broken wires at end connections.

(c) Care shall be taken when inspecting sections of rapid deterioration, such as the following:

(i) Sections in contact with saddles, equalizer sheaves, or other sheaves where rope travel is limited;

(ii) Sections of the rope at or near terminal ends where corroded or broken wires may protrude.

(3) Rope replacement.

(a) No precise rules can be given for determination of the exact time for replacement of rope, since many variable factors are involved. Continued use in this respect depends largely upon good judgment by an appointed or authorized person in evaluating remaining strength in a used rope after allowance for deterioration disclosed by inspection. Continued rope operations depends upon this remaining strength.

(b) Conditions such as the following shall be sufficient reason for questioning continued use of the rope or increasing the frequency of inspection:

(i) In running ropes, six randomly distributed broken wires in one lay or three broken wires in one strand in one lay (for special conditions relating to rotation resistant rope refer to paragraph 5-3.2.1.1 (d)(1)(b) ANSISME B30.5 1989).

(ii) One outer wire broken at the point of contact with the core of the rope which has worked its way out of the rope structure and protrudes or loops out from the rope structure. Additional inspection of this section is required.

(iii) Wear of one-third the original diameter of outside individual wires.

(iv) Kinking, crushing, birdcaging, or any other damage resulting in distortion of the rope structure.

(v) Evidence of any heat damage from any cause.

(vi) Reductions from nominal diameter of more than:

(A) 1/64 in. (0.4 mm) for diameters up to and including 5/16 in. (8.0 mm);

(B) 1/32 in. (0.8 mm) for diameters 3/8 in. (9.5 mm) to and including 1/2 in. (13.0 mm);

(C) 3/64 in. (1.2 mm) for diameters 9/16 in. (14.5 mm) to and including 3/4 in. (19.0 mm);

(D) ~~(1/16 in. (1.6 mm) for diameters 7/8 in. (22.0 mm) to and including 1 1/8 in. (38.0 mm);)~~ 1/16 in. (1.6 mm) for diameters 7/8 in. (22.0 mm) to and including 1 1/8 in. (29.0 mm);

(E) 3/32 in. (2.4 mm) for diameters 1 1/4 in. (32.0 mm) to and including 1 1/2 in. (38.0 mm).

(vii) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection.

(c) Replacement rope shall have a strength rating at least as great as the original rope furnished or recommended by the crane manufacturer. Any deviation from the original size, grade, or construction shall be specified by a rope manufacturer, the crane manufacturer or a qualified person.

(d) Rope not in regular use. All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given an inspection before it is placed in service. This inspection

shall be for all types of deterioration and shall be performed by an appointed or authorized person.

(e) Inspection records:

(i) Frequent inspection; no records required.

(ii) Periodic inspection: In order to establish data as a basis for judging the proper time for replacement, a dated report of rope condition at each periodic inspection shall be kept on file. This report shall cover points of deterioration. If the rope is replaced only that part need be recorded.

(f) A long-range inspection program should be established and should include records on the examination of ropes removed from service so that a relationship can be established between visual observation and actual condition of the internal structure.

(4) Rope maintenance.

(a) Rope should be stored to prevent damage or deterioration.

(b) Unreeling or uncoiling of rope shall be done as recommended by the rope manufacturer and with care to avoid kinking or inducing a twist.

(c) Before cutting a rope, seizings shall be placed on each side of the place where the rope is to be cut to prevent unlaying of the strands. On preformed rope, one seizing on each side of the cut is required. On nonpreformed ropes of 7/8 in. (22 mm) diameter or smaller, two seizings on each side of the cut are required, and for nonpreformed rope of 1 in. (26 mm) diameter or larger, three seizings on each side of the cut are required.

(d) During installation, care should be exercised to avoid dragging of the rope in dirt or around objects which will scrape, nick, crush, or induce sharp bends in it.

(e) Rope should be maintained in a well lubricated condition. It is important that lubricant applied as part of a maintenance program shall be compatible with the original lubricant, and to this end, the rope manufacturer should be consulted; lubricant applied shall be of the type which does not hinder visual inspection. Those sections of rope which are located over sheaves or otherwise hidden during inspection and maintenance procedures require special attention when lubricating rope. The object of rope lubrication is to reduce internal friction and to prevent corrosion.

(f) When an operating rope shows greater wear at well-defined localized areas than on the remainder of the rope, rope life can be extended (in cases where a reduced rope length is adequate) by cutting off a section at the worn end, and thus shifting the wear to different areas of the rope.

(5) Operating near electric power lines:

(a) Cranes shall be operated so that no part of the crane or load enters into the danger zone.

Exceptions: The danger zone may be entered if the electrical distribution and transmission lines have been de-energized and visibly grounded at the point of work; or the danger zone may be entered if insulating barriers (not a part of nor an attachment to the crane) have been erected to prevent physical contact with the lines.

(i) For lines rated 50 kV. or below, minimum clearance between the lines and any part of the crane or load (including handling appendages) shall be 10 feet (3 m).

(ii) Caution shall be exercised when working near overhead lines because they can move horizontally or vertically due to wind, moving the danger zone to new positions.

(iii) While in transit with no load and boom lowered, the clearance shall be as specified in WAC 296-155-525 (3)(e).

(iv) A qualified signal person shall be assigned to observe the clearance when the crane moves to within a boom's length of the limits specified in WAC 296-155-525 (3)(e). The operator is not in the best position to judge distance between the power line and the crane or its protuberances.

(b) If cage-type boom guards, insulating links, or proximity warning devices are used on cranes, such devices shall not be a substitute for the requirements of WAC 296-155-525 (3)(e), even if such devices are required by law or regulation. In view of the complex, invisible, and lethal nature of the electrical hazard involved, and to lessen the potential of false security, limitations of such devices, if used, shall be understood by operating personnel and tested in the manner and intervals prescribed by the manufacturer of the device. Compliance with WAC 296-155-525 (3)(e) is the recommended practice of this regulation in determining permissible proximity of the crane and its protuberances, including load, to electrical power lines.

(c) Before the commencement of operations near electrical lines, the person responsible for the job shall notify the owners of the lines or their authorized representatives, provide them with all pertinent information, and request their cooperation.

(d) Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities verify that it is not an energized line.

(e) Exceptions to this procedure, if approved by the owner of the electrical lines, may be granted by the administrative or regulatory authority if the alternate procedure provides protection and is set forth in writing.

(f) Durable signs shall be installed at the operator's station and on the outside of the crane warning that electrocution or serious bodily injury may occur unless a minimum clearance of 10 feet (3 m) is maintained between the crane or the load being handled and energized power lines. Greater clearances are required because of higher voltage as stated in WAC 296-155-525 (3)(e). These signs shall be revised when local jurisdiction requires greater clearances.

(6) Site preparation and erection.

(a) All load bearing foundations, supports, and rail tracks shall be constructed or installed to support the crane loads and to transmit them to the soil or other support medium. In addition to supporting vertical load, foundations and supports, rail supports excepted, should be designed to provide a moment resisting overturning equal to a minimum of 150% of the maximum crane overturning moment.

(b) Rails should be level and straight, unless specifically designed for curves or grades, and properly spaced for the crane trucks in accordance with the manufacturer's specifications. The track and support system should have sufficient rigidity to limit dynamic oscillations and deviations from plumb.

(c) Rails shall be securely attached to the supporting surface in a manner capable of resisting the horizontal and vertical loads specified by the manufacturer. When applicable, provisions should be made for thermal expansion and contraction.

(d) Splices in rail tracks (bolted or welded) shall have smooth joints.

(e) When required, a designated portion of the track should be arranged and constructed as an out-of-service parking area complete with means needed for supporting the crane against storm wind effects and anchoring it against unwanted movement along the track; the parking track should be in place before erection commences.

(f) Rails shall be electrically grounded when they carry cranes electrically powered from an outside source.

(g) Both ends of all tracks shall be provided with stops or buffers adjusted for simultaneous contact with both sides of the travel base.

(h) When more than one crane will be operating on a run of track, particular consideration should be given to the number and disposition of parking areas.

(i) The hazard of earthquake effects appropriated to the site or zone should be considered.

(j) The crane manufacturer shall provide maximum resulting loads at the base of the crane, or wheel loads, for use in design of the supports.

(7) General erection requirements.

(a) When cranes are erected, the manufacturer's or a qualified person's written erection instructions and a list of the weights of each component to be erected shall be at the site.

(b) Cranes shall be erected in accordance with the crane manufacturer's or a qualified person's recommendations. Erection shall be performed under the supervision of a qualified person.

(c) Procedures shall be established before erection work commences to implement the erection instructions and to adapt them to the particular needs of the site. The need for temporary guying and bracing during erection shall be established.

(d) Before crane components are erected, they shall be visually inspected for damage. Damaged members shall not be erected until repaired in accordance with the manufacturer's or qualified person's instructions, or replaced.

(e) Slings and lifting accessories shall be selected and arranged to avoid damaging or marring crane members during erection.

(f) Wind velocity at the site at the time of erection should be considered as a limiting factor that could require suspending the erection operation.

(g) Crane towers shall be erected plumb to a tolerance that is specified by the manufacturer.

(h) Cranes required to weathervane when out-of-service shall be installed with clearance for the boom and superstructure to swing a full 360° arc without striking a fixed object or other crane.

WSR 97-11-009
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Division of Developmental Disabilities)
 (Institutions)

[Filed May 9, 1997, 9:55 a.m.]

Date of Adoption: May 8, 1997.

Purpose: Clarify and limit the use of state funds expended under the Division of Developmental Disabilities' family support program. This order will extend the emergency rule currently in effect (WSR 97-03-033) while the department completes the permanent rule-making process (Notice of Proposed Rule Making, filed March 24, 1997, as WSR 97-08-007).

Citation of Existing Rules Affected by this Order: Repealing WAC 275-27-221; and amending WAC 275-27-023, 275-27-220, and 275-27-223.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Funding considerations require the Department of Social and Health Services to continue these rules on an emergency basis. Permanent rules are in process and the public hearing held. Failure to continue these emergency rules would cause reduction in necessary services to families and jeopardize the health and safety of persons with disabilities. Immediate action is needed to negate the need for additional funding for potential institutionalization and other out-of-home placement for persons with developmental disabilities.

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 3, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 8, 1997
 Leslie Baldwin
 for Merry Kogut, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3230, filed 8/9/91, effective 9/9/91)

WAC 275-27-023 Exemptions. (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC 275-27-020(7) provided an:

(a) Assessment of the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not adversely effect the quality of the services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

(3) Exemption requests are not subject to appeal.

AMENDATORY SECTION (Amending Order 3702, filed 2/1/94, effective 3/4/94)

WAC 275-27-220 Family support services. (1) The ~~((department's intent))~~ purpose of the family support ~~((services shall be))~~ program is to:

(a) Reduce or eliminate the need for out-of-home residential placement of a client where the in-home placement is in the client's best interest;

(b) Allow a client to live in the most independent setting possible; and

(c) Have access to services best suited to a client's needs.

(2) The department's family support services shall include, ~~((but not be limited to,))~~ the following services:

(a) ~~((Emergency or planned))~~ Respite care, including the use of community activities which provide respite;

(b) Attendant care;

(c) Nursing;

(d) Therapeutic services, including:

(i) Physical therapy;

(ii) Occupational therapy;

(iii) Behavior management therapy; and

(iv) Communication therapy; or

(v) Counseling for the client relating to a disability;

provided these therapeutic services are not covered by another resource such as medicaid, private insurance, public schools, or child development services funding.

~~((d) The purchase, rental, loan, or refurbishment of specialized equipment, environmental modifications, and other adaptations; and~~

~~((e) Other service approved by the director or designee as described under subsection (1) of this section))~~

(3) Up to nine hundred dollars of the service need level amount in subsection (7)(b) of this section may be used during a designated service period for flexible use as follows. The requested service must be necessary as a result of the disability of the client.

(a) Training and supports including parenting classes and disability related support groups;

(b) Specialized equipment and supplies including the purchase, rental, loan or refurbishment of specialized equipment or adaptive equipment not covered by another resource including Medicaid. Mobility devices such as walkers and wheelchairs are included, as well as communication devices and medical supplies such as diapers for those more than three years of age;

(c) Environmental modification including home repairs for damages, and modifications to the home needed because of the disability of the client;

(d) Medical/dental services not covered by any other resource. This may include the payment of insurance premiums and deductibles and is limited to the expenses of the client;

(e) Nursing services provided by a registered nurse or licensed practical nurse that cannot be provided by an unlicensed care giver. Nursing services include, but are not limited to, ventilation, catheterization, insulin shots, etc., when not covered by another resource;

(f) Special formulas or specially prepared foods needed because of the disability of the client;

(g) Parent/family counseling dealing with a diagnosis, grief and loss issues, genetic counseling and behavior management;

(h) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(i) Specialized utility costs including extraordinary supplemental utility costs related to the client's disability or medical condition;

(j) Transportation costs for gas or tickets (ferry fare, transit cost) for a client to get to essential services and appointments, if another resource is not available;

(k) Other services approved by the DDD regional administrator or designee that will replace or reduce ongoing departmental expenditures and will reduce the risk of out-of-home placement. Exemption requests under this section are not subject to appeal.

(4) Payment for services specified in subsection (3), except (3)(a) and (h), shall cover only the portion of cost attributable to the client.

(5) Requests must be received by DDD no later than midway through the service authorization period unless circumstances exist justifying an emergency.

(6) A plan shall be developed jointly by the family and the department (~~shall authorize services to the family for a specified time limited~~) for each service authorization period. The department may choose whether to contract directly with the vendor, to authorize purchase by another agency, or may reimburse the parent of the client.

~~((a))~~ (7) Emergency Services. Emergency funds may be requested for use in response to a single incident or situation or short term crisis such as care giver hospitalization, absence, or incapacity. The request shall include anticipated resolution of the situation. Funds shall be provided for a limited period not to exceed two months. All requests are to be reviewed and approved or denied by the regional administrator or designee.

(8) A departmental service authorization shall state the type, amount, and period (duration) of service. Each department authorization shall constitute a new service for a new period.

~~((b))~~ (9) If the client becomes eligible and begins to receive services under Medicaid Personal Care as defined in WAC 388-15-880 through 388-15-890, the family support funding will be reduced at the beginning of the next month of service. The family will receive notice of the reconfiguration of services at least five working days before the beginning of the month.

(10) If requested family support services are not authorized, such actions shall be deemed a denial of services.

~~((e))~~ (11) Family support services may be authorized below the amount requested by the family for the period. When, during the authorized service period, family support services are reduced or terminated below the amount specified in service authorizations, the department shall deem such actions as a reduction or termination of services.

~~((4))~~ The department shall authorize family support services in accordance with department established policies. The department shall base periodic service authorizations on:

~~(a)~~ Requests for family support services described in subsection (2) of this section;

~~(b)~~ Service need levels as described in section 223 of this chapter;

~~(c)~~ Availability of family support funding;

~~(d)~~ The family's ability to purchase services required by a minor client as described under WAC 275-27-221 based on family provided financial information; and

~~(e)~~ Authorization by a review committee, in each regional office, which reviews each request for service.

(5) The department shall authorize family support services contingent upon the applicant providing accurate and complete information concerning family income and disability related expenses as requested by the department.

~~(6)~~ The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

~~(7)~~ The department shall not authorize a birth parent, adoptive parent, or stepparent living in the same household as the client as the direct care provider for respite, attendant, nursing, therapy, or counseling services for a child seven years of age or younger.

~~(8)~~ The department shall ensure subsections (4)(d) and (5) of this section are only in effect until July 31, 1995.)

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.

NEW SECTION

WAC 275-27-222 Service need level rates. (1) The department shall base periodic service authorizations on:

(a) Requests for family support services described in WAC 275-27-220(2) of this section;

(b) Service need levels as described in WAC 275-27-220(3) of this chapter. Service need level lid amounts are as follows:

(i) Clients designated for service need level one (WAC 275-27-223) may receive up to nine hundred twenty-three dollars per month or two thousand two hundred seventy-three dollars per month if the client requires licensed nursing care in the home:

(A) If a client is receiving funding through Medicaid Personal Care or other DSHS in-home residential support, the maximum payable through family support shall be four hundred nine dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than nine hundred twenty-three dollars additional family support can

be authorized to bring the total to nine hundred twenty-three dollars.

(ii) Clients designated for service need level two may receive up to three hundred sixty-five per month if not receiving funding through Medicaid personal care:

(A) If a client is receiving funds through Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be two hundred five dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than three hundred sixty-five dollars, additional family support can be authorized to bring the total to three hundred sixty-five dollars.

(iii) Clients designated for service need level three may receive up to two hundred five dollars per month provided the client is not receiving Medicaid personal care. If the client is receiving Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be one hundred three dollars per month; and

(iv) Clients designated for service level four may receive up to one hundred three dollars per month family support services.

(c) Availability of family support funding;

(d) Authorization by a review committee, in each regional office, which reviews each request for service.

(2) The department shall authorize family support services contingent upon the applicant providing accurate and complete information on disability-related requests.

(3) The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

(4) The department shall not authorize a birth parent, adoptive parent, or stepparent living in the same household as the client as the direct care provider for respite, attendant, nursing, therapy, or counseling services for a child seventeen years of age or younger.

AMENDATORY SECTION (Amending Order 3702, filed 2/1/94, effective 3/4/94)

WAC 275-27-223 Service need levels. (1) The department shall use service need levels to determine periodic family support service authorizations.

(2) The department shall determine service need levels in order of priority for funding as follows:

(a) Service need level 1: Client is at immediate risk of out-of-home placement without the provision of family support services. The client needs intensive residential support to assist the client's family to care for the family's child or adult requiring nursing services, attendant care, or support due to difficult behaviors. A client shall:

(i) Have received, over the past three months, at least ten days or eighty hours of service; or

(ii) Requires at least ten days or eighty hours per month of service to prevent immediate out-of-home placement, based upon an assessment conducted by the department;

(b) Service need level 2: Client is at high risk of out-of-home placement without the provision of family support services and has one or more of the following documented in writing:

(i) The client:

(A) Currently receives adult protective services or division of children and family services as an active:

(I) Child protective service client;

(II) Child welfare service client; or

(III) Family reconciliation service client.

(B) Has returned home from foster care or group care placement within the last six months;

(C) Has a serious medical problem requiring close and ongoing monitoring and/or specialized treatment, such as:

(I) Apnea monitor;

(II) Tracheotomy;

(III) Heart monitor;

(IV) Ventilator;

(V) Constant monitoring due to continuous seizures;

(VI) Immediate life-saving intervention due to life threatening seizures;

(VII) Short bowel syndrome; or

(VIII) Brittle bone syndrome.

(D) Has a dual diagnosis based on current mental health DSM Axis I diagnosis;

(E) Has an extreme behavioral challenge resulting in health and safety issues for self and/or others which:

(I) Resulted in serious physical injury to self or others within the last year;

(II) For a client who is two years of age or older, requires constant monitoring when awake for personal safety reasons; or

(III) Is of imminent danger to self or others as determined by a psychiatrist, psychologist, or other qualified professional.

(F) Is ten years of age or older or weighs forty pounds or more, requires lifting, and needs direct physical assistance in three or more of the following areas:

(I) Bathing;

(II) Toileting;

(III) Feeding;

(IV) Mobility; or

(V) Dressing.

(ii) The caregiver:

(A) Is a division of developmental disabilities client;

(B) Has a physical or medical problem that interferes with providing care; or

(C) Has serious mental health or substance abuse problems and:

(I) Is receiving counseling for these problems; or

(II) Has received or applied for counseling within the past six months.

(c) Service need level 3: The family is at risk of significant deterioration which could result in an out-of-home placement of the client without provision of family support services due to the following:

(i) The client requires direct physical assistance, above what is typical for such client's age, in three or more of the following areas:

(A) Bathing;

(B) Toileting;

(C) Feeding;

(D) Mobility; or

(E) Dressing.

(ii) The client has current behavioral episodes resulting in:

- (A) Physical injury to the client or others;
- (B) Substantial damage to property; and/or
- (C) Chronic sleep pattern disturbances or chronic continuous screaming behavior.

(iii) The client has medical problems requiring substantial extra care; and/or

(iv) The family is:

- (A) Experiencing acute and/or chronic stress;
- (B) Has acute or chronic physical limitations; or
- (C) Has acute or chronic mental or emotional limitations.

(d) Service need level 4: Family needs temporary or ongoing services in order to:

(i) Receive support to relieve and/or prevent stress of caregiver/family; or

(ii) Enhance the current functioning of the family.

(3) The department, through regional review committees, shall determine service need level of the client's service request by reviewing information received from the client, family, and other sources about:

(a) Whether client is an active recipient of services from the division of children and family services or adult protective services;

(b) Whether indicators of risk of out-of-home placement exist, and the imminence of such an event. The department's assessment of such risk may include:

- (i) Review of family's requests for placement;
- (ii) History of family's involvement with children's protective services or adult protective services;
- (iii) Client's current adjustment;
- (iv) Parental history of psychiatric hospitalization;
- (v) Clinical assessment of family's condition; and
- (vi) Statements from other professionals.

(c) Caregiver conditions, such as acute and/or chronic:

- (i) Stress;
- (ii) Physical limitations; and
- (iii) Mental and/or emotional impairments.

(d) Client's need for intense medical, physical, or behavioral support;

(e) Family's ability to use typical community resources;

(f) Availability of private, local, state, or federal resources to help meet the need for family support;

(g) Severity and chronicity of family or client problems; and

(h) Degree to which family support services will:

- (i) Ameliorate or alleviate such problems; and
- (ii) Reduce the risk of out-of-home placement.

AMENDATORY SECTION (Amending Order 2596, filed 2/5/88)

WAC 275-27-400 Notification. (1) The department shall notify the client or applicant, the parent when the client or applicant is a minor, and the guardian when the client or applicant is an adult, of the following decisions:

(a) Denial or termination of eligibility set forth in WAC 275-27-030;

(b) Development or modification of the individual service plan set forth in WAC 275-27-060;

(c) Authorization, denial, reduction, or termination of services set forth in WAC 275-27-230; and

(d) Admission or readmission to, or discharge from, a residential habilitation center.

(2) The notice shall set forth appeal rights pursuant to WAC 275-27-500 and a statement that the client's case manager can be contacted for an explanation of the reasons for the action.

(3)(a) The department shall provide notice of a denial or partial authorization of a family support services request and a statement of reason for denial or partial authorization, or reduction to the person or persons described in subsection (1) of this section. The department shall send such notice no later than five working days before the end of the month previous to the month for which service was requested;

(b) The department shall make available an administrative review of a decision to deny or partially authorize services upon receipt of a written request by a person or persons described in subsection (1) of this section to the administrator of the region in which the client is living. The regional office must receive a request for administrative review by the last working day of the month;

(c) The client shall state in the written request why the client or client's family believes their service priority designation is not correct;

(d) Upon receipt of request for administrative review, the regional administrator or designee shall review the request and the client file; and

(e) The department shall send the results of the administrative review to the client and/or family within the first five working days of the service month for which the client is being denied or receiving a partial authorization for services.

(4) The department shall provide at least thirty days' advance notice of action to terminate a client's eligibility, terminate or reduce a client's service, or discharge a client from a residential habilitation center to the community (~~except for the~~). Transfer or removal of a client from a service set forth in WAC 275-27-500 (5)(f) is governed by that section, and reduction of family support funding during the service authorization period is covered by subsection (3)(a) of this section.

(5) All parties affected by such department decision shall be consulted, whenever possible, during the decision process by the responsible field services regional office in person and/or by telephone.

(6) The division shall ensure notification to the school district in which a school-aged child is to be placed when a placement decision is reached.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 275-27-221 Family financial participation.

WSR 97-11-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 97-78—Filed May 9, 1997, 2:50 p.m., effective May 10, 1997, 12:01 a.m.]

Date of Adoption: May 9, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-56-325.

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: Test fishery results show insufficient spot shrimp are available for recreational 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 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 10, 1997, 12:01 a.m.

May 8, 1997

Dirk Brazil
 for Bern Shanks
 Director

NEW SECTION

WAC 220-56-32500N Shrimp—Areas and seasons.
 Notwithstanding the provisions of WAC 220-56-325, effective 12:01 a.m. May 10, 1997 until further notice, it is unlawful to retain or possess spot shrimp taken from Shrimp District 1.

WSR 97-11-023
EMERGENCY RULES
WASHINGTON STATE PATROL
 [Filed May 13, 1997, 4:22 p.m.]

Date of Adoption: May 13, 1997.

Purpose: To prescribe uniform state-wide standards for retail fireworks stands under chapter 212-17 WAC, Fireworks.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 212-17-190, 212-17-195, 212-17-200, 212-17-203, 212-17-205, 212-17-210 and 212-17-215; and amending WAC 212-17-185.

Statutory Authority for Adoption: RCW 70.77.270.

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 will prescribe uniform state-wide safety requirements for retail fireworks stands and the storage of related fireworks in time for the upcoming fireworks season and reduce the likelihood and impact of possible retail fireworks stands accidents.

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 9, amended 1, repealed 7.

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 9, amended 1, repealed 7; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 13, 1997

Annette M. Sandberg
 Chief

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-185 ((Retailers of fireworks—General)) License and permit. (1) Persons desiring to engage in the business of selling fireworks at retail shall secure a license from the director of the Washington state patrol fire protection bureau.

(2) In addition to the state license, a permit must be obtained from the local governmental officials having jurisdiction.

(a) The application shall be made on forms provided by the director of fire protection and shall be accompanied by the license fee of ~~((ten))~~ forty dollars.

(b) License applications shall be made on or before ~~((June 10))~~ May 1 of the year for which the license is desired.

(c) The director of fire protection shall grant or deny the license within fifteen days of receipt of the application.

~~((Applicants are cautioned to first determine whether a local retail sales permit for fireworks can be obtained.))~~ (3) A retailer's license to sell fireworks shall not authorize the licensee to engage in any other fireworks activity. Retailers are limited to selling only those fireworks which have been approved for sale to the public and appear on the list of

approved fireworks published annually by the director of fire protection. A copy of the list shall be prominently posted at each retail outlet.

NEW SECTION

WAC 212-17-21503 Definitions. (1) "Common fireworks" means those fireworks defined as common fireworks in RCW 70.77.136.

(2) "License" means a license as defined in RCW 70.77.170.

(3) "Magazine" means a structure as defined in Section 214 of the Uniform Building Code.

(4) "Permanent fireworks storage" means the storage of fireworks associated with retail fireworks activities when the period of time of storage is other than or longer than that specified for temporary storage.

(5) "Permanent retail or wholesale structure" means an enclosure or shelter erected for a period of thirty days or more used for the sales, at retail or wholesale, of fireworks of any kind.

(6) "Permanent storage structure" means a building or other structure used to store any fireworks not authorized within the scope of a retail fireworks stand permit.

(7) "Permit" means a permit as defined in RCW 70.77.180.

(8) "Recognized testing laboratory" means a nationally recognized testing laboratory accepted by the state fire marshal.

(9) "Subsequent year" means the year immediately following the calendar year for which a license or permit is issued.

(10) "Temporary fireworks storage" means storage associated with retail fireworks sales and may only be from June 13 through July 31 and from December 12 through January 10 of the subsequent year.

(11) "Temporary retail fireworks stand" means a temporary structure used for the retail sales of common fireworks.

(12) "Temporary storage structure" means a building or other structure used for storage of common fireworks directly related to a retail fireworks stand and authorized within the scope of a retail fireworks stand permit.

(13) "Temporary structure" means an enclosure or shelter erected for a period of less than thirty days and not otherwise defined in the Uniform Fire Code as a tent or canopy.

NEW SECTION

WAC 212-17-21505 General provisions. (1) The state of Washington hereby fully occupies the entire field of regulation relating to the construction and use of temporary structures for the retail sale and storage of fireworks including: The location of and areas surrounding, the operation of and the cleanup after the use of said structures, pursuant to RCW 70.77.270.

(2) The state of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of common fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the limitations imposed by chapter 70.77 RCW, a city or county

may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as common fireworks from temporary structures these rules preempt that city's or that county's authority to enact or enforce any other regulations.

(3) Retail sale of fireworks from permanent structures is prohibited.

Exception: Fireworks retail outlets legally in operation in permanent structures and subject to the state building code on April 30, 1997.

(4) The use of temporary structures for the temporary sale or storage of common fireworks are exempt from the Uniform Building Code, the Uniform Fire Code and local ordinances except that where a city or county ordinance regulates the sale or use of fireworks as a part of that city's or that county's building code or fire code, those portions of that city's or that county's building code or fire code which are not in conflict with this rule are not hereby preempted or affected.

(5) Every license issued shall be for the period from January 1 of the year for which the application is made through January 31 of the subsequent year or the remaining portion thereof.

(6) Only Class C common fireworks, obtained from state-licensed wholesalers, not otherwise prohibited by chapter 70.77 RCW or local ordinance, and holiday related products incidental but related to these products, may be sold in retail fireworks stands.

(7) Except as limited by local ordinance, fireworks may be sold and discharged from 12:00 noon on June 28 through 12:00 noon on July 6. Fireworks may not be sold or discharged between the hours of 11:00 p.m. and 9:00 a.m. from June 28 through July 3. Fireworks may not be sold or discharged from 12:00 midnight on July 4 through 9:00 a.m. on July 5. Fireworks may not be sold or discharged from 11:00 p.m. on July 5 through 9:00 a.m. on July 6.

(8) Except as limited by local ordinance, fireworks may be sold and discharged from 6:00 p.m. on December 31 through 1:00 a.m. on January 1 of the subsequent year.

(9) Licensees shall familiarize all persons working in a retail fireworks stand with the provisions of these rules.

(10) The state fire marshal and the local authority having jurisdiction shall comply with the provisions of RCW 43.05.005 in the application of this rule. Failure to comply at any time with the provisions of this rule or any other applicable regulation shall constitute a violation of chapter 70.77 RCW and may result in the immediate revocation of the license or permit, closure of the fireworks sales or storage structure, the seizure of some or all of the fireworks, and other criminal penalties as specified in law.

NEW SECTION

WAC 212-17-21507 Transportation. When transporting fireworks, licensees shall comply with all federal, state and local transportation requirements, provided that, upon request of the licensee, the local authority having jurisdiction may waive or modify the local transportation requirements. Nothing in these rules shall restrict the right of any person

to transport, in a private vehicle, fireworks which have been legally purchased from a retail fireworks licensee.

NEW SECTION

WAC 212-17-21509 Location. (1) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited or controlled by local development regulation, traffic safety or road construction standards.

(2) Temporary retail fireworks stands shall not be located more than one hundred feet from a private access

way, fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private access way shall be determined by the local authority having jurisdiction, but shall not exceed the requirements of the Uniform Fire Code.

(3) Any two retail fireworks stands shall be at least three hundred feet apart or shall be separated by a road, street or highway not less than one hundred feet in width.

(4) Retail fireworks stands shall be located as required by Table 1 in this section. The minimum required area surrounding the stand shall be marked or flagged.

Table 212-17-21509

Retail Fireworks Stands - Minimum Clearances						
	Buildings	Combustibles	Property Line	Parking	Motor Vehicle Traffic PUBLIC WAY*	Motor Vehicle Traffic PRIVATE WAY
BACK OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
SIDE OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
FRONT OF STAND	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.

* Measured from the outer edge of the nearest traffic lane.

(5) Retail fireworks stands shall not be located closer than one hundred feet from any flammable or combustible liquid or gas dispensing device, nor less than three hundred feet from any flammable or combustible liquid or gas bulk storage or dispensing facility.

(6) Each retail fireworks stand must provide adequate parking area for not less than ten customer vehicles.

NEW SECTION

WAC 212-17-21511 Area around the retail fireworks stand. (1) The minimum areas around the retail fireworks stand specified in WAC 212-17-21509 shall be kept free of accumulation of dry grass, dry brush and combustible debris.

(2) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks stand except when delivering, loading or unloading fireworks.

(3) Fireworks shall not be discharged within three hundred feet of a retail fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 300 FEET" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on all four sides of the stand.

(4) No smoking shall be allowed within the retail fireworks stand or within one hundred feet. Signs reading "NO SMOKING WITHIN 100 FEET" in letters at least two inches high, with principal stroke of not less than one-half inch, on a contrasting background, shall be conspicuously posted on all four sides of the stand.

NEW SECTION

WAC 212-17-21513 Stand use and construction. (1) Fireworks may be sold from temporary, stable structures made from wood, metal, fiberglass or other like material.

(a) Temporary retail fireworks stands shall not exceed four hundred square feet in area.

(b) Sales from tents, canopies and stands constructed primarily of natural or synthetic cloth or fabric used in conjunction with a stable framework are prohibited.

(c) Any natural or synthetic cloth or fabric used in construction of a retail fireworks stand shall be made from fire retardant material or treated with a fire retardant as identified in the current edition of the Uniform Fire Code.

(2) Each temporary retail fireworks stand must have at least two exits, not less than twenty-eight inches in width, located at opposite ends of the structure. Exits must remain

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unlocked and unobstructed during the hours of operation or when the stand is occupied.

(3) Battery powered equipment, electrical equipment and electrical cords which are used in conjunction with a retail fireworks stand or a temporary storage structure must be listed by a recognized laboratory and used in accordance with that listing.

(4) No heating device of any type shall be allowed within a retail fireworks stand. No heating device with an open flame or exposed heating element shall be used within fifty feet of a retail fireworks stand.

(5) Generators which use combustible fuel and which are at least fifty feet from the retail fireworks stand or the temporary fireworks storage structure shall be allowed. Generator fuel shall be limited to not more than five gallons and stored at least fifty feet from all stands.

(6) All electrical wiring shall comply with the state electrical code.

(7) Retail sales of fireworks and other products which are holiday related shall be from buildings used for no other purpose.

NEW SECTION

WAC 212-17-21515 Operation of retail fireworks stands. (1) A clear aisle or walkway not less than twenty-four inches wide shall be maintained inside the full length of the structure.

(2) Sleeping inside a retail fireworks stand or an associated temporary fireworks storage facility is prohibited.

(3) The location of the nearest permanently mounted telephone must be posted inside the retail fireworks stand and persons working in the stand shall be informed of that location.

(4) The local emergency telephone number shall be conspicuously posted inside the retail fireworks stand.

(5) Each retail fireworks stand shall be equipped with two approved, pressurized two-and-one-half gallon water-type fire extinguishers and other fire extinguishers as may reasonably be required by the local authority having jurisdiction.

(6) No open flames nor any type of open flame equipment shall be allowed in any retail fireworks stand.

(7) Retail fireworks stands shall be locked when unoccupied and not open for business if fireworks are kept in the structure during these times. Retail fireworks stands shall never be locked when occupied. The fireworks may be removed and transferred to a temporary storage structure or location approved as a part of the license and permit.

(8) At least one adult person, eighteen years of age or older shall be present at all times in every retail fireworks stand during the hours of sale to the public and shall be responsible for supervision of the retail fireworks stand and its operation. No person under the age of sixteen shall be allowed within a retail fireworks stand when it is open to the public. Customers shall not be allowed inside temporary retail fireworks stands.

(9) Retail fireworks stands may be inspected prior to opening for business and other inspections may occur on other days as warranted but there shall be no additional charge for all such inspections.

(10) The sale of fireworks to persons under the age of sixteen years is prohibited. A sign reading "No sale of fireworks to persons under the age of sixteen years. PHOTO ID REQUIRED" in two-inch block letters shall be conspicuously posted on the front of each retail fireworks stand. Sellers shall require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a state, federal or foreign government. No other forms of identification shall be accepted.

NEW SECTION

WAC 212-17-21521 Temporary fireworks storage associated with the retail fireworks stand operation. (1) Temporary fireworks storage shall be in accordance with this section. Permanent fireworks storage is subject to the Uniform Fire Code and the Uniform Building Code and local ordinances.

(2) Delivery of fireworks to a location, or storage of fireworks in a facility, not authorized by the license and permit is prohibited.

(3) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified herein.

(4) No open flames nor any type of open flame equipment shall be allowed in any temporary fireworks storage structure.

(5) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(6) Fireworks may be stored:

(a) In a locked or secured retail fireworks stand; or

(b) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than fifty feet from the retail fireworks stand during hours of retail sales; or

(c) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than one hundred feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Building Code, current edition; or

(d) In a magazine which meets the minimum standards of Type 4 as prescribed by the Uniform Fire Code, current edition; or

(e) In a locked or secured metal or wooden garage, shed, barn or other accessory building, or anything similar which is not less than one hundred feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Building Code.

(7) The local authority having jurisdiction may reduce the minimum separation requirements of this section provided that safety of life and property is not diminished.

(8) No cooking is permitted in a retail fireworks stand or in a temporary fireworks storage structure.

(9) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on other days as warranted. There shall be no additional charge for all such inspections.

NEW SECTION

WAC 212-17-21519 Cleanup. (1) At the end of the legal selling period, all fireworks must remain in the retail fireworks stand, temporary storage location authorized by the retail permit or another location approved by the local authority having jurisdiction or his or her designee until returned to the suppliers from which they were obtained, or until transferred to an approved location.

(2) Cities and counties may require a clean-up bond, not to exceed five hundred dollars, as a condition of the permit, to ensure the removal of all structures and debris from the site.

(3) In order to obtain return of a clean-up bond, cleanup of debris associated with the retail fireworks activity and the removal of all temporary structures authorized by the license and permit shall be completed no later than 11:59 p.m., July 13 for the Fourth of July selling period or no later than 11:59 p.m., January 8 for the New Year's Eve selling season.

(4) Failure of the licensee to comply with subsection (3) of this section shall constitute forfeiture of the clean-up bond and the licensee shall be liable for any clean-up costs incurred by the city or county which exceed the amount of the bond.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 212-17-190 Retailers of fireworks—Sales dates.
- WAC 212-17-195 Retailers of fireworks—Sales locations.
- WAC 212-17-200 Retailers of fireworks—Safety inspection.
- WAC 212-17-203 Retailers of fireworks—List to be posted.
- WAC 212-17-205 Retailers of fireworks—No smoking signs.
- WAC 212-17-210 Retailers of fireworks—Smoking and discharge of fireworks.
- WAC 212-17-215 Retailers of fireworks—Disposition of unsold stock.

**WSR 97-11-030
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-80—Filed May 14, 1997, 3:55 p.m., effective May 16, 1997, 12:01 a.m.]

Date of Adoption: May 14, 1997.
Purpose: Commercial fishing regulations.
Citation of Existing Rules Affected by this Order:
Repealing WAC 220-88A-07000M; and amending WAC 220-88A-070.
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 harvestable surplus of shrimp in Area 23B will have been harvested by midnight, May 15, 1997. The remaining shrimp are needed for brood stock. The harvest guidelines have been agreed upon under the shellfish management plan of the subproceeding in *United States v. Washington*. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 16, 1997, 12:01 a.m.
May 14, 1997
Dirk Brazil
for Bern Shanks
Director

NEW SECTION

WAC 220-88A-07000N Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. Notwithstanding the provisions of WAC 220-88A-070, effective 12:01 a.m. May 16, 1997 until further notice:

(1) It is unlawful to commercially fish for shrimp with shellfish pot gear in Marine Fish Shellfish Management and Catch Reporting Areas 20B, 23B, 24A, 24B, 24C, 24D, 26A, 26B, 26C, and those waters of Area 22A east of San Juan Island, north of a line projected true east from Cattle Point, west of a line from the Number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, and west of a line projected true north-south through the western tip of Crane Island.

(2) In all waters open to commercial shrimp fishing, it is unlawful to retain spot shrimp taken with shellfish pot gear that have a carapace length less than 30 millimeters. Carapace length is defined as the length between the posterior middorsal margin to the posterior-most part of the eye stalk orbit.

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REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-88A-07000M Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. (97-77)

WSR 97-11-031
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 97-79—Filed May 14, 1997, 3:57 p.m., effective May 18, 1997, 12:01 a.m.]

Date of Adoption: May 14, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Continuation beyond May 17, 1997, would allow fishers to exceed the 19,483 pounds directed-fishery quota established by the International Pacific Halibut Commission and the Pacific Fishery Management Council. The remaining open area allows incidental catch of halibut until the total Catch Area 2 harvest equals 20,483 pounds.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 18, 1997, 12:01 a.m.

May 14, 1997
 Dirk Brazil
 for Bern Shanks
 Director

NEW SECTION

WAC 220-56-25500E Halibut—Season. Notwithstanding the provisions of WAC 220-56-255, effective 12:01 a.m., May 18, 1997, until further notice it is unlawful to fish for or possess halibut taken for personal use from Catch Record Card Area 2 except from those waters inside a line projected due west from the shore at the mouth of the Queets River along 47°31'42"N to 124°40'W, thence due south to 47°N, thence due east to shore at Ocean Shores.

WSR 97-11-041
EMERGENCY RULES
WASHINGTON STATE PATROL

[Filed May 16, 1997, 8:35 a.m.]

Date of Adoption: May 15, 1997.

Purpose: To prescribe uniform state-wide standards for retail fireworks stands under chapter 212-17 WAC, Fireworks. Note: This emergency rule rescinds WSR 97-11-023, filed on May 13, 1997.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 212-17-190, 212-17-195, 212-17-200, 212-17-203, 212-17-205, 212-17-210 and 212-17-215; and amending WAC 212-17-185.

Statutory Authority for Adoption: RCW 70.77.270.

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: SSB 5997 from the 1995 legislature, required the agency to promulgate state-wide standards for fireworks retail stands. The agency has been working for the last two years to get these standards into permanent rule status. During the 1996 July 4th selling season, this agency had promulgated an emergency rule that has since lapsed because of input from the different fire service agencies that stated the rules were not strict enough to ensure public safety. Since then, this agency has been in the process of promulgating a new WAC with the consensus of the fire service and fireworks industry representatives. This process took longer than expected, but was ready to be filed as an emergency rule for this year's July selling season.

With the passage of ESSB 5970 this spring, this agency was forced to amend the proposed WAC to comply with the provisions from this bill. Governor Locke on April 23, 1997, signed this bill and did not leave this agency sufficient time to go back through the committee that had worked on the previous WAC revision. Therefore, the agency put together a WAC revision that ensures public safety based on comments received from the fire service and the Washington Association of Fire Chiefs. It is essential for the preservation of public health and safety during the July fireworks selling season, that these rules be adopted immediately.

By the nature of the contents and the combustible construction used in these stands, this provides a real

potential for an incident to occur. We need these regulations to ensure that they provide the people who work in these stands and the public who visit these stands the best possible protection against injury if an incident were to occur. These standards provide that protection by limiting the possible ignition sources and sets the minimum safety requirements for the workers who will be inside these stands, to assure that in the case of an incident, they have the best chance to escape without any harm to themselves.

A synopsis of changes: WAC 212-17-185, this section sets the fee for the license and permit from the agency in accordance with chapter 70.77 RCW.

WAC 212-17-21503, this section provides consistent definitions used in this WAC that are consistent with the Uniform Building Code and the Uniform Fire Code.

WAC 212-17-21505, this section is the general provisions section that stipulates the state the regulatory function in the construction and use of temporary use of fireworks stands. This also preempts all local authority in these issues.

WAC 212-17-21507, this section regulates the transportation of fireworks to comply with all federal, state and local requirements. It is very important to assure that they transport fireworks in proper containers and are labeled according to the Department of Transportation standards. These labeling standards assist fire departments in identifying vehicles that are carrying fireworks when responding to incidents.

WAC 212-17-21509, this section regulates the distance between other fireworks stands and set back requirements from other hazards. Set back requirements are designed to keep the stands from being a hazard to an adjacent exposure and protect the stand from another exposure. These stands are generally made from wood and other combustible materials and with the contents of fireworks, provide a great fire hazard potential, too [not] only to the stand itself, but also to anything close to the stand.

WAC 212-17-21511, this section regulates the area around the stand. With the obvious nature of the contents of the stand and the combustible construction of the stand, strict requirements are needed to ensure that they reduce the potential of a fire being started from outside the stand and spreading to the stand itself.

WAC 212-17-21513, this section provides the requirements for the stand use and construction. Based on the contents of these stands and the combustible nature of the stand itself, controlling all possible ignition sources within and around the stand is very imperative. By limiting the size of the stand, this ensures that the stand can only store a relative small amount of fireworks in the stand itself. This also reduces the number of workers who will be working in these stands, thus reducing the potential to injury of people during an incident.

WAC 212-17-21515, this section regulates the operation of the stands. This section sets the minimum safety requirements for the operation of the stand. Because of the nature of the contents of the stands and combustible construction, they need strict standards in this area to ensure the safety to the workers inside the stand and the public who will visit these stands. This section also sets the minimum age in which fireworks may be purchased. This age limit was based on information relating to fireworks injuries. This information stated that most fireworks injuries for children

occur between the ages of seven and fifteen. Therefore, the agency set the age limit for purchase at sixteen years of age.

WAC 212-17-21521, this section regulates the temporary storage of fireworks associated with the retail stand. Because the size of the stand limits the total storage of the fireworks, they need temporary storage for the stands. It is very imperative that local jurisdictions know where these storage locations are and they meet that [the] building and fire code regulations for these locations. There have been instances in the past where they stored fireworks in the family vehicle and parked in the family garage or at an apartment building which do not meet [meet] building and fire code regulations for that kind of storage. The local jurisdictions need these requirements to control the storage of fireworks.

WAC 212-17-21519, this section regulates the cleanup of the area where stands are.

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 7, amended 1, repealed 9.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 7, amended 1, repealed 9.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, amended 1, repealed 9.

Number of Sections Adopted using Negotiated Rule Making: New 7, amended 1, repealed 9; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 15, 1997

Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending Order FPS 88-01, filed 3/31/88)

WAC 212-17-185 (~~General~~) **License and permit.** (1) Persons desiring to engage in the business of selling fireworks at retail shall secure a license from the director of the Washington state patrol fire protection bureau.

(2) In addition to the state license, a permit must be obtained from the local governmental officials having jurisdiction.

(a) The application shall be made on forms provided by the director of fire protection and shall be accompanied by the license fee of ~~(ten)~~ forty dollars.

(b) License applications shall be made on or before ~~(June 10)~~ May 1 of the year for which the license is desired.

(c) The director of fire protection shall grant or deny the license within fifteen days of receipt of the application.

~~(Applicants are cautioned to first determine whether a local retail sales permit for fireworks can be obtained.)~~ (3) A retailer's license to sell fireworks shall not authorize the licensee to engage in any other fireworks activity. Retailers are limited to selling only those fireworks which have been

approved for sale to the public and appear on the list of approved fireworks published annually by the director of fire protection. A copy of the list shall be prominently posted at each retail outlet.

NEW SECTION

WAC 212-17-21503 Definitions. (1) "Common fireworks" means those fireworks defined as common fireworks in RCW 70.77.136.

(2) "License" means a license as defined in RCW 70.77.170.

(3) "Magazine" means a structure as defined in Section 214 of the Uniform Building Code.

(4) "Permanent fireworks storage" means the storage of fireworks associated with retail fireworks activities when the period of time of storage is other than or longer than that specified for temporary storage.

(5) "Permanent retail or wholesale structure" means an enclosure or shelter erected for a period of thirty days or more used for the sales, at retail or wholesale, of fireworks of any kind.

(6) "Permanent storage structure" means a building or other structure used to store any fireworks not authorized within the scope of a retail fireworks stand permit.

(7) "Permit" means a permit as defined in RCW 70.77.180.

(8) "Recognized testing laboratory" means a nationally recognized testing laboratory accepted by the state fire marshal.

(9) "Subsequent year" means the year immediately following the calendar year for which a license or permit is issued.

(10) "Temporary fireworks storage" means storage associated with retail fireworks sales and may only be from June 13 through July 31 and from December 12 through January 10 of the subsequent year.

(11) "Temporary retail fireworks stand" means a temporary structure used for the retail sales of common fireworks.

(12) "Temporary storage structure" means a building or other structure used for storage of common fireworks directly related to a retail fireworks stand and authorized within the scope of a retail fireworks stand permit.

(13) "Temporary structure" means an enclosure or shelter erected for a period of less than thirty days and not otherwise defined in the Uniform Fire Code as a tent or canopy.

NEW SECTION

WAC 212-17-21505 General provisions. (1) The state of Washington hereby fully occupies the entire field of regulation relating to the construction and use of temporary structures for the retail sale and storage of fireworks including: The location of and areas surrounding, the operation of and the cleanup after the use of said structures, pursuant to RCW 70.77.270.

(2) The state of Washington hereby preempts the authority of local jurisdictions with respect to the retail sale and associated storage of common fireworks from temporary structures. This rule constitutes the entire and exclusive authority for regulation of all such matters. Subject to the

limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the dates of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased within its boundaries. If a city or county allows the sale of fireworks classified as common fireworks from temporary structures these rules preempt that city's or that county's authority to enact or enforce any other regulations.

(3) Retail sale of fireworks from permanent structures is prohibited.

Exception: Fireworks retail outlets legally in operation in permanent structures and subject to the state building code on April 30, 1997.

(4) The use of temporary structures for the temporary sale or storage of common fireworks are exempt from the Uniform Building Code, the Uniform Fire Code and local ordinances except that where a city or county ordinance regulates the sale or use of fireworks as a part of that city's or that county's building code or fire code, those portions of that city's or that county's building code or fire code which are not in conflict with this rule are not hereby preempted or affected.

(5) Every license issued shall be for the period from January 1 of the year for which the application is made through January 31 of the subsequent year or the remaining portion thereof.

(6) Only Class C common fireworks, obtained from state-licensed wholesalers, not otherwise prohibited by chapter 70.77 RCW or local ordinance, and holiday related products incidental but related to these products, may be sold in retail fireworks stands.

(7) Except as limited by local ordinance, fireworks may be sold and discharged from 12:00 noon on June 28 through 12:00 noon on July 6. Fireworks may not be sold or discharged between the hours of 11:00 p.m. and 9:00 a.m. from June 28 through July 3. Fireworks may not be sold or discharged from 12:00 midnight on July 4 through 9:00 a.m. on July 5. Fireworks may not be sold or discharged from 11:00 p.m. on July 5 through 9:00 a.m. on July 6.

(8) Except as limited by local ordinance, fireworks may be sold and discharged from 6:00 p.m. on December 31 through 1:00 a.m. on January 1 of the subsequent year.

(9) Licensees shall familiarize all persons working in a retail fireworks stand with the provisions of these rules.

(10) The state fire marshal and the local authority having jurisdiction shall comply with the provisions of RCW 43.05.005 in the application of this rule. Failure to comply at any time with the provisions of this rule or any other applicable regulation shall constitute a violation of chapter 70.77 RCW and may result in the immediate revocation of the license or permit, closure of the fireworks sales or storage structure, the seizure of some or all of the fireworks, and other criminal penalties as specified in law.

NEW SECTION

WAC 212-17-21507 Transportation. When transporting fireworks, licensees shall comply with all federal, state and local transportation requirements, provided that, upon request of the licensee, the local authority having jurisdiction may waive or modify the local transportation requirements.

Nothing in these rules shall restrict the right of any person to transport, in a private vehicle, fireworks which have been legally purchased from a retail fireworks licensee.

NEW SECTION

WAC 212-17-21509 Location. (1) Activities or uses subject to this rule shall not be limited in location except where such activities or uses are prohibited or controlled by local development regulation, traffic safety or road construction standards.

(2) Temporary retail fireworks stands shall not be

located more than one hundred feet from a private access way, fire department access road, public road, street or highway as measured by an approved route around the exterior of the stand. The minimum requirements for a private access way shall be determined by the local authority having jurisdiction, but shall not exceed the requirements of the Uniform Fire Code.

(3) Retail fireworks stands shall be at least one hundred feet apart.

(4) Retail fireworks stands shall be located as required by Table 1 in this section. The minimum required area surrounding the stand shall be marked or flagged.

Table 212-17-21509

Retail Fireworks Stands - Minimum Clearances						
	Buildings	Combustibles	Property Line	Parking	Motor Vehicle Traffic PUBLIC WAY*	Motor Vehicle Traffic PRIVATE WAY
BACK OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
SIDE OF STAND	20 FT.	20 FT.	5 FT.	20 FT.	20 FT.	5 FT.
FRONT OF STAND	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.	20 FT.

* Measured from the outer edge of the nearest traffic lane.

(5) Retail fireworks stands shall not be located closer than one hundred feet from any flammable or combustible liquid or gas dispensing device, nor less than three hundred feet from any flammable or combustible liquid or gas bulk storage or dispensing facility.

(6) Each retail fireworks stand must provide adequate parking area for not less than ten customer vehicles.

NEW SECTION

WAC 212-17-21511 Area around the retail fireworks stand. (1) The minimum areas around the retail fireworks stand specified in WAC 212-17-21509 shall be kept free of accumulation of dry grass, dry brush and combustible debris.

(2) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks stand except when delivering, loading or unloading fireworks.

(3) Fireworks shall not be discharged within three hundred feet of a retail fireworks stand. Signs reading "NO FIREWORKS DISCHARGE WITHIN 300 FEET" in letters at least two inches high, with a principal stroke of not less than one-half inch, on contrasting background, shall be conspicuously posted on all four sides of the stand.

(4) No smoking shall be allowed within the retail fireworks stand or within one hundred feet. Signs reading "NO SMOKING WITHIN 100 FEET" in letters at least two inches high, with principal stroke of not less than one-half inch, on a contrasting background, shall be conspicuously posted on all four sides of the stand.

NEW SECTION

WAC 212-17-21513 Stand use and construction. (1) Fireworks may be sold from temporary, stable structures made from wood, metal, fiberglass or other like material.

(a) Temporary retail fireworks stands shall not exceed four hundred square feet in area.

Exception: Temporary retail fireworks stands not exceeding ten feet in width may be up to one hundred feet in length.

(b) Sales from tents, canopies and stands constructed primarily of natural or synthetic cloth or fabric used in conjunction with a stable framework are prohibited.

(c) Any natural or synthetic cloth or fabric used in construction of a retail fireworks stand shall be made from fire retardant material or treated with a fire retardant as identified in the current edition of the Uniform Fire Code.

(2) Each temporary retail fireworks stand must have at least two exits, not less than twenty-eight inches in width, located at opposite ends of the structure. Travel distance to an exit shall not exceed twenty-five feet. Exits must remain unlocked and unobstructed during the hours of operation or when the stand is occupied.

(3) Battery powered equipment, electrical equipment and electrical cords which are used in conjunction with a retail fireworks stand or a temporary storage structure must be listed by a recognized laboratory and used in accordance with that listing.

(4) No heating device of any type shall be allowed within a retail fireworks stand. No heating device with an open flame or exposed heating element shall be used within fifty feet of a retail fireworks stand.

(5) Generators which use combustible fuel and which are at least twenty feet from the retail fireworks stand or the temporary fireworks storage structure shall be allowed. Generator fuel shall be limited to not more than five gallons and stored at least twenty feet from all stands.

(6) All electrical wiring shall comply with the state electrical code.

(7) Retail sales of fireworks and other products which are holiday related shall be from buildings used for no other purpose.

NEW SECTION

WAC 212-17-21515 Operation of retail fireworks stands. (1) A clear aisle or walkway not less than twenty-four inches wide shall be maintained inside the full length of the structure.

(2) Sleeping inside a retail fireworks stand or an associated temporary fireworks storage facility is prohibited.

(3) The location of the nearest permanently mounted telephone must be posted inside the retail fireworks stand and persons working in the stand shall be informed of that location.

(4) The local emergency telephone number shall be conspicuously posted inside the retail fireworks stand.

(5) Each retail fireworks stand shall be equipped with two approved, pressurized two-and-one-half gallon water-type fire extinguishers and other fire extinguishers as may reasonably be required by the local authority having jurisdiction.

(6) No open flames nor any type of open flame equipment shall be allowed in any retail fireworks stand.

(7) Retail fireworks stands shall be locked when unoccupied and not open for business if fireworks are kept in the structure during these times. Retail fireworks stands shall never be locked when occupied. The fireworks may be removed and transferred to a temporary storage structure or location approved as a part of the license and permit.

(8) At least one adult person, eighteen years of age or older shall be present at all times in every retail fireworks stand during the hours of sale to the public and shall be responsible for supervision of the retail fireworks stand and its operation. No person under the age of sixteen shall be allowed within a retail fireworks stand when it is open to the public. Customers shall not be allowed inside temporary retail fireworks stands.

(9) Retail fireworks stands may be inspected prior to opening for business and other inspections may occur on other days as warranted but there shall be no additional charge for all such inspections.

(10) The sale of fireworks to persons under the age of sixteen years is prohibited. A sign reading "No sale of fireworks to persons under the age of sixteen years. PHOTO ID REQUIRED" in two-inch block letters shall be conspicuously posted on the front of each retail fireworks stand. Sellers shall require proof of age by means of display of a driver's license or photo identification card showing date of birth issued by a state, federal or foreign government. No other forms of identification shall be accepted.

NEW SECTION

WAC 212-17-21517 Temporary fireworks storage associated with the retail fireworks stand operation. (1) Temporary fireworks storage shall be in accordance with this section. Permanent fireworks storage is subject to the Uniform Fire Code and the Uniform Building Code and local ordinances.

(2) Delivery of fireworks to a location, or storage of fireworks in a facility, not authorized by the license and permit is prohibited.

(3) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified herein.

(4) No open flames nor any type of open flame equipment shall be allowed in any temporary fireworks storage structure.

(5) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(6) Fireworks may be stored:

(a) In a locked or secured retail fireworks stand; or

(b) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than fifty feet from the retail fireworks stand during hours of retail sales; or

(c) In a locked or secured truck, container, trailer, other vehicle or anything similar which is not less than one hundred feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Building Code, current edition; or

(d) In a magazine which meets the minimum standards of Type 4 as prescribed by the Uniform Fire Code, current edition; or

(e) In a locked or secured metal or wooden garage, shed, barn or other accessory building, or anything similar which is not less than one hundred feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Building Code.

(7) The local authority having jurisdiction may reduce the minimum separation requirements of this section provided that safety of life and property is not diminished.

(8) No cooking is permitted in a retail fireworks stand or in a temporary fireworks storage structure.

(9) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on

other days as warranted. There shall be no additional charge for all such inspections.

NEW SECTION

WAC 212-17-21519 Cleanup. (1) At the end of the legal selling period, all fireworks must remain in the retail fireworks stand, temporary storage location authorized by the retail permit or another location approved by the local authority having jurisdiction or his or her designee until returned to the suppliers from which they were obtained, or until transferred to an approved location.

(2) Cities and counties may require a clean-up bond, not to exceed five hundred dollars, as a condition of the permit, to ensure the removal of all structures and debris from the site.

(3) In order to obtain return of a clean-up bond, cleanup of debris associated with the retail fireworks activity and the removal of all temporary structures authorized by the license and permit shall be completed no later than 11:59 p.m., July 13 for the Fourth of July selling period or no later than 11:59 p.m., January 8 for the New Year's Eve selling season.

(4) Failure of the licensee to comply with subsection (3) of this section shall constitute forfeiture of the clean-up bond and the licensee shall be liable for any clean-up costs incurred by the city or county which exceed the amount of the bond.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 212-17-190 Retailers of fireworks—Sales dates.
- WAC 212-17-195 Retailers of fireworks—Sales locations.
- WAC 212-17-200 Retailers of fireworks—Safety inspection.
- WAC 212-17-203 Retailers of fireworks—List to be posted.
- WAC 212-17-205 Retailers of fireworks—No smoking signs.
- WAC 212-17-210 Retailers of fireworks—Smoking and discharge of fireworks.
- WAC 212-17-215 Retailers of fireworks—Disposition of unsold stock.

**WSR 97-11-045
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-73—Filed May 16, 1997, 4:32 p.m., effective May 19, 1997, 4:00 a.m.]

Date of Adoption: May 13, 1997.
Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-03000K; and amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The latest run size updates indicate that harvestable numbers of shad will be returning, and can be taken without adverse impact on ESA listed stocks or salmonid stocks of concern. This rule is consistent with recommendations of the Columbia River Compact. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 19, 1997, 4:00 a.m.

May 13, 1997
Bern Shanks
Director

NEW SECTION

WAC 220-33-03000K Commercial shad—Columbia River. Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for, or possess shad taken for commercial purposes except as provided for in this section:

FISHING PERIODS

(1) Shad Areas 2S is open daily, 3:00 p.m. to 10:00 p.m. from:

- May 27 - May 30, 1997;
- June 2 - June 6, 1997;
- June 9 - June 13, 1997;
- June 16 - June 20, 1997;
- June 23 - June 27, 1997.

(2) The Camas-Washougal Reef Area is open weekly, 4:00 a.m. Mondays to midnight Fridays from:

- May 19 - May 23, 1997;
- May 27 - May 30, 1997;
- June 2 - June 6, 1997;
- June 9 - June 13, 1997;
- June 16 - June 20, 1997;
- June 23 - June 27, 1997;
- June 30, 1997.

EMERGENCY

GEAR

(3) Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that in Area 2S the net may not exceed 150 fathoms in length nor 40 meshes in depth and that in the Camas-Washougal Reef Area the webbing of the gear may be constructed of mesh having a breaking strength of less than 30 pounds.

GENERAL

(4) During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

REPEALER

The following section of the Washington Administrative code is repealed effective 11:59 p.m. June 30, 1997:

WAC 220-33-03000K Commercial shad—
Columbia River.

**WSR 97-11-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-81—Filed May 16, 1997, 4:35 p.m., effective May 17, 1997, 12:01 a.m.]

Date of Adoption: May 16, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-88A-07000N and 220-88A-08000J; and amending WAC 220-88A-070 and 220-88A-080.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These regulations are necessary to meet harvest allocation and conservation needs for harvestable shrimp populations as identified in state/tribal management agreements. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 17, 1997, 12:01 a.m.

May 16, 1997
Bruce Crawford
for Bern Shanks
Director

NEW SECTION

WAC 220-88A-07000P Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. Notwithstanding the provisions of WAC 220-88A-070, effective 12:01 a.m. May 17, 1997 until further notice:

(1) It is unlawful to commercially fish for shrimp with shellfish pot gear or to possess shrimp taken with commercial pot gear from Marine Fish Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, 23B, 24A, 24B, 24C, 24D, 26A, 26B, and 26C.

(2) Notwithstanding the provisions of WAC 220-88A-070, effective 6:01 p.m. May 20, 1997, until further notice, it is unlawful to commercially fish for shrimp with shellfish pot gear or to possess shrimp taken with commercial pot gear from Marine Fish Shellfish Management and Catch Reporting Area 25A.

(3) In all waters open to commercial shrimp fishing, it is unlawful to retain spot shrimp taken with shellfish pot gear that have a carapace length less than 30 millimeters. Carapace length is defined as the length between the posterior mid-dorsal margin to the posterior-most part of the eye stalk orbit.

NEW SECTION

WAC 220-88A-08000K Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear. Notwithstanding the provisions of WAC 220-88A-080, effective 6:01 p.m. May 18, 1997, until further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes in Puget Sound using shellfish beam trawl gear except as provided for in this section:

(1) **Open** - in Marine Fish Shellfish Management and Catch Reporting Areas 20A, 21A, 22A, 23A, 23B, 23C, and 29, except as provided for in this section.

(2) The following areas are closed to beam trawl gear:

(a) Marine Fish Shellfish Management and Catch Reporting Area 20A is closed through July 15, 1997. Beginning July 16, 1997 open in waters greater than 20 fathoms depth only.

(b) Those waters of Marine Fish Shellfish Management and Catch Reporting Area 21A, south and east of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(c) Those waters of Marine Fish Shellfish Management and Catch Reporting Area 22A east of a line projected true south from Deer Point on Orcas Island to Blakely Island and east of a line projected true south from the southernmost point of Blakely Island to Decatur Island, and east of a line projected true south from the southernmost point of Decatur Island to Lopez Island.

(3) It is unlawful to harvest and retain spot shrimp, or any other species other than Pandalid shrimp.

EMERGENCY

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. May 17, 1997:

WAC 220-88A-07000N Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions (97-80)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. May 18, 1997:

WAC 220-88A-08000J Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. (97-65)

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 21, 1997, 12:01 a.m.

May 20, 1997
Bern Shanks
Director

NEW SECTION

WAC 220-56-25500F Halibut—Season. Notwithstanding the provisions of WAC 220-56-255, effective 12:01 a.m. May 21, 1997, until further notice it is unlawful to fish for or possess halibut taken for personal use from Catch Record Card Area 2, and it is unlawful to land halibut taken for personal use from any open area into Catch Record Card Area 2.

**WSR 97-11-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-82—Filed May 20, 1997, 3:58 p.m., effective May 21, 1997, 12:01 a.m.]

Date of Adoption: May 20, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500E; and amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The 1997 Catch Record Card Area 2 quota, as established by the International Pacific Halibut Commission and the Pacific Fisheries Management Council, has been taken. Landings in coastal ports are under an interport equity to spread recreational opportunity and provide for the economic well-being of the charter industry. Landing limitations will reduce interport conflicts and promote an orderly fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

EMERGENCY

WSR 97-11-005
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD
 [Memorandum—April 22, 1997]

The Public Works Board meeting via conference call scheduled for 8:30 a.m., June 3, 1997, has been changed.

The meeting will be at 8:30 a.m. at the Wyndham Garden Hotel, SeaTac, Washington. Persons wishing to participate and/or monitor the meeting may do so by appearing at the hotel. Agenda items are those noted in the published agenda.

WSR 97-11-006
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
 [Memorandum—May 7, 1997]

The May meeting of WTECB will be held on May 28th and 29th instead of just the 29th.

Thursday and Friday, May 28 and 29, 1997
 (Chief Lechi School, Puyallup)

WSR 97-11-007
NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC
REVITALIZATION BOARD
 [Memorandum—May 6, 1997]

The following schedule of the 1998 regular meetings of the Community Economic Revitalization Board (CERB) is hereby submitted for publication in the Washington State Register:

- January 15, 1998
- March 19, 1998
- May 21, 1998
- July 16, 1998
- September 17, 1998
- November 19, 1998

All CERB meetings will be held on the third Thursday of every other month at Wyndham Garden Hotel, 18118 Pacific Highway South, SeaTac.

In accordance with Executive Order 79-03, the meeting site has been selected to be barrier free to the greatest extent feasible. Braille or taped agenda items for the visually impaired and interpreters for those with hearing impairments will be provided if requested at least ten working days in advance.

Any questions regarding the CERB meetings should [be] sent to Community Economic Revitalization Board, c/o Department of Community, Trade and Economic Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300.

WSR 97-11-012
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
 [Memorandum—May 5, 1997]

BOARD OF TRUSTEES
 NOTICE OF MEETINGS
 TO MEDIA/OTHER

- May 13, 1997* Articulation Council Banquet: EdCC Campus, Culinary Connections, Brier Hall, Room 105, 20122 68th Avenue West, Lynnwood, WA, 5:30-7:30 p.m.
- May 15, 1997 EdCC Board of Trustees Meeting: EdCC Sno-King Building Boardroom 103, 6600 196th Street S.W., Lynnwood, WA, 4:00 p.m.
- May 16, 1997* Salute to the Stars/Distinguished Alumni Event: EdCC Campus, Triton Union Building, Room 202, 20200 68th Avenue West, Lynnwood, WA, 6:00 p.m.
- May 20, 1997* Associated Students' Academic Achievement Awards, EdCC Campus, Triton Union Building, Room 202, 20200 68th Avenue West, Lynnwood, WA, 2:30 p.m.
- May 30, 1997* Employee Recognition Committee Luncheon, EdCC Campus, Triton Union Building, Room 202, 20200 68th Avenue West, Lynnwood, WA, 11:30 a.m. - 1:30 p.m.

* These events are being scheduled as special meetings, which are study sessions where no action will be taken.

WSR 97-11-013
WESTERN WASHINGTON UNIVERSITY
 [Filed May 9, 1997, 4:06 p.m.]

Western Washington University is planning to make changes to chapter 516-56 WAC, University housing and dining, in the Washington Administrative Code during the 1997-98 fiscal year.

Gloria A. McDonald
 Rules Coordinator

WSR 97-11-016
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
 [Memorandum—May 8, 1997]

WASHINGTON STATE
 WORKFORCE TRAINING AND EDUCATION
 COORDINATING BOARD
 MEETING NO. 53
 MAY 28 & 29, 1997

CHIEF LESCHI SCHOOL
 5625 52ND STREET EAST
 PUYALLUP, WA 98371
 (360) 840-3892

MISCELLANEOUS

May 28, 1997, at 1:00 p.m. - 5:00 p.m. and May 29, 1997, at 8:30 a.m. - 12:30 p.m., the Workforce Training and Education Coordinating Board will hold meetings on May 28 and 29, 1997, at the Chief Leschi School, Puyallup, Washington.

The board will take action on: Next year's RFP for work-based learning grants; the regional alliances/state workforce regions map; and allocation of federal vocational education's priority areas for next biennium.

The board will approve interagency agreements on data; adopt policy for consumer reports; adopt standards for its annual report to legislature and for agency program evaluations; and adopt criteria for review of SBCTC 1997-98 plan for retraining dislocated workers.

The board will discuss its perspective on the certificate of mastery and learn about Snohomish County regional workforce development activities.

The board will review and discuss goals and indicators for the school-to-work transition one-stop system and job skills program operating policies for 1997-99.

Beginning at 5:00 p.m., on May 28, 1997, WTECB will tour the Chief Leschi facility, and hold an informal dinner with recipients of 1997 Washington Award for Vocational Excellence scholarships.

The meeting site is barrier free. People needing special accommodations, please call Caroline Haggard at least ten days in advance at (360) 753-5677.

WSR 97-11-024
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Escrow Commission)
[Memorandum—May 12, 1997]

Escrow Commission meeting

2nd Tuesday of odd months (normally):

Washington Interactive Television
Lacey, Lynnwood, Seattle, and Spokane sites

Wednesday, November 12, 1997, 9 a.m. - 12 noon

WSR 97-11-026
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER
[Memorandum—May 12, 1997]

The Washington State Convention and Trade Center's (WSCTC) Affirmative Action Committee will meet on Thursday, May 15, 1997, at 8:30 a.m. in Room 203 of the Convention Center, Seattle, Washington.

The WSCTC Design Committee will meet on Wednesday, May 21, 1997, from 10:00 a.m. - 1:00 p.m. in Room 201 of the Convention Center.

A regular meeting of the WSCTC board of directors will also be held on Wednesday, May 21, 1997, at 1:30 p.m. in Room 211 of the Convention Center.

If you have any questions regarding these meetings, please call 447-5000.

WSR 97-11-027
RULES OF COURT
STATE SUPREME COURT
[May 12, 1997]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO GR 15;) NO. 25700-A-601
CrRLJ 7.2 and 7.3)

The Court Management Council having recommended the adoption of the proposed amendments to GR 15; CrRLJ 7.2 and 7.3, and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendments will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 12th day of May, 1997.

B. Durham

Dolliver, J.

Barbara Madsen

Smith, J.

Alexander, J.

Guy, J.

Talmadge, J.

Johnson, J.

Sanders, J.

GR 15. DESTRUCTION AND OR
SEALING OF COURT RECORDS

(a) **Purpose and Scope of the Rule.** This rule sets forth a uniform procedure for the destruction ~~and or~~ sealing of court files, cases, records, or specified documents or material in a court file or record at all court levels. This rule shall apply to court files, cases, records, documents, or materials in any form or format, including but not limited to hard copy, microfilm, microfiche, and automated information system format. Except as provided by this rule and by RCW 36.23.065, the clerk shall maintain all documents and materials filed with the court, and shall make them available for public examination all files, cases, records, documents, or materials which have not been ordered destroyed or sealed.

(b) **Definition and Construction of Terms.**

(1) **Seal.** To seal means to protect from examination by the public or nonauthorized court personnel. Sealing of a hard copy, microfilm, or microfiche is accomplished by enclosing

MISCELLANEOUS

with a fastening which must be broken before access can be obtained. Sealing of an automated information system file or record is accomplished by restricting access to authorized court personnel only. The existence of a sealed file is available for viewing by the public on court indices, but is limited to the case number, names of the parties, the notation "case sealed", the case type in civil cases and the cause of action or charge in criminal cases. The contents of sealed documents or records within a case are not available for viewing by the public. Sealed files, documents or records may be examined by the public only after the files, documents or records have been ordered unsealed pursuant to section (d) of this rule. A motion or order to expunge, delete, purge, remove, excise, or erase shall be treated as a motion or order to seal.

(2) *Destroy*. To destroy means to ~~remove and physically obliterate a court file, case, document, or material~~ in such a way as to make it permanently ~~irretrievable, unavailable for examination or for use in any court or other proceeding.~~ A motion or order to expunge shall be treated as a motion or order to destroy.

(3) *Strike*. A motion or order to strike is not a motion or order to seal or destroy.

(c) Grounds and Procedure for Requesting the Sealing or Destruction of Court Records.

(1) Criminal Cases or Juvenile Proceedings.

(A) Destruction of Files or Records. On motion of any interested person in a criminal case or juvenile proceeding, or on the court's own motion, and after a hearing, the court may order the files and records in the proceeding, or any part thereof, to be destroyed if the court finds that such action is expressly permitted by statute. Reasonable notice of the hearing shall be given to: (1) the prosecuting authority of the city or county; (2) the affected adult or juvenile defendant; (3) the victim, if ascertainable; and (4) the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile defendant.

(B) Sealing of Files and Records. Subject to the provisions of RCW 4.24 and CR 26(j), on motion of any interested person in a criminal case or juvenile proceeding, or on the court's own motion, and after a hearing, the court may order the files and records in the proceeding, or any part thereof, to be sealed if the court finds that such action is expressly permitted by statute or that there are compelling circumstances requiring such action. Reasonable notice of the hearing shall be given by the moving party to: (1) the prosecuting authority of the city or county; (2) the affected adult or juvenile defendant; (3) the victim, if ascertainable; and (4) the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile defendant.

(2) Civil Cases.

(A) Destruction of Files or Records. After entry of final judgment, no civil case file or any part thereof may be destroyed, except after files have been microfilmed as provided in RCW 36.23.065. Before entry of final judgment, civil case files or parts thereof may be destroyed only if the destruction is expressly permitted by statute.

(B) Sealing of Files or Records. On motion of any party to a civil proceeding, or on the court's own motion, and after reasonable notice to the nonmoving party and a

hearing, the court may order the sealing of any files and records in the proceeding (i) to further an order entered under CR 12(f) or a protective order entered under CR 26(c); or (ii) under compelling circumstances where justice so requires.

(d) Grounds and Procedure for Requesting the Unsealing or Opening of Sealed Records.

(1) *Criminal Cases or Juvenile Proceedings*. After the entry of an order to seal all or part of a court file in a criminal or juvenile proceeding, the records sealed shall be ordered unsealed ~~opened~~ only upon proof of compelling circumstances, unless otherwise provided by statute, and only upon motion and written notice to the persons entitled to notice under subsection (c)(1) of this rule.

(2) *Civil Cases*. After the entry of an order to seal all or part of a court file in a civil proceeding, the records sealed shall be ordered unsealed ~~opened~~ only upon stipulation of all parties or upon motion and written notice to all parties and proof of compelling circumstances, or pursuant to RCW 4.24 or CR 26(j).

(3) *Juvenile Proceedings*. After the entry of an order to seal all or part of a court file in a juvenile proceeding, inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the record, except as otherwise provided in RCW 13.50.010 (8) and (24). Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order, pursuant to RCW 13.50.050(15).

(e) Clerk's Duties Upon the Filing of an Order to Destroy or Seal. Upon the receipt of an order to destroy or seal signed by the court, the clerk shall take the following action:

(1) *Destruction of Entire File*. Upon receipt of a court order ~~For~~ to destroy the whole entire file under the primary control of the clerk, the clerk shall:

(A) ~~Delete~~ Destroy all references to the file from SCOMIS or other any applicable automated information systems docket and all entries except the case number and substitute the words "File Destroyed"; and

(B) ~~Remove and d~~Destroy all documents in the entire contents of the file, in whatever media they may be stored, except for the order to destroy.

(2) *Sealing of Entire File*. Upon receipt of a court order ~~For~~ orders to seal the whole entire file under the primary control of the clerk, the clerk shall:

(A) ~~Delete all references to the file from SCOMIS or other applicable docket systems and delete all entries except the case number, the names of the parties, and the addresses of the parties or their attorneys, and substitute the words "File Sealed";~~ Mark the automated file "Sealed".

(B) ~~Make a copy of all automated docket and other records and place them in the case file~~ Mark the file "Sealed" and secure it and all subsequently filed documents from public access; and

(C) Seal the entire file, including but not limited to all pleadings, papers, depositions, exhibits, and court reporter's notes and minute entries, except for the order to seal.

(3) *Destruction of Specified Documents*. For orders Upon receipt of a court order to destroy specified documents or materials within a file under the primary control of the clerk, the clerk shall:

(A) On the automated ~~or other~~ docket destroy any docket code information except any document or subdocument number previously assigned to the document destroyed and enter substitute "Ordered Destroyed" for the docket entry, leaving only the date and number of the original documents or material;

(B) ~~Remove and d~~Destroy the appropriate documents or material in whatever media they may be stored from the file, substituting, when applicable, a printed or other reference to the order to destroy, including the date, location, and document number of the order to destroy; and

(C) File the order to destroy.

(4) Sealing of Specified Documents. ~~For orders~~ Upon receipt of a court order to seal specified documents or material within a file under the primary control of the clerk, the clerk shall:

(A) On the automated ~~or other~~ docket, preserve the docket code, document title, document or subdocument number and date substitute "Ordered Sealed" for the docket entry, leaving only the date and number of the original documents or material;

(B) Remove the documents or material from the file, seal them, and return them to the file under seal or store separately, substituting a filler sheet for the removed sealed document. In the event the document ordered sealed exists in a microfilm, microfiche or other storage medium, the clerk shall limit access to the alternate storage medium so as to prevent unauthorized viewing of the sealed document; and

(C) File the order to seal.

(D) If the file is made available for examination, the clerk shall prevent access to ~~remove~~ the sealed records from the file before the rest of the file is made available and replace the sealed records immediately after the examination.

(f) Microfilming of Sealed Records. Sealed records may be microfilmed as provided in RCW 36.23.065 and such microfilm shall be maintained in accordance with this rule.

(g) Trial Exhibits. Notwithstanding any other provision of this rule, trial exhibits may be destroyed or returned to the parties if all parties so stipulate in writing and the court so orders.

(h) Use of Sealed Records on Appeal. A file, or any portion of it, sealed in the trial court shall be made available to the appellate court in the event of an appeal. Cases sealed in the trial court shall be sealed from public access in the appellate court subject to further order of the appellate court.

(i) Effect on Other Statutes. Nothing in this rule is intended to restrict or to expand the authority of clerks under existing statutes, nor is anything in this rule intended to restrict or expand the authority of any public auditor in the exercise of duties conferred by statute.

[Adopted effective September 22, 1989; amended effective September 1, 1995.]

Proposed Amendment

CrRLJ 7.2 (d), (e)

(d) Record. A record of the sentencing proceedings shall be made. The sentencing and judgment records of the courts of limited jurisdiction shall be preserved in perpetuity, either in an electronic or hard copy format. "Hard copy format" may include microfilm, microfiche, or a paper copy.

The Record of the sentencing proceedings shall be prima facie evidence of a valid conviction in subsequent proceedings in courts of limited jurisdiction and in superior court.

(e) Judgment and Sentence.

(1) An electronic judgment and sentence shall be prescribed by the Administrator for the Courts in conjunction with the Judicial Information System Committee (JISC).

(2) A non-electronic judgment and sentence form shall be prescribed by the Administrator for the Courts in conjunction with the Supreme Court Pattern Forms Committee.

(3) Notwithstanding any other statute or rule to the contrary, each judgment and sentence form, either electronic or hard copy, shall be preserved by the court in perpetuity.

Proposed Amendment

CrRLJ 7.3 JUDGMENT

A judgment of conviction shall set forth whether the defendant was represented by a lawyer or waived representation by a lawyer, the plea, the verdict or findings, and the adjudication and sentence. The court may order that its sentence include special conditions or requirements, including a specified schedule for the payment of a fine, restitution, or other costs, or the performance of community service. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judge or clerk shall enter the judgment on the record. The judgment and record of the sentencing proceedings of the courts of limited jurisdiction shall be preserved in perpetuity, either in an electronic or hard copy format. "Hard copy format" may include microfilm, microfiche, or a paper copy. At a minimum, the judgment and record of the sentencing proceedings shall include:

(a) Defendant's name;

(b) Defendant's ID numbers;

(c) The charge, as well as any amendments to the original charge;

(d) Arraignment date;

(e) The plea, and date entered;

(f) Representation by or waiver of lawyer, as well as date of lawyer's appearance or waiver;

(g) The parties present, including but not limited to the judge, attorneys, prosecutor, defense counsel, witnesses;

(h) Verdict or findings, and the date entered;

(i) Adjudication and sentence, and the date entered;

(j) Conditions or requirements of the sentence, including but not limited to a specified schedule for the payment of a fine, restitution, or other costs, performance of community service, counseling or treatment;

(k) The outcomes of any hearings held on the case, including but not limited to noncompliance hearings, reviews.

The judgment and record of the sentencing proceedings shall be prima facie evidence of a valid conviction in subsequent proceedings in courts of limited jurisdiction and in superior court.

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

WSR 97-11-029
NOTICE OF PUBLIC MEETINGS
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES

(Adult Education Advisory Council)
 [Memorandum—May 14, 1997]

Madison Family Involvement Center
 312 South 43rd Street, Tacoma
 May 27, 1997
 8:30 a.m. - 4:00 p.m.

WSR 97-11-032
NOTICE OF PUBLIC MEETINGS
HEALTH CARE POLICY BOARD

[Memorandum—May 15, 1997]

MEETING CANCELLATION NOTICE

The Health Care Policy Board meetings scheduled for Thursday, May 15, 5:30 - 8:30 p.m. and June 19, 1997, 9:00 a.m. are **cancelled**.

Please note that the Health Care Policy Board plans to hold one final meeting in June (date to be announced). No subsequent meetings will be held thereafter. If you have questions, please call Jessie Brunswig at (360) 407-0152, or FAX (360) 407-0069.

WSR 97-11-034
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH

(Chiropractic Commission)
 [Memorandum—May 13, 1997]

Chiropractic Commission Meeting

June 12, 1997 Howard Johnson's, Everett
 This meeting has been cancelled.

June 5, 1997 WestCoast Sea-Tac Hotel, Seattle
 This meeting will substitute for the June 12th meeting.

WSR 97-11-035
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed May 15, 1997, 4:15 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Employee Professional License/Continuing Education Reimbursement J01.02.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This revises the current division policy. The policy establishes division standards for reimbursement to the employee of fees/costs for maintaining their professional license.

Effective Date: May 14, 1997.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 664-3908.

WSR 97-11-036
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH

[Filed May 15, 1997, 4:16 p.m.]

NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

Title: May an RN delegate the health task of double-checking the dose of a self-drawn (syringe) of insulin by a student to unlicensed school staff?

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject: The commission issued an advisory opinion in response to the request from Becky Deeter, RN, MN, School Nurse.

Effective Date: April 25, 1997.

Contact Person: Jeanne E. Vincent, RN, MS, Associate Nurse Practice Manager, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 664-2881.

WSR 97-11-037
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed May 15, 1997, 4:17 p.m.]

NOTICE OF ADOPTION OF POLICY

Title of Policy: Adequacy Responses for Group A Water Systems (J.26).

Effective Date: Revision: February 21, 1997.

Issuing Agency/Division: Department of Health, Environmental Health Programs, Division of Drinking Water.

Description: The state Growth Management Act directs local governments to verify the adequacy of water systems prior to issuing building permits (RCW 19.27.097). To accomplish this directive, local governments contact the Department of Health to determine the ability of an existing water system to serve new construction. The Department of Health has adopted regulations which provide annual operating permits that identify the adequacy of the water system (chapter 246-294 WAC). This policy sets out a standardized process for responding to such requests related to water system status, based on operating permit criteria adopted in WAC 246-294-040.

Contact: Judy J. Welch, Division of Drinking Water, Headquarters, P.O. Box 47822, Olympia, WA 98504-7822, phone (360) 664-8770, Internet jjw0303@hub.doh.wa.gov.

WSR 97-11-042
POLICY AND INTERPRETIVE STATEMENT
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed May 16, 1997, 9:25 a.m.]

(360) 902-5003

Ron Gray
 Insurance Services Policy Council

Following is the departments Policy and Interpretive Statement report for the month of April 1997.

POLICY AND INTERPRETIVE STATEMENT

Consultation and Compliance

WISHA Interim Operations Memorandum #97-4-A, "Delivery of Citations to Legal Employers," provides guidance to WISHA staff in the field and in central office regarding their respective responsibilities.

Contact: Teri Neely
 Mailstop 4648
 (360) 902-5503

Michael Silverstein
 Assistant Director

WISHA Interim Operations Memorandum #97-4-B, "Programmed Inspections Under WISHA," provides guidance to WISHA compliance supervisors and inspectors regarding programmed inspections. This memorandum also incorporates the substance of WISHA Interim Operations Memorandum #96-2-D, which is hereby rescinded.

Contact: Teri Neely
 Mailstop 4648
 (360) 902-5503

Michael Silverstein
 Assistant Director

WISHA Interim Operations Memorandum #97-4-C, "Consultation Targeting Using SHIMS," provides guidance to WISHA staff regarding consultation targeting and related activities.

Contact: Teri Neely
 Mailstop 4648
 (360) 902-5503

Michael Silverstein
 Assistant Director

WISHA Interim Operations Memorandum #97-4-D, "Consultation Assessment of Safety and Health Programs," supersedes the language regarding employer size found in Section IX-C.6 of the WISHA Consultation Manual.

Contact: Teri Neely
 Mailstop 4648
 (360) 902-5503

Michael Silverstein
 Assistant Director

Insurance Services

Insurance Services Policy Number 4.42 Establishing wages for sole proprietors, corporate officers and partners. This policy provides guidance to claim management staff when establishing wages for sole proprietors, corporate officers and partners for the purpose of paying time loss and/or loss of earning power benefits.

Contact: Linda Norris
 Mailstop 4311

Insurance Services Policy Number 5.91 Time loss compensation and voluntary retirement. This policy provides guidance to claim management staff for payment of time loss compensation to workers who have voluntarily retired from the workplace.

Contact: Linda Norris
 Mailstop 4311
 (360) 902-5003

Ron Gray
 Insurance Services Policy Council

Insurance Services Policy Number 7.13 Authorizing obesity treatment. This policy provides guidance to claim management staff for approving obesity treatment for workers whose obesity is retarding recovery from an industrial injury or occupational disease.

Contact: Linda Norris
 Mailstop 4311
 (360) 902-5003

Ron Gray
 Insurance Services Policy Council

Insurance Services Policy Number 10.30 Authorizing and paying for interpretive services. This policy provides guidance to claim management staff when approving interpretive services for workers who because of limited English speaking ability or sensory impairment, need an interpreter to communicate with medical or vocational service providers.

Contact: Linda Norris
 Mailstop 4311
 (360) 902-5003

Ron Gray
 Insurance Services Policy Council

Insurance Services Policy Number 15.91 Pension benefits and voluntary retirement. Provides guidance to pension adjudication staff when determining pension eligibility for a worker who has voluntarily retired from the workforce.

Contact: Linda Norris
 Mailstop 4311
 (360) 902-5003

Ron Gray
 Insurance Services Policy Council

Insurance Services Policy Number 30.10 Transcutaneous Electrical Nerve Stimulator (TENS) contract. Provides guidance to department staff for approving TENS when prescribed by a physician to alleviate or control acute pain.

Contact: Linda Norris
 Mailstop 4311
 (360) 902-5003

Ron Gray
 Insurance Services Policy Council

Insurance Services Policy Number 60.01 Handling cash. This policy provides guidance to employer services staff when they receive or discover cash.

Contact: Linda Norris
Mailstop 4311
(360) 902-5003

Ron Gray
Insurance Services Policy Council

Insurance Services Policy Number 64.90 Qualifications for drug-free workplace discount. This policy provides guidance to department staff for implementing administrative code that sets forth the qualification for receiving the drug-free workplace discount.

Contact: Linda Norris
Mailstop 4311
(360) 902-5003

Ron Gray
Insurance Services Policy Council

Insurance Services Policy Number 64.91 Application for drug-free workplace discount. This policy provides guidance to department staff for implementing administrative code that sets forth the application of the drug-free workplace discount.

Contact: Linda Norris
Mailstop 4311
(360) 902-5003

Ron Gray
Insurance Services Policy Council

Insurance Services Policy Number 64.92 Enrollment deadline for drug-free workplace discount. This policy provides guidance to department staff for implementing administrative code that sets forth the deadline for participation in the drug-free workplace discount program.

Contact: Linda Norris
Mailstop 4311
(360) 902-5003

Ron Gray
Insurance Services Policy Council

Insurance Services Policy Number 64.93 Maximum premium discount for drug-free workplace discount. This policy provides guidance to department staff for implementing the maximum premium discount for the drug-free workplace discount program.

Contact: Linda Norris
Mailstop 4311
(360) 902-5003

Ron Gray
Insurance Services Policy Council
Marie Myerchin-Redifer
Rules Coordinator

WSR 97-11-047
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
[Memorandum—May 12, 1997]

Please note that the upcoming June meeting will be held on June 24 at the Spokane Center as shown on the schedule below.

BOARD OF TRUSTEES

1997 Meeting Schedule

Friday, January 24, 9:00 a.m., Pence Union Building, Banquet Room 265

Friday, February 28, 9:00 a.m., Spokane Center, Second Floor Mall

Friday, April 4, 9:00 a.m., Pence Union Building, Banquet Room 265

Friday, May 23, 9:00 a.m., Spokane Center, Second Floor Mall

Tuesday, June 24, 9:00 a.m., Spokane Center, Second Floor Mall*

Friday, July 25, 9:00 a.m., Spokane Center, Second Floor Mall

Friday, September 26, 9:00 a.m., Pence Union Building, Banquet Room 265

Friday, October 24, 9:00 a.m., Spokane Center, Second Floor Mall

Friday, December 5, 9:00 a.m., Pence Union Building, Banquet Room 265

Board meetings are the fourth Friday of the month, with the exception of the combination of the March/April meeting and the November/December meeting; no meeting in August.

***Changed at the April 4 Board Meeting**

BOARD OF TRUSTEES

May 23, 1997, 9:00 a.m.
Spokane Center
Second Floor Mall

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the Spokane Center Board Room.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, (509) 359-2371.

WSR 97-11-048
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD
[Memorandum—May 12, 1997]

MEETING NOTICE

July 17 and 18, 1997
Kittitas County Courthouse
205 West 5th, Room 1110
Ellensburg, WA 98926
1:00 p.m. to 5:00 p.m.

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

MISCELLANEOUS

WSR 97-11-056
NOTICE OF PUBLIC MEETINGS
COMMISSION ON
HISPANIC AFFAIRS
 [Memorandum—May 20, 1997]

Please accept this letter as notice of a change in the regular meeting schedule of the Commission of Hispanic Affairs. Our next meeting was originally scheduled for the weekend of June 14th. The new dates are June 20th and 21st.

The public is invited [to] participate at this meeting. An agenda can be obtained by calling the commission office at (360) 753-3159. Any questions regarding the meeting, or requests for special accommodations should be directed to Geraldine Calvo, Executive Director.

WSR 97-11-062
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF HEALTH
 (Board of Hearing and Speech)
 [Memorandum—May 19, 1997]

The Board of Hearing and Speech has canceled the June 20, 1997, public board meeting in Yakima, Washington.

Currently the rest of the public board meetings for 1997 will remain the same.

WSR 97-11-067
DEPARTMENT OF ECOLOGY
 [Filed May 21, 1997, 10:05 a.m.]

NOTICE OF PUBLIC HEARING
 Washington State Implementation Plan (SIP)
 Thurston County PM₁₀ Redesignation
 Request and Maintenance Plan
 June 24, 1997

The Washington State Department of Ecology will be conducting a public hearing at the Olympic Air Pollution Control Authority (OAPCA), 909 Sleater-Kinney Road S.E., Suite 1, Lacey, WA, on Tuesday, June 24, 1997, at 7:00 p.m.

The purpose of the hearing will be to receive comments on submitting the Thurston County PM₁₀ maintenance plan to the Environmental Protection Agency (EPA) as a state implementation plan (SIP) update.

The plan projects that Thurston County will maintain the national ambient air quality standards through the year 2010. Accompanying the submittal will be a request that EPA redesignate the Thurston County to attainment, signifying that the area is now a "clean air community."

Interested persons may provide written or oral comments at the hearing. Written comments will be considered if postmarked no later than June 24, 1997, and should be sent to Cathy Hubbard, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

For a list of locations where a copy of the draft documents can be reviewed, please contact Lydia Cabeza at (360) 407-6860.

For information on the contents of the draft documents, please contact Cathy Hubbard, Department of Ecology, (360) 407-6890.

Ecology is an equal opportunity and affirmative action employer. If you have special accommodation needs, please call Lydia Cabeza at (360) 407-6860 (voice) or (360) 407-6006 (TDD only).

WSR 97-11-073
NOTICE OF PUBLIC MEETINGS
FOREST PRACTICES BOARD
 [Memorandum—May 14, 1997]

Notice of Special Meeting

The Forest Practices Board will hold a special meeting on July 10, 1997, at 9 a.m. in Room 172 of the Natural Resources Building, Olympia. The board will consider adopting a permanent marbled murrelet rule and readopting a water type emergency rule. The board will discuss negotiated and pilot rule making and will hear presentations on water quality and the rate of harvest. An executive session may also 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 Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, FAX (360) 902-1784.

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 97-14
- 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.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-08-031	AMD-P	97-08-086	16-324-402	NEW	97-11-028	16-324-660	REP-P	97-07-075
16-08-141	AMD-P	97-08-086	16-324-409	NEW-P	97-07-075	16-324-660	REP	97-11-028
16-08-171	AMD-P	97-08-086	16-324-409	NEW	97-11-028	16-324-670	REP-P	97-07-075
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16-324-396	NEW	97-11-028	16-324-605	REP-P	97-07-075	16-573-030	NEW-P	97-11-084
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132V-12-231	REP-P	97-03-128	132V-12-338	REP	97-07-048	137-55-050	NEW	97-03-041
132V-12-231	REP	97-07-048	132V-12-341	REP-P	97-03-128	137-55-060	NEW	97-03-041
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132V-12-234	REP	97-07-048	132V-12-344	REP-P	97-03-128	172-120-020	AMD	97-06-095
132V-12-237	REP-P	97-03-128	132V-12-344	REP	97-07-048	172-120-030	AMD	97-06-095
132V-12-237	REP	97-07-048	132V-12-347	REP-P	97-03-128	172-120-040	AMD	97-06-095
132V-12-240	REP-P	97-03-128	132V-12-347	REP	97-07-048	172-120-050	AMD	97-06-095
132V-12-240	REP	97-07-048	132V-12-350	REP-P	97-03-128	172-120-060	AMD	97-06-095
132V-12-243	REP-P	97-03-128	132V-12-350	REP	97-07-048	172-120-070	AMD	97-06-095
132V-12-243	REP	97-07-048	132V-12-353	REP-P	97-03-128	172-120-080	AMD	97-06-095
132V-12-246	REP-P	97-03-128	132V-12-353	REP	97-07-048	172-120-090	AMD	97-06-095
132V-12-246	REP	97-07-048	132V-12-356	REP-P	97-03-128	172-120-100	AMD	97-06-095
132V-12-249	REP-P	97-03-128	132V-12-356	REP	97-07-048	172-120-110	AMD	97-06-095
132V-12-249	REP	97-07-048	132V-12-359	REP-P	97-03-128	172-120-120	AMD	97-06-095
132V-12-252	REP-P	97-03-128	132V-12-359	REP	97-07-048	172-120-130	AMD	97-06-095
132V-12-252	REP	97-07-048	132V-12-362	REP-P	97-03-128	172-120-140	AMD	97-06-095
132V-12-255	REP-P	97-03-128	132V-12-362	REP	97-07-048	172-120-150	REP	97-06-095
132V-12-255	REP	97-07-048	132V-12-365	REP-P	97-03-128	173-22	AMD-C	97-03-129
132V-12-258	REP-P	97-03-128	132V-12-365	REP	97-07-048	173-22	AMD	97-04-076
132V-12-258	REP	97-07-048	132V-12-368	REP-P	97-03-128	173-22-015	REP	97-04-076
132V-12-261	REP-P	97-03-128	132V-12-368	REP	97-07-048	173-22-030	AMD	97-04-076
132V-12-261	REP	97-07-048	132V-12-371	REP-P	97-03-128	173-22-035	NEW	97-04-076
132V-12-264	REP-P	97-03-128	132V-12-371	REP	97-07-048	173-22-040	AMD	97-04-076
132V-12-264	REP	97-07-048	132V-12-374	REP-P	97-03-128	173-22-070	AMD	97-04-076
132V-12-267	REP-P	97-03-128	132V-12-374	REP	97-07-048	173-22-080	NEW	97-04-076
132V-12-267	REP	97-07-048	132V-12-377	REP-P	97-03-128	173-152-010	NEW-E	97-10-091
132V-12-270	REP-P	97-03-128	132V-12-377	REP	97-07-048	173-152-020	NEW-E	97-10-091
132V-12-270	REP	97-07-048	132V-12-380	REP-P	97-03-128	173-152-030	NEW-E	97-10-091
132V-12-273	REP-P	97-03-128	132V-12-380	REP	97-07-048	173-152-040	NEW-E	97-10-091
132V-12-273	REP	97-07-048	132V-12-383	REP-P	97-03-128	173-152-050	NEW-E	97-10-091
132V-12-276	REP-P	97-03-128	132V-12-383	REP	97-07-048	173-160	PREP	97-10-093
132V-12-276	REP	97-07-048	132V-12-386	REP-P	97-03-128	173-162	PREP	97-10-093
132V-12-279	REP-P	97-03-128	132V-12-386	REP	97-07-048	173-202-020	AMD-E	97-05-039
132V-12-279	REP	97-07-048	132V-12-389	REP-P	97-03-128	173-202-020	PREP	97-08-038
132V-12-281	REP-P	97-03-128	132V-12-389	REP	97-07-048	173-303	PREP	97-04-062
132V-12-281	REP	97-07-048	132V-12-392	REP-P	97-03-128	173-401-735	AMD-P	97-04-061
132V-12-284	REP-P	97-03-128	132V-12-392	REP	97-07-048	173-401-735	AMD	97-08-084
132V-12-284	REP	97-07-048	132V-12-398	REP-P	97-03-128	173-430-040	AMD	97-03-021
132V-12-287	REP-P	97-03-128	132V-12-398	REP	97-07-048	173-490	PREP	97-09-018
132V-12-287	REP	97-07-048	132V-12-401	REP-P	97-03-128	173-491	PREP	97-09-018
132V-12-290	REP-P	97-03-128	132V-12-401	REP	97-07-048	173-491-020	AMD	97-04-012
132V-12-290	REP	97-07-048	132V-12-404	REP-P	97-03-128	173-491-040	AMD	97-04-012
132V-12-293	REP-P	97-03-128	132V-12-404	REP	97-07-048	173-491-050	AMD	97-04-012
132V-12-293	REP	97-07-048	132V-12-407	REP-P	97-03-128	174-116	PREP	97-05-044
132V-12-296	REP-P	97-03-128	132V-12-407	REP	97-07-048	174-122	PREP	97-05-044
132V-12-296	REP	97-07-048	132V-12-410	REP-P	97-03-128	174-122-010	REP-P	97-09-084
132V-12-299	REP-P	97-03-128	132V-12-410	REP	97-07-048	174-122-020	REP-P	97-09-084
132V-12-299	REP	97-07-048	132V-12-413	REP-P	97-03-128	174-122-030	REP-P	97-09-084
132V-12-302	REP-P	97-03-128	132V-12-413	REP	97-07-048	174-122-040	REP-P	97-09-084
132V-12-302	REP	97-07-048	132V-12-416	REP-P	97-03-128	174-130	PREP	97-05-044
132V-12-305	REP-P	97-03-128	132V-12-416	REP	97-07-048	174-130-010	REP-P	97-09-084
132V-12-305	REP	97-07-048	132V-12-419	REP-P	97-03-128	174-130-020	REP-P	97-09-084
132V-12-308	REP-P	97-03-128	132V-12-419	REP	97-07-048	174-133	PREP	97-05-044
132V-12-308	REP	97-07-048	132V-12-422	REP-P	97-03-128	174-133-020	AMD-P	97-09-084
132V-12-311	REP-P	97-03-128	132V-12-422	REP	97-07-048	174-140	PREP	97-05-044
132V-12-311	REP	97-07-048	132V-12-425	REP-P	97-03-128	174-140-010	NEW-P	97-09-084
132V-12-314	REP-P	97-03-128	132V-12-425	REP	97-07-048	174-140-180	REP-P	97-09-084
132V-12-314	REP	97-07-048	132V-12-428	REP-P	97-03-128	174-140-190	REP-P	97-09-084
132V-12-317	REP-P	97-03-128	132V-12-428	REP	97-07-048	174-140-200	REP-P	97-09-084
132V-12-317	REP	97-07-048	132V-12-431	REP-P	97-03-128	174-140-210	REP-P	97-09-084
132V-12-320	REP-P	97-03-128	132V-12-431	REP	97-07-048	174-140-220	REP-P	97-09-084
132V-12-320	REP	97-07-048	132V-12-434	REP-P	97-03-128	174-140-230	REP-P	97-09-084
132V-12-323	REP-P	97-03-128	132V-12-434	REP	97-07-048	174-140-240	REP-P	97-09-084
132V-12-323	REP	97-07-048	136-130-060	AMD	97-06-006	174-276	PREP	97-05-044
132V-12-326	REP-P	97-03-128	137-28-140	AMD	97-03-041	174-276	AMD-P	97-09-084
132V-12-326	REP	97-07-048	137-28-160	AMD	97-03-041	174-276-005	NEW-P	97-09-084
132V-12-329	REP-P	97-03-128	137-28-220	AMD	97-03-041	174-276-010	AMD-P	97-09-084
132V-12-329	REP	97-07-048	137-28-260	AMD	97-03-041	174-276-040	AMD-P	97-09-084
132V-12-332	REP-P	97-03-128	137-28-350	AMD	97-03-041	174-276-050	AMD-P	97-09-084
132V-12-332	REP	97-07-048	137-55-010	NEW	97-03-041	174-276-060	AMD-P	97-09-084

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
174-276-080	AMD-P	97-09-084	180-78-217	RECOD	97-04-081	180-79-075	REP	97-04-088
174-276-090	AMD-P	97-09-084	180-78-235	AMD	97-04-081	180-79-080	REP	97-04-088
174-276-095	NEW-P	97-09-084	180-78-237	RECOD	97-04-081	180-79-086	REP	97-04-088
180-16	PREP	97-10-014	180-78-285	AMD	97-04-081	180-79-115	REP	97-04-088
180-16-221	AMD	97-04-083	180-78A	PREP	97-10-007	180-79-117	REP	97-04-088
180-16-222	AMD	97-04-083	180-78A	PREP	97-10-013	180-79-120	REP	97-04-088
180-16-223	REP	97-04-083	180-78A-003	NEW	97-04-084	180-79-121	REP	97-04-088
180-16-224	REP	97-04-083	180-78A-004	NEW	97-04-084	180-79-122	REP	97-04-088
180-16-236	PREP	97-10-008	180-78A-005	NEW	97-04-084	180-79-123	REP	97-04-088
180-24	PREP	97-09-032	180-78A-006	NEW	97-04-084	180-79-124	REP	97-04-088
180-27-056	PREP	97-09-115	180-78A-007	NEW	97-04-084	180-79-125	REP	97-04-088
180-33-025	PREP	97-09-116	180-78A-010	NEW	97-04-084	180-79-126	REP	97-04-088
180-40-260	AMD-P	97-04-067	180-78A-010	PREP	97-10-006	180-79-127	REP	97-04-088
180-40-260	AMD	97-08-019	180-78A-012	NEW	97-04-084	180-79-128	REP	97-04-088
180-40-310	AMD-P	97-04-067	180-78A-015	NEW	97-04-084	180-79-131	DECOD	97-04-081
180-40-310	AMD	97-08-019	180-78A-025	NEW	97-04-084	180-79-136	DECOD	97-04-081
180-51-050	AMD-P	97-04-066	180-78A-026	NEW	97-04-084	180-79-140	DECOD	97-04-081
180-51-050	AMD	97-08-020	180-78A-028	NEW	97-04-084	180-79-230	REP	97-04-088
180-75-003	REP	97-04-088	180-78A-030	NEW	97-04-084	180-79-236	REP	97-04-088
180-75-005	REP	97-04-088	180-78A-033	NEW	97-04-084	180-79-241	REP	97-04-088
180-75-016	REP	97-04-088	180-78A-037	NEW	97-04-084	180-79-245	REP	97-04-088
180-75-017	REP	97-04-088	180-78A-047	NEW	97-04-084	180-79-247	REP	97-04-088
180-75-045	REP	97-04-088	180-78A-057	NEW	97-04-084	180-79-300	REP	97-04-088
180-75-047	REP	97-04-088	180-78A-060	NEW	97-04-084	180-79-303	REP	97-04-088
180-75-048	REP	97-04-088	180-78A-063	NEW	97-04-084	180-79-305	REP	97-04-088
180-75-050	REP	97-04-088	180-78A-065	NEW	97-04-084	180-79-305	REP	97-04-088
180-75-055	REP	97-04-088	180-78A-068	NEW	97-04-084	180-79-311	REP	97-04-088
180-75-060	REP	97-04-088	180-78A-073	NEW	97-04-084	180-79-312	REP	97-04-088
180-75-061	REP	97-04-088	180-78A-074	NEW	97-04-084	180-79-315	REP	97-04-088
180-75-065	REP	97-04-088	180-78A-075	NEW	97-04-084	180-79-317	REP	97-04-088
180-75-070	REP	97-04-088	180-78A-080	NEW	97-04-084	180-79-320	REP	97-04-088
180-75-081	DECOD	97-04-082	180-78A-080	NEW	97-04-084	180-79-322	REP	97-04-088
180-75-082	REP	97-04-088	180-78A-135	NEW	97-04-084	180-79-324	REP	97-04-088
180-75-083	DECOD	97-04-082	180-78A-140	NEW	97-04-084	180-79-326	REP	97-04-088
180-75-085	REP	97-04-088	180-78A-142	NEW	97-04-084	180-79-328	REP	97-04-088
180-75-087	REP	97-04-088	180-78A-145	NEW	97-04-084	180-79-330	REP	97-04-088
180-75-088	REP	97-04-088	180-78A-150	NEW	97-04-084	180-79-332	REP	97-04-088
180-75-089	REP	97-04-088	180-78A-155	NEW	97-04-084	180-79-333	REP	97-04-088
180-75-090	REP	97-04-088	180-78A-160	NEW	97-04-084	180-79-334	REP	97-04-088
180-75-091	REP	97-04-088	180-78A-165	NEW	97-04-084	180-79-336	REP	97-04-088
180-75-092	REP	97-04-088	180-78A-195	NEW	97-04-084	180-79-338	REP	97-04-088
180-75-100	REP	97-04-088	180-78A-197	NEW	97-04-084	180-79-340	REP	97-04-088
180-75-110	REP	97-04-088	180-78A-201	NEW	97-04-084	180-79-342	REP	97-04-088
180-77	PREP	97-10-016	180-78A-260	NEW	97-04-084	180-79-344	REP	97-04-088
180-77-003	AMD	97-04-085	180-78A-265	NEW	97-04-084	180-79-346	REP	97-04-088
180-77-031	AMD	97-04-085	180-78A-266	NEW	97-04-084	180-79-348	REP	97-04-088
180-77-041	AMD	97-04-085	180-78A-300	NEW	97-04-084	180-79-350	REP	97-04-088
180-77-120	AMD	97-04-085	180-78A-301	NEW	97-04-084	180-79-352	REP	97-04-088
180-77A-003	NEW	97-04-087	180-78A-302	NEW	97-04-084	180-79-354	REP	97-04-088
180-77A-004	NEW	97-04-087	180-78A-303	NEW	97-04-084	180-79-356	REP	97-04-088
180-77A-006	NEW	97-04-087	180-78A-304	NEW	97-04-084	180-79-358	REP	97-04-088
180-77A-012	NEW	97-04-087	180-78A-305	NEW	97-04-084	180-79-360	REP	97-04-088
180-77A-014	NEW	97-04-087	180-78A-306	NEW	97-04-084	180-79-362	REP	97-04-088
180-77A-016	NEW	97-04-087	180-78A-320	NEW	97-04-084	180-79-364	REP	97-04-088
180-77A-018	NEW	97-04-087	180-78A-340	NEW	97-04-084	180-79-366	REP	97-04-088
180-77A-020	NEW	97-04-087	180-78A-345	NEW	97-04-084	180-79-368	REP	97-04-088
180-77A-025	NEW	97-04-087	180-78A-350	NEW	97-04-084	180-79-370	REP	97-04-088
180-77A-026	NEW	97-04-087	180-78A-355	NEW	97-04-084	180-79-372	REP	97-04-088
180-77A-028	NEW	97-04-087	180-78A-360	NEW	97-04-084	180-79-374	REP	97-04-088
180-77A-029	NEW	97-04-087	180-78A-365	NEW	97-04-084	180-79-376	REP	97-04-088
180-77A-030	NEW	97-04-087	180-79-003	REP	97-04-088	180-79-378	REP	97-04-088
180-77A-033	NEW	97-04-087	180-79-005	REP	97-04-088	180-79-379	REP	97-04-088
180-77A-037	NEW	97-04-087	180-79-010	REP	97-04-088	180-79-380	REP	97-04-088
180-77A-040	NEW	97-04-087	180-79-031	REP	97-04-088	180-79-382	REP	97-04-088
180-77A-057	NEW	97-04-087	180-79-032	REP	97-04-088	180-79-384	REP	97-04-088
180-77A-165	NEW	97-04-087	180-79-035	REP	97-04-088	180-79-386	REP	97-04-088
180-77A-170	NEW	97-04-087	180-79-041	REP	97-04-088	180-79-388	REP	97-04-088
180-77A-175	NEW	97-04-087	180-79-045	REP	97-04-088	180-79-390	REP	97-04-088
180-77A-180	NEW	97-04-087	180-79-047	REP	97-04-088	180-79-392	REP	97-04-088
180-77A-195	NEW	97-04-087	180-79-049	REP	97-04-088	180-79-394	REP	97-04-088
180-78-205	AMD	97-04-081	180-79-060	REP	97-04-088	180-79-396	REP	97-04-088
180-78-207	RECOD	97-04-081	180-79-062	REP	97-04-088	180-79-398	REP	97-04-088
180-78-215	AMD	97-04-081	180-79-063	REP	97-04-088	180-79A	PREP	97-09-015
			180-79-065	REP	97-04-088	180-79A-003	NEW	97-04-088

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180-79A-005	NEW	97-04-088	180-79A-374	NEW	97-04-088	196-24-050	PREP	97-03-029
180-79A-010	NEW	97-04-088	180-79A-376	NEW	97-04-088	196-24-085	PREP	97-03-029
180-79A-012	NEW	97-04-088	180-79A-378	NEW	97-04-088	196-24-100	PREP	97-03-029
180-79A-013	NEW	97-04-088	180-79A-379	NEW	97-04-088	196-24-105	PREP	97-03-029
180-79A-015	NEW	97-04-088	180-79A-380	NEW	97-04-088	197-11	PREP	97-03-130
180-79A-020	NEW	97-04-088	180-79A-382	NEW	97-04-088	197-11-055	AMD-P	97-08-085
180-79A-022	NEW	97-04-088	180-79A-384	NEW	97-04-088	197-11-060	AMD-P	97-08-085
180-79A-025	NEW	97-04-088	180-79A-386	NEW	97-04-088	197-11-070	AMD-P	97-08-085
180-79A-101	NEW	97-04-088	180-79A-388	NEW	97-04-088	197-11-158	NEW-P	97-08-085
180-79A-105	NEW	97-04-088	180-79A-390	NEW	97-04-088	197-11-164	NEW-P	97-08-085
180-79A-110	NEW	97-04-088	180-79A-392	NEW	97-04-088	197-11-168	NEW-P	97-08-085
180-79A-115	NEW	97-04-088	180-79A-394	NEW	97-04-088	197-11-172	NEW-P	97-08-085
180-79A-117	NEW	97-04-088	180-79A-396	NEW	97-04-088	197-11-210	AMD-P	97-08-085
180-79A-120	NEW	97-04-088	180-79A-398	NEW	97-04-088	197-11-238	NEW-P	97-08-085
180-79A-122	NEW	97-04-088	180-79A-403	NEW	97-04-088	197-11-259	AMD-P	97-08-085
180-79A-125	NEW	97-04-088	180-79A-405	NEW	97-04-088	197-11-300	AMD-P	97-08-085
180-79A-126	NEW	97-04-088	180-79A-415	NEW	97-04-088	197-11-310	AMD-P	97-08-085
180-79A-130	NEW	97-04-088	180-79A-417	NEW	97-04-088	197-11-315	AMD-P	97-08-085
180-79A-131	NEW	97-04-088	180-79A-420	NEW	97-04-088	197-11-330	AMD-P	97-08-085
180-79A-140	NEW	97-04-088	180-79A-422	NEW	97-04-088	197-11-340	AMD-P	97-08-085
180-79A-150	NEW	97-04-088	180-79A-423	NEW	97-04-088	197-11-355	NEW-P	97-08-085
180-79A-160	NEW	97-04-088	180-79A-424	NEW	97-04-088	197-11-390	AMD-P	97-08-085
180-79A-161	NEW	97-04-088	180-79A-430	NEW	97-04-088	197-11-408	AMD-P	97-08-085
180-79A-165	NEW	97-04-088	180-79A-433	NEW	97-04-088	197-11-502	AMD-P	97-08-085
180-79A-170	NEW	97-04-088	180-79A-435	NEW	97-04-088	197-11-508	AMD-P	97-08-085
180-79A-200	NEW	97-04-088	180-79A-440	NEW	97-04-088	197-11-535	AMD-P	97-08-085
180-79A-205	NEW	97-04-088	180-79A-445	NEW	97-04-088	197-11-600	AMD-P	97-08-085
180-79A-210	NEW	97-04-088	180-79A-503	NEW	97-04-088	197-11-660	AMD-P	97-08-085
180-79A-215	NEW	97-04-088	180-79A-510	NEW	97-04-088	197-11-680	AMD-P	97-08-085
180-79A-220	NEW	97-04-088	180-79A-515	NEW	97-04-088	197-11-702	AMD-P	97-08-085
180-79A-225	NEW	97-04-088	180-79A-517	NEW	97-04-088	197-11-721	NEW-P	97-08-085
180-79A-230	NEW	97-04-088	180-79A-520	NEW	97-04-088	197-11-728	AMD-P	97-08-085
180-79A-230	PREP	97-10-009	180-85	PREP	97-10-011	197-11-775	NEW-P	97-08-085
180-79A-236	NEW	97-04-088	180-85-025	AMD	97-04-086	197-11-790	AMD-P	97-08-085
180-79A-241	NEW	97-04-088	180-85-030	AMD	97-04-086	197-11-800	AMD-P	97-08-085
180-79A-300	NEW	97-04-088	180-85-110	REP	97-04-086	197-11-912	AMD-P	97-08-085
180-79A-302	NEW	97-04-088	180-85-115	REP	97-04-086	197-11-914	AMD-P	97-08-085
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180-79A-308	NEW	97-04-088	180-85-200	AMD	97-04-086	197-11-948	AMD-P	97-08-085
180-79A-310	NEW	97-04-088	180-85-210	AMD	97-04-086	197-11-970	AMD-P	97-08-085
180-79A-311	NEW	97-04-088	180-85-211	NEW	97-04-086	204-10-035	NEW	97-03-087
180-79A-312	NEW	97-04-088	180-85-215	AMD	97-04-086	204-10-045	PREP	97-03-042
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180-79A-317	NEW	97-04-088	180-86-013	RECOD	97-04-082	204-10-045	NEW	97-10-024
180-79A-320	NEW	97-04-088	180-86-014	RECOD	97-04-082	204-41-060	PREP	97-03-043
180-79A-322	NEW	97-04-088	180-86-080	NEW	97-05-008	204-41-060	NEW-P	97-07-037
180-79A-324	NEW	97-04-088	180-86-080	NEW-W	97-05-043	204-41-060	NEW	97-10-023
180-79A-326	NEW	97-04-088	180-86-086	NEW-W	97-05-043	204-60	AMD	97-04-054
180-79A-328	NEW	97-04-088	180-86-116	NEW	97-05-008	204-60-010	AMD	97-04-054
180-79A-330	NEW	97-04-088	180-86-116	NEW-W	97-05-043	204-60-030	AMD	97-04-054
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180-79A-348	NEW	97-04-088	182-25-030	AMD-E	97-06-069	204-95-030	NEW	97-03-127
180-79A-350	NEW	97-04-088	182-25-030	AMD-P	97-08-067	204-95-080	NEW	97-03-127
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180-79A-358	NEW	97-04-088	182-25-090	AMD-P	97-08-067	208-630-021	NEW-P	97-06-092
180-79A-360	NEW	97-04-088	196-12-010	PREP	97-03-029	208-630-021	NEW	97-09-035
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212-17-21515	RESCIND	97-11-041	220-52-075	AMD	97-08-052	220-72-015	NEW	97-08-078
212-17-21515	NEW-E	97-11-041	220-56	AMD-C	97-05-075	220-72-016	REP	97-08-078
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212-17-21519	RESCIND	97-11-041	220-56-105	AMD	97-07-078	220-72-025	REP	97-08-078
212-17-21519	NEW-E	97-11-041	220-56-115	AMD-W	97-10-075	220-72-028	REP	97-08-078
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212-17-21521	RESCIND	97-11-041	220-56-12800A	NEW-E	97-10-043	220-72-034	REP	97-08-078
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220-32-05100X	REP-E	97-07-044	220-56-24000G	NEW-E	97-03-001	220-72-064	REP	97-08-078
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222-16-080	AMD-E	97-10-005	230-30-065	REP-P	97-09-075	232-28-61900G	NEW-E	97-04-001
222-16-080	AMD-S	97-11-074	230-30-070	AMD-P	97-09-077	232-28-61900H	NEW-E	97-06-034
222-16-081	NEW-W	97-09-041	230-30-072	AMD-P	97-09-077	232-28-61900I	REP-E	97-06-034
222-16-087	NEW-S	97-08-077	230-30-075	REP-P	97-09-075	232-28-61900J	NEW-E	97-07-056
222-16-087	NEW-S	97-11-074	230-30-080	AMD-P	97-09-077	232-28-61900K	REP-E	97-07-056
222-16-100	AMD-S	97-11-074	230-30-100	REP-P	97-09-075	232-28-61900L	NEW-E	97-08-047
222-16-105	AMD-S	97-11-074	230-30-102	AMD-P	97-09-077	232-28-61900M	REP-E	97-08-047
222-24-030	AMD-S	97-08-077	230-30-103	AMD-P	97-09-077	232-28-61900N	NEW-E	97-09-068
222-24-030	AMD-S	97-11-074	230-30-104	AMD-P	97-09-077	232-28-61900O	NEW-E	97-10-043
222-30-020	AMD-S	97-11-074	230-30-105	REP-P	97-09-075	236-48-198	AMD	97-04-025
222-30-050	AMD-S	97-08-077	230-30-106	AMD-P	97-09-077	242-02-010	AMD	97-04-008
222-30-050	AMD-S	97-11-074	230-30-110	REP-P	97-09-075	242-02-030	AMD	97-04-008
222-30-060	AMD-S	97-08-077	230-30-130	REP-P	97-09-075	242-02-040	AMD	97-04-008
222-30-060	AMD-S	97-11-074	230-30-200	REP-P	97-11-018	242-02-060	AMD	97-04-008
222-30-065	AMD-S	97-08-077	230-30-210	AMD-P	97-09-077	242-02-070	AMD	97-04-008
222-30-065	AMD-S	97-11-074	230-30-215	REP-P	97-09-075	242-02-074	AMD	97-04-008
222-30-070	AMD-S	97-08-077	230-30-300	AMD-P	97-09-077	242-02-110	AMD	97-04-008
222-30-070	AMD-S	97-11-074	230-50-005	NEW	97-03-095	242-02-130	AMD	97-04-008
222-30-100	AMD-S	97-08-077	230-50-010	AMD-P	97-09-076	242-02-210	AMD	97-04-008
222-30-100	AMD-S	97-11-074	230-50-012	AMD-P	97-09-076	242-02-220	AMD	97-04-008
230-02-020	AMD	97-03-094	232-12	AMD-C	97-05-075	242-02-240	AMD-W	97-04-009
230-02-126	AMD-W	97-08-071	232-12-001	AMD	97-07-076	242-02-250	AMD	97-04-008
230-02-520	AMD-P	97-03-093	232-12-011	AMD-P	97-06-115	242-02-260	AMD	97-04-008
230-02-520	AMD	97-09-073	232-12-018	AMD	97-07-076	242-02-270	AMD	97-04-008
230-04-125	AMD-P	97-11-017	232-12-019	AMD-W	97-10-074	242-02-310	AMD	97-04-008
230-04-138	AMD-P	97-03-093	232-12-024	AMD-W	97-06-084	242-02-510	AMD	97-04-008
230-04-138	AMD	97-09-073	232-12-147	AMD-W	97-10-074	242-02-520	AMD	97-04-008
230-04-190	AMD-P	97-09-076	232-12-619	AMD	97-07-076	242-02-52001	NEW	97-04-008

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242-02-52002	NEW	97-04-008	246-321-020	REP	97-03-080	246-839-350	REP-P	97-07-074
242-02-521	AMD	97-04-008	246-321-025	REP	97-03-080	246-839-360	REP-P	97-07-074
242-02-522	AMD	97-04-008	246-321-030	REP	97-03-080	246-839-365	REP-P	97-07-074
242-02-532	AMD	97-04-008	246-321-035	REP	97-03-080	246-839-370	REP-P	97-07-074
242-02-533	AMD	97-04-008	246-321-040	REP	97-03-080	246-839-400	REP-P	97-07-074
242-02-550	AMD	97-04-008	246-321-045	REP	97-03-080	246-839-410	REP-P	97-07-074
242-02-554	REP	97-04-008	246-321-050	REP	97-03-080	246-839-420	REP-P	97-07-074
242-02-560	AMD	97-04-008	246-321-055	REP	97-03-080	246-839-430	REP-P	97-07-074
242-02-570	AMD	97-04-008	246-321-990	REP	97-03-080	246-839-440	REP-P	97-07-074
242-02-634	AMD-W	97-04-009	246-327-990	AMD-P	97-11-087	246-839-450	REP-P	97-07-074
242-02-650	AMD	97-04-008	246-331-990	AMD-P	97-11-087	246-839-700	REP-P	97-07-074
242-02-660	AMD	97-04-008	246-336-990	AMD-P	97-11-087	246-839-710	REP-P	97-07-074
242-02-670	AMD	97-04-008	246-338-020	AMD-P	97-11-039	246-839-720	REP-P	97-07-074
242-02-710	AMD	97-04-008	246-338-030	AMD-P	97-11-039	246-839-730	REP-P	97-07-074
242-02-820	REP	97-04-008	246-338-060	AMD-P	97-11-039	246-839-740	REP-P	97-07-074
242-02-830	AMD	97-04-008	246-338-070	AMD-P	97-11-039	246-839-745	REP-P	97-07-074
242-02-832	NEW	97-04-008	246-338-090	AMD-P	97-11-039	246-839-750	REP-P	97-07-074
242-02-834	NEW	97-04-008	246-338-100	AMD-P	97-11-039	246-839-760	REP-P	97-07-074
242-02-840	REP	97-04-008	246-828-015	NEW	97-04-042	246-839-770	REP-P	97-07-074
242-02-850	REP	97-04-008	246-828-990	AMD	97-04-043	246-839-780	REP-P	97-07-074
242-02-860	REP	97-04-008	246-838	PREP-W	97-03-066	246-839-800	REP-P	97-07-074
242-02-870	REP	97-04-008	246-838	PREP-W	97-03-067	246-839-810	REP-P	97-07-074
242-02-880	AMD	97-04-008	246-838-010	REP-P	97-07-074	246-839-820	REP-P	97-07-074
242-02-890	AMD-W	97-04-009	246-838-020	REP-P	97-07-074	246-839-830	REP-P	97-07-074
242-02-892	AMD	97-04-008	246-838-026	REP-P	97-07-074	246-839-840	REP-P	97-07-074
242-04-050	AMD	97-04-008	246-838-030	REP-P	97-07-074	246-839-850	REP-P	97-07-074
246-08-400	AMD-P	97-09-092	246-838-040	REP-P	97-07-074	246-839-860	REP-P	97-07-074
246-10-102	AMD-P	97-08-092	246-838-050	REP-P	97-07-074	246-839-870	REP-P	97-07-074
246-10-108	AMD-P	97-08-092	246-838-060	REP-P	97-07-074	246-839-880	REP-P	97-07-074
246-10-109	AMD-P	97-08-092	246-838-070	REP-P	97-07-074	246-839-890	REP-P	97-07-074
246-10-121	AMD-P	97-08-092	246-838-080	REP-P	97-07-074	246-839-900	REP-P	97-07-074
246-10-122	AMD-P	97-08-092	246-838-090	REP-P	97-07-074	246-840-010	NEW-P	97-07-074
246-10-203	AMD-P	97-08-092	246-838-100	REP-P	97-07-074	246-840-020	NEW-P	97-07-074
246-10-205	AMD-P	97-08-092	246-838-110	REP-P	97-07-074	246-840-030	NEW-P	97-07-074
246-10-401	AMD-P	97-08-092	246-838-120	REP-P	97-07-074	246-840-030	NEW-P	97-08-093
246-10-403	AMD-P	97-08-092	246-838-121	REP-P	97-07-074	246-840-030	NEW-W	97-09-061
246-10-605	AMD-P	97-08-092	246-838-130	REP-P	97-07-074	246-840-040	NEW-P	97-07-074
246-10-608	AMD-P	97-08-092	246-838-250	REP-P	97-07-074	246-840-050	NEW-P	97-07-074
246-10-701	AMD-P	97-08-092	246-838-260	REP-P	97-07-074	246-840-060	NEW-P	97-07-074
246-10-704	AMD-P	97-08-092	246-838-270	REP-P	97-07-074	246-840-070	NEW-P	97-07-074
246-10-707	AMD-P	97-08-092	246-838-280	REP-P	97-07-074	246-840-080	NEW-P	97-07-074
246-11-010	AMD-P	97-08-092	246-838-290	REP-P	97-07-074	246-840-090	NEW-P	97-07-074
246-11-070	AMD-P	97-08-092	246-838-300	REP-P	97-07-074	246-840-100	NEW-P	97-07-074
246-11-080	AMD-P	97-08-092	246-838-310	REP-P	97-07-074	246-840-105	NEW-P	97-07-074
246-11-200	AMD-P	97-08-092	246-838-330	REP-P	97-07-074	246-840-110	NEW-P	97-07-074
246-11-210	AMD-P	97-08-092	246-838-340	REP-P	97-07-074	246-840-113	NEW-P	97-07-074
246-11-270	AMD-P	97-08-092	246-838-350	REP-P	97-07-074	246-840-115	NEW-P	97-07-074
246-11-290	AMD-P	97-08-092	246-838-360	REP-P	97-07-074	246-840-120	NEW-P	97-07-074
246-11-380	AMD-P	97-08-092	246-839	PREP-W	97-03-066	246-840-130	NEW-P	97-07-074
246-11-510	AMD-P	97-08-092	246-839	PREP-W	97-03-067	246-840-300	NEW-P	97-07-074
246-11-540	AMD-P	97-08-092	246-839-010	REP-P	97-07-074	246-840-305	NEW-P	97-07-074
246-11-550	AMD-P	97-08-092	246-839-020	REP-P	97-07-074	246-840-310	NEW-P	97-07-074
246-11-580	AMD-P	97-08-092	246-839-030	REP-P	97-08-093	246-840-315	NEW-P	97-07-074
246-11-610	AMD-P	97-08-092	246-839-040	REP-P	97-07-074	246-840-320	NEW-P	97-07-074
246-100-011	AMD-P	97-06-110	246-839-050	REP-P	97-07-074	246-840-330	NEW-P	97-07-074
246-100-036	AMD-P	97-06-110	246-839-060	REP-P	97-07-074	246-840-340	NEW-P	97-07-074
246-100-072	AMD-P	97-06-110	246-839-070	REP-P	97-07-074	246-840-345	NEW-P	97-07-074
246-100-206	AMD-P	97-06-110	246-839-080	REP-P	97-07-074	246-840-350	NEW-P	97-07-074
246-100-207	AMD	97-04-041	246-839-090	REP-P	97-07-074	246-840-360	NEW-P	97-07-074
246-100-209	AMD-P	97-06-110	246-839-100	REP-P	97-07-074	246-840-365	NEW-P	97-07-074
246-232-060	AMD-P	97-03-126	246-839-105	REP-P	97-07-074	246-840-370	NEW-P	97-07-074
246-232-060	AMD	97-08-095	246-839-110	REP-P	97-07-074	246-840-400	NEW-P	97-07-074
246-235-075	AMD-P	97-03-126	246-839-115	REP-P	97-07-074	246-840-410	NEW-P	97-07-074
246-235-075	AMD	97-08-095	246-839-120	REP-P	97-07-074	246-840-420	NEW-P	97-07-074
246-282-990	AMD-P	97-08-025	246-839-130	REP-P	97-07-074	246-840-430	NEW-P	97-07-074
246-290-990	AMD-P	97-07-073	246-839-300	REP-P	97-07-074	246-840-440	NEW-P	97-07-074
246-321-001	REP	97-03-080	246-839-305	REP-P	97-07-074	246-840-450	NEW-P	97-07-074
246-321-010	REP	97-03-080	246-839-310	REP-P	97-07-074	246-840-540	AMD-P	97-07-074
246-321-012	REP	97-03-080	246-839-315	REP-P	97-07-074	246-840-565	AMD-P	97-07-074
246-321-014	REP	97-03-080	246-839-320	REP-P	97-07-074	246-840-700	NEW-P	97-07-074
246-321-015	REP	97-03-080	246-839-330	REP-P	97-07-074	246-840-705	NEW-P	97-07-074
246-321-017	REP	97-03-080	246-839-340	REP-P	97-07-074	246-840-710	NEW-P	97-07-074
246-321-018	REP	97-03-080	246-839-345	REP-P	97-07-074	246-840-715	NEW-P	97-07-074

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246-840-720	NEW-P	97-07-074	251-01-110	AMD-W	97-10-088	260-24-560	NEW-P	97-04-060
246-840-730	NEW-P	97-07-074	251-04-040	AMD-P	97-08-090	260-24-570	NEW-P	97-04-060
246-840-745	NEW-P	97-07-074	251-04-040	AMD-W	97-10-088	260-24-580	NEW-P	97-04-060
246-840-747	NEW-P	97-07-074	251-04-050	AMD-P	97-08-090	260-24-590	NEW-P	97-04-060
246-840-750	NEW-P	97-07-074	251-04-050	AMD-W	97-10-088	260-24-600	NEW-P	97-04-060
246-840-760	NEW-P	97-07-074	251-10-030	AMD-P	97-08-090	260-24-610	NEW-P	97-04-060
246-840-770	NEW-P	97-07-074	251-10-030	AMD-W	97-10-088	260-24-620	NEW-P	97-04-060
246-840-780	NEW-P	97-07-074	251-12-270	REP-P	97-08-090	260-24-630	NEW-P	97-04-060
246-840-800	NEW-P	97-07-074	251-12-270	REP-W	97-10-088	260-24-640	NEW-P	97-04-060
246-840-810	NEW-P	97-07-074	251-12-270	REP-P	97-10-089	260-24-650	NEW-P	97-04-060
246-840-820	NEW-P	97-07-074	251-12-600	AMD-P	97-08-090	260-24-660	NEW-P	97-04-060
246-840-830	NEW-P	97-07-074	251-12-600	AMD-W	97-10-088	260-24-670	NEW-P	97-04-060
246-840-840	NEW-P	97-07-074	251-12-600	AMD-P	97-10-089	260-24-680	NEW-P	97-04-060
246-840-850	NEW-P	97-07-074	251-14-060	AMD	97-06-012	260-24-690	NEW-P	97-04-060
246-840-860	NEW-P	97-07-074	251-14-120	AMD	97-06-012	260-24-700	NEW-P	97-04-060
246-840-870	NEW-P	97-07-074	251-20-020	AMD-P	97-08-090	260-32	PREP	97-04-059
246-840-880	NEW-P	97-07-074	251-20-020	AMD-W	97-10-088	260-48	PREP	97-04-058
246-840-890	NEW-P	97-07-074	251-20-020	AMD-P	97-10-089	262-01-030	PREP	97-06-112
246-840-900	NEW-P	97-07-074	260-24-010	REP-P	97-04-060	262-01-030	AMD-P	97-09-091
246-840-930	AMD-P	97-07-074	260-24-020	REP-P	97-04-060	262-01-030	AMD-W	97-10-060
246-840-940	AMD-P	97-07-074	260-24-030	REP-P	97-04-060	262-01-030	AMD-P	97-11-065
246-851-090	AMD-P	97-08-094	260-24-040	REP-P	97-04-060	262-02-020	PREP	97-06-112
246-851-100	AMD-P	97-08-094	260-24-050	REP-P	97-04-060	262-02-020	AMD-P	97-09-090
246-851-110	AMD-P	97-08-094	260-24-060	REP-P	97-04-060	262-02-020	AMD-W	97-10-060
246-851-120	AMD-P	97-08-094	260-24-070	REP-P	97-04-060	262-02-020	AMD-P	97-11-064
246-851-140	AMD-P	97-08-094	260-24-080	REP-P	97-04-060	262-02-030	PREP	97-06-112
246-851-150	AMD-P	97-08-094	260-24-090	REP-P	97-04-060	262-02-030	AMD-P	97-09-090
246-851-160	AMD-P	97-08-094	260-24-100	REP-P	97-04-060	262-02-030	AMD-W	97-10-060
246-851-170	AMD-P	97-08-094	260-24-110	REP-P	97-04-060	262-02-030	AMD-P	97-11-064
246-851-180	AMD-P	97-08-094	260-24-120	REP-P	97-04-060	262-03	PREP	97-07-068
246-851-190	AMD-P	97-08-094	260-24-130	REP-P	97-04-060	262-03-010	NEW-P	97-11-063
246-851-200	AMD-P	97-08-094	260-24-140	REP-P	97-04-060	262-03-020	NEW-P	97-11-063
246-851-210	REP-P	97-08-094	260-24-150	REP-P	97-04-060	262-03-030	NEW-P	97-11-063
246-851-220	AMD-P	97-08-094	260-24-160	REP-P	97-04-060	262-03-040	NEW-P	97-11-063
246-851-230	AMD-P	97-08-094	260-24-170	REP-P	97-04-060	262-03-050	NEW-P	97-11-063
246-851-240	AMD-P	97-08-094	260-24-180	REP-P	97-04-060	262-03-060	NEW-P	97-11-063
246-865	PREP	97-11-038	260-24-190	REP-P	97-04-060	262-03-070	NEW-P	97-11-063
246-907-020	AMD	97-06-019	260-24-200	REP-P	97-04-060	262-03-080	NEW-P	97-11-063
246-907-030	AMD	97-06-019	260-24-210	REP-P	97-04-060	262-03-090	NEW-P	97-11-063
249A-02-010	NEW-W	97-09-043	260-24-220	REP-P	97-04-060	275-27-023	AMD-E	97-03-033
249A-02-020	NEW-W	97-09-043	260-24-230	REP-P	97-04-060	275-27-023	AMD-P	97-08-007
249A-02-030	NEW-W	97-09-043	260-24-240	REP-P	97-04-060	275-27-023	AMD-E	97-11-009
249A-02-040	NEW-W	97-09-043	260-24-250	REP-P	97-04-060	275-27-220	AMD-E	97-03-033
249A-02-050	NEW-W	97-09-043	260-24-260	REP-P	97-04-060	275-27-220	AMD-P	97-08-007
249A-02-060	NEW-W	97-09-043	260-24-270	REP-P	97-04-060	275-27-220	AMD-E	97-11-009
249A-02-080	NEW-W	97-09-043	260-24-280	REP-P	97-04-060	275-27-221	REP-E	97-03-033
249A-02-100	NEW-W	97-09-043	260-24-290	REP-P	97-04-060	275-27-221	REP-P	97-08-007
249A-02-200	NEW-W	97-09-043	260-24-300	REP-P	97-04-060	275-27-221	REP-E	97-11-009
249A-02-210	NEW-W	97-09-043	260-24-310	REP-P	97-04-060	275-27-222	NEW-P	97-08-007
249A-02-220	NEW-W	97-09-043	260-24-320	REP-P	97-04-060	275-27-222	NEW-E	97-11-009
249A-02-250	NEW-W	97-09-043	260-24-330	REP-P	97-04-060	275-27-223	AMD-E	97-03-033
249A-02-300	NEW-W	97-09-043	260-24-340	REP-P	97-04-060	275-27-223	AMD-P	97-08-007
249A-02-350	NEW-W	97-09-043	260-24-350	REP-P	97-04-060	275-27-223	AMD-E	97-11-009
249A-02-360	NEW-W	97-09-043	260-24-360	REP-P	97-04-060	275-27-400	AMD-E	97-03-033
249A-02-410	NEW-W	97-09-043	260-24-370	REP-P	97-04-060	275-27-400	AMD-P	97-08-007
249A-02-420	NEW-W	97-09-043	260-24-380	REP-P	97-04-060	275-27-400	AMD-E	97-11-009
249A-02-430	NEW-W	97-09-043	260-24-390	REP-P	97-04-060	275-155	AMD-P	97-11-044
249A-02-440	NEW-W	97-09-043	260-24-400	REP-P	97-04-060	275-155-005	AMD-P	97-11-044
249A-02-450	NEW-W	97-09-043	260-24-410	REP-P	97-04-060	275-155-010	AMD-P	97-11-044
249A-02-460	NEW-W	97-09-043	260-24-420	REP-P	97-04-060	275-155-070	NEW-P	97-11-044
249A-02-470	NEW-W	97-09-043	260-24-430	REP-P	97-04-060	275-155-080	NEW-P	97-11-044
249A-02-510	NEW-W	97-09-043	260-24-440	REP-P	97-04-060	275-155-090	NEW-P	97-11-044
249A-02-520	NEW-W	97-09-043	260-24-450	REP-P	97-04-060	275-155-100	NEW-P	97-11-044
249A-02-540	NEW-W	97-09-043	260-24-460	REP-P	97-04-060	275-155-110	NEW-P	97-11-044
249A-02-560	NEW-W	97-09-043	260-24-465	REP-P	97-04-060	275-155-120	NEW-P	97-11-044
249A-02-600	NEW-W	97-09-043	260-24-470	REP-P	97-04-060	275-155-130	NEW-P	97-11-044
249A-02-650	NEW-W	97-09-043	260-24-480	REP-P	97-04-060	275-155-140	NEW-P	97-11-044
249A-02-810	NEW-W	97-09-043	260-24-500	NEW-P	97-04-060	284-04	NEW-C	97-03-023
249A-02-830	NEW-W	97-09-043	260-24-510	NEW-P	97-04-060	284-04	NEW-C	97-03-120
249A-02-860	NEW-W	97-09-043	260-24-520	NEW-P	97-04-060	284-04	NEW-C	97-08-091
251-01-045	AMD-P	97-08-090	260-24-530	NEW-P	97-04-060	284-04	NEW-W	97-10-072
251-01-045	AMD-W	97-10-088	260-24-540	NEW-P	97-04-060	284-13-505	NEW	97-05-012
251-01-110	AMD-P	97-08-090	260-24-550	NEW-P	97-04-060	284-13-515	NEW	97-05-012

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
284-13-520	AMD	97-05-012	292-120-010	NEW	97-07-058	296-17-45006	AMD-P	97-08-051
284-13-530	NEW	97-05-012	292-120-020	NEW-P	97-03-133	296-17-52107	REP	97-06-007
284-13-535	NEW	97-05-012	292-120-020	NEW	97-07-058	296-17-52112	REP	97-06-007
284-13-540	AMD	97-05-012	292-120-030	NEW-P	97-03-133	296-17-52114	NEW	97-06-007
284-13-550	AMD	97-05-012	292-120-030	NEW	97-07-058	296-17-52114	REP-E	97-08-043
284-13-560	AMD	97-05-012	292-120-040	NEW-P	97-03-133	296-17-52114	REP-P	97-08-051
284-13-570	AMD	97-05-012	292-120-040	NEW	97-07-058	296-17-52115	NEW	97-06-007
284-13-590	AMD	97-05-012	296-11-001	DECOD	97-08-042	296-17-52115	REP-E	97-08-043
284-13-595	NEW	97-05-012	296-11-003	DECOD	97-08-042	296-17-52115	REP-P	97-08-051
284-30-395	NEW-S	97-03-090	296-11-010	DECOD	97-08-042	296-17-52116	NEW	97-06-007
284-30-395	NEW-C	97-08-045	296-11-020	DECOD	97-08-042	296-17-52117	NEW	97-06-007
284-30-395	NEW-C	97-11-010	296-11-030	DECOD	97-08-042	296-17-52117	REP-E	97-08-043
284-43-110	NEW-W	97-08-044	296-11-040	DECOD	97-08-042	296-17-52117	REP-P	97-08-051
284-43-120	NEW-W	97-08-044	296-11-050	DECOD	97-08-042	296-17-52118	NEW-E	97-08-043
284-43-130	NEW-W	97-08-044	296-11-060	DECOD	97-08-042	296-17-52118	NEW-P	97-08-051
284-43-200	NEW-W	97-08-044	296-11-070	DECOD	97-08-042	296-17-52119	NEW-E	97-08-043
284-43-210	NEW-W	97-08-044	296-11-080	DECOD	97-08-042	296-17-52119	NEW-P	97-08-051
284-43-300	NEW-W	97-08-044	296-11-090	DECOD	97-08-042	296-17-52120	NEW-E	97-08-043
284-43-310	NEW-W	97-08-044	296-11-100	DECOD	97-08-042	296-17-52120	NEW-P	97-08-051
284-43-320	NEW-W	97-08-044	296-11-110	DECOD	97-08-042	296-17-52121	NEW-E	97-08-043
284-43-330	NEW-W	97-08-044	296-11-120	DECOD	97-08-042	296-17-52121	NEW-P	97-08-051
284-43-340	NEW-W	97-08-044	296-11-130	DECOD	97-08-042	296-17-52122	NEW-E	97-08-043
284-43-350	NEW-W	97-08-044	296-11-140	DECOD	97-08-042	296-17-52122	NEW-P	97-08-051
284-43-360	NEW-W	97-08-044	296-11-150	DECOD	97-08-042	296-17-52123	NEW-E	97-08-043
284-43-400	NEW-W	97-08-044	296-11-160	DECOD	97-08-042	296-17-52123	NEW-P	97-08-051
284-43-410	NEW-W	97-08-044	296-11-170	DECOD	97-08-042	296-17-52124	NEW-E	97-08-043
284-43-420	NEW-W	97-08-044	296-11-180	DECOD	97-08-042	296-17-52124	NEW-P	97-08-051
284-43-500	NEW-W	97-08-044	296-11-190	DECOD	97-08-042	296-17-52125	NEW-E	97-08-043
284-43-510	NEW-W	97-08-044	296-11-200	DECOD	97-08-042	296-17-52125	NEW-P	97-08-051
284-43-520	NEW-W	97-08-044	296-11-210	DECOD	97-08-042	296-17-52126	NEW-E	97-08-043
284-43-530	NEW-W	97-08-044	296-11-220	DECOD	97-08-042	296-17-52126	NEW-P	97-08-051
284-43-540	NEW-W	97-08-044	296-11-230	DECOD	97-08-042	296-17-89502	NEW	97-06-007
284-43-550	NEW-W	97-08-044	296-11-240	DECOD	97-08-042	296-17-89502	AMD-E	97-08-043
284-43-560	NEW-W	97-08-044	296-11-250	DECOD	97-08-042	296-17-89502	AMD-P	97-08-051
284-43-600	NEW-W	97-08-044	296-11-260	DECOD	97-08-042	296-20	PREP	97-02-096
284-43-610	NEW-W	97-08-044	296-11-270	DECOD	97-08-042	296-20-125	PREP	97-02-097
284-43-620	NEW-W	97-08-044	296-11-280	DECOD	97-08-042	296-20-135	PREP	97-02-097
284-43-630	NEW-W	97-08-044	296-11-290	DECOD	97-08-042	296-20-135	AMD-P	97-05-076
284-43-640	NEW-W	97-08-044	296-11-300	DECOD	97-08-042	296-20-135	AMD	97-10-017
284-43-650	NEW-W	97-08-044	296-11-310	DECOD	97-08-042	296-20-200	AMD	97-09-036
284-43-700	NEW-C	97-05-006	296-11-320	DECOD	97-08-042	296-20-210	AMD	97-09-036
284-43-700	NEW-C	97-08-046	296-11-330	DECOD	97-08-042	296-20-220	AMD	97-09-036
284-43-700	NEW-W	97-11-001	296-11-340	DECOD	97-08-042	296-23	PREP	97-02-096
284-44-240	REP-W	97-08-044	296-11-350	DECOD	97-08-042	296-23-220	PREP	97-02-097
284-44-410	REP-W	97-08-044	296-11-360	DECOD	97-08-042	296-23-220	AMD-P	97-05-076
284-46-575	REP-W	97-08-044	296-11-370	DECOD	97-08-042	296-23-220	AMD	97-10-017
284-51-050	PREP	97-04-074	296-11-380	DECOD	97-08-042	296-23-230	PREP	97-02-097
286-13-040	PREP	97-08-079	296-11-390	DECOD	97-08-042	296-23-230	AMD-P	97-05-076
286-13-045	AMD-P	97-04-006	296-11-400	DECOD	97-08-042	296-23-230	AMD	97-10-017
286-13-045	AMD	97-08-003	296-11-410	DECOD	97-08-042	296-23-265	AMD	97-09-036
286-13-085	AMD-P	97-04-006	296-11-420	DECOD	97-08-042	296-23-26501	NEW	97-09-036
286-13-085	AMD	97-08-003	296-11-430	DECOD	97-08-042	296-23-26502	NEW	97-09-036
286-13-110	AMD-P	97-04-006	296-11-440	DECOD	97-08-042	296-23-26503	NEW	97-09-036
286-13-110	AMD	97-08-003	296-11-450	DECOD	97-08-042	296-23-26504	NEW	97-09-036
286-13-110	PREP	97-08-079	296-11-460	DECOD	97-08-042	296-23-26505	NEW	97-09-036
286-13-115	PREP	97-08-079	296-11-470	DECOD	97-08-042	296-23-26506	NEW	97-09-036
286-26-080	AMD-P	97-04-006	296-11-480	DECOD	97-08-042	296-23-267	NEW	97-09-036
286-26-080	AMD	97-08-003	296-11-490	DECOD	97-08-042	296-23A	PREP	97-02-097
286-27-040	AMD-P	97-04-006	296-11-500	DECOD	97-08-042	296-23A-0100	NEW	97-06-066
286-27-040	AMD	97-08-003	296-11-510	DECOD	97-08-042	296-23A-0110	NEW	97-06-066
286-27-050	REP-P	97-04-006	296-11-520	DECOD	97-08-042	296-23A-0120	NEW	97-06-066
286-27-050	REP	97-08-003	296-11-530	DECOD	97-08-042	296-23A-0130	NEW	97-06-066
286-35-030	AMD-P	97-04-006	296-11-540	DECOD	97-08-042	296-23A-0140	NEW	97-06-066
286-35-030	AMD	97-08-003	296-11-550	DECOD	97-08-042	296-23A-0150	NEW	97-06-066
286-35-040	REP-P	97-04-006	296-11-560	DECOD	97-08-042	296-23A-0160	NEW	97-06-066
286-35-040	REP	97-08-003	296-11-570	DECOD	97-08-042	296-23A-0170	NEW	97-06-066
286-40-020	AMD-P	97-04-006	296-11-580	DECOD	97-08-042	296-23A-0180	NEW	97-06-066
286-40-020	AMD	97-08-003	296-11-590	DECOD	97-08-042	296-23A-0190	NEW	97-06-066
292-09-010	AMD-P	97-05-022	296-17-45003	AMD	97-06-007	296-23A-0195	NEW	97-06-066
292-11-010	NEW-S	97-05-023	296-17-45003	AMD-E	97-08-043	296-23A-0200	NEW	97-06-066
292-11-020	NEW-S	97-05-023	296-17-45003	AMD-P	97-08-051	296-23A-0210	NEW	97-06-066
292-11-030	NEW-W	97-09-057	296-17-45006	NEW	97-06-007	296-23A-0220	NEW	97-06-066
292-120-010	NEW-P	97-03-133	296-17-45006	AMD-E	97-08-043	296-23A-0230	NEW	97-06-066

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296-23A-0240	NEW	97-06-066	296-46-130	AMD-P	97-03-083	296-86-060	AMD	97-11-053
296-23A-0250	NEW	97-06-066	296-46-140	AMD-P	97-03-083	296-86-070	AMD-P	97-03-132
296-23A-0300	NEW	97-06-066	296-46-150	REP-P	97-03-083	296-86-070	AMD	97-11-053
296-23A-0310	NEW	97-06-066	296-46-21008	AMD-P	97-03-083	296-86-075	AMD-P	97-03-132
296-23A-0350	NEW	97-06-066	296-46-21052	AMD-P	97-03-083	296-86-075	AMD	97-11-053
296-23A-0360	NEW	97-06-066	296-46-225	AMD-P	97-03-083	296-86-080	AMD-P	97-03-132
296-23A-0400	NEW	97-06-066	296-46-23028	AMD-P	97-03-083	296-86-080	AMD	97-11-053
296-23A-0410	NEW	97-06-066	296-46-23062	AMD-P	97-03-083	296-86-090	NEW-P	97-03-132
296-23A-0420	NEW	97-06-066	296-46-30001	AMD-P	97-03-083	296-86-090	NEW	97-11-053
296-23A-0430	NEW	97-06-066	296-46-360	AMD-P	97-03-083	296-93-300	AMD-P	97-03-132
296-23A-0440	NEW	97-06-066	296-46-370	AMD-P	97-03-083	296-93-300	AMD	97-11-053
296-23A-0450	NEW	97-06-066	296-46-514	AMD-P	97-03-083	296-93-320	REP-P	97-03-132
296-23A-0460	NEW	97-06-066	296-46-553	NEW-P	97-03-083	296-93-320	REP	97-11-053
296-23A-0470	NEW	97-06-066	296-46-700	AMD-P	97-03-083	296-93-330	AMD-P	97-03-132
296-23A-0480	NEW	97-06-066	296-46-725	AMD-P	97-03-083	296-93-330	AMD	97-11-053
296-23A-0490	NEW	97-06-066	296-46-910	AMD-P	97-03-083	296-99-010	AMD-P	97-09-079
296-23A-0500	NEW	97-06-066	296-46-910	AMD-E	97-10-064	296-99-015	AMD-P	97-09-079
296-23A-0520	NEW	97-06-066	296-46-915	AMD-P	97-03-083	296-99-020	AMD-P	97-09-079
296-23A-0530	NEW	97-06-066	296-46-920	AMD-P	97-03-083	296-99-025	AMD-P	97-09-079
296-23A-0540	NEW	97-06-066	296-49	PREP	97-03-082	296-99-030	AMD-P	97-09-079
296-23A-0550	NEW	97-06-066	296-49-005	REP-P	97-09-039	296-99-035	AMD-P	97-09-079
296-23A-0560	NEW	97-06-066	296-49-010	REP-P	97-09-039	296-99-040	AMD-P	97-09-079
296-23A-0570	NEW	97-06-066	296-49-015	REP-P	97-09-039	296-99-045	AMD-P	97-09-079
296-23A-0575	NEW	97-06-066	296-49-020	REP-P	97-09-039	296-99-050	AMD-P	97-09-079
296-23A-0580	NEW	97-06-066	296-49-025	REP-P	97-09-039	296-99-055	AMD-P	97-09-079
296-23A-0600	NEW	97-06-066	296-49-030	REP-P	97-09-039	296-99-060	AMD-P	97-09-079
296-23A-0610	NEW	97-06-066	296-49-035	REP-P	97-09-039	296-99-065	AMD-P	97-09-079
296-23A-0620	NEW	97-06-066	296-49-040	REP-P	97-09-039	296-99-070	AMD-P	97-09-079
296-23A-100	REP	97-06-066	296-49-045	REP-P	97-09-039	296-99-075	AMD-P	97-09-079
296-23A-105	REP	97-06-066	296-49-050	REP-P	97-09-039	296-99-080	AMD-P	97-09-079
296-23A-106	REP	97-06-066	296-49-055	REP-P	97-09-039	296-99-085	AMD-P	97-09-079
296-23A-110	REP	97-06-066	296-49-060	REP-P	97-09-039	296-99-090	AMD-P	97-09-079
296-23A-115	REP	97-06-066	296-49-065	REP-P	97-09-039	296-99-093	AMD-P	97-09-079
296-23A-120	REP	97-06-066	296-49A-010	NEW-P	97-09-039	296-99-095	AMD-P	97-09-079
296-23A-125	REP	97-06-066	296-49A-020	NEW-P	97-09-039	296-104	PREP	97-11-004
296-23A-130	REP	97-06-066	296-49A-030	NEW-P	97-09-039	296-116-010	DECOD	97-08-042
296-23A-135	REP	97-06-066	296-49A-040	NEW-P	97-09-039	296-116-020	DECOD	97-08-042
296-23A-140	REP	97-06-066	296-49A-050	NEW-P	97-09-039	296-116-030	DECOD	97-08-042
296-23A-145	REP	97-06-066	296-49A-060	NEW-P	97-09-039	296-116-050	DECOD	97-08-042
296-23A-150	REP	97-06-066	296-49A-070	NEW-P	97-09-039	296-116-060	DECOD	97-08-042
296-23A-155	REP	97-06-066	296-49A-080	NEW-P	97-09-039	296-116-070	AMD	97-06-105
296-23A-160	REP	97-06-066	296-49A-090	NEW-P	97-09-039	296-116-070	DECOD	97-08-042
296-23A-165	REP	97-06-066	296-49A-100	NEW-P	97-09-039	296-116-075	DECOD	97-08-042
296-23A-170	REP	97-06-066	296-49A-110	NEW-P	97-09-039	296-116-080	DECOD	97-08-042
296-23A-175	REP	97-06-066	296-54	PREP	97-10-071	296-116-081	DECOD	97-08-042
296-23A-180	REP	97-06-066	296-62	PREP	97-05-047	296-116-082	PREP	97-06-102
296-23A-185	REP	97-06-066	296-62	PREP	97-06-101	296-116-082	AMD-E	97-08-040
296-23A-190	REP	97-06-066	296-62	PREP	97-09-078	296-116-082	DECOD	97-08-042
296-23A-200	REP	97-06-066	296-62-05413	AMD-P	97-03-085	296-116-083	DECOD	97-08-042
296-23A-205	REP	97-06-066	296-62-05413	AMD	97-11-055	296-116-085	DECOD	97-08-042
296-23A-210	REP	97-06-066	296-62-07113	AMD-P	97-09-079	296-116-110	DECOD	97-08-042
296-23A-215	REP	97-06-066	296-62-07460	NEW-P	97-09-079	296-116-115	DECOD	97-08-042
296-23A-220	REP	97-06-066	296-62-075	AMD-P	97-09-079	296-116-120	DECOD	97-08-042
296-23A-225	REP	97-06-066	296-62-07501	AMD-P	97-09-079	296-116-140	DECOD	97-08-042
296-23A-230	REP	97-06-066	296-62-07510	AMD-P	97-09-079	296-116-150	DECOD	97-08-042
296-23A-235	REP	97-06-066	296-62-07515	AMD-P	97-09-079	296-116-170	DECOD	97-08-042
296-23A-300	REP	97-06-066	296-62-07711	AMD-P	97-09-079	296-116-175	DECOD	97-08-042
296-23A-310	REP	97-06-066	296-62-07712	AMD-P	97-09-079	296-116-185	DECOD	97-08-042
296-23A-315	REP	97-06-066	296-62-07715	AMD-P	97-09-079	296-116-200	AMD	97-06-106
296-23A-320	REP	97-06-066	296-62-07717	AMD-P	97-09-079	296-116-200	DECOD	97-08-042
296-23A-400	REP	97-06-066	296-62-07721	AMD-P	97-09-079	296-116-205	DECOD	97-08-042
296-23A-430	REP	97-06-066	296-62-07725	AMD-P	97-09-079	296-116-2051	DECOD	97-08-042
296-24	PREP	97-11-051	296-62-07728	AMD-P	97-09-079	296-116-300	AMD-P	97-08-041
296-24-07801	AMD-P	97-03-085	296-62-07761	REP-P	97-09-079	296-116-300	DECOD	97-08-042
296-24-07801	AMD	97-11-055	296-65-001	AMD-P	97-09-079	296-116-315	DECOD	97-08-042
296-24-084	AMD-P	97-03-085	296-65-030	AMD-P	97-09-079	296-116-35001	DECOD	97-08-042
296-24-084	AMD	97-11-055	296-86-020	AMD-P	97-03-132	296-116-360	AMD-P	97-06-103
296-24-088	AMD-P	97-03-085	296-86-020	AMD	97-11-053	296-116-360	AMD-E	97-06-104
296-24-088	AMD	97-11-055	296-86-030	AMD-P	97-03-132	296-116-360	DECOD	97-08-042
296-27-15503	AMD-P	97-03-085	296-86-030	AMD	97-11-053	296-116-370	DECOD	97-08-042
296-27-15503	AMD	97-11-054	296-86-050	AMD-P	97-03-132	296-116-400	DECOD	97-08-042
296-46	PREP	97-02-095	296-86-050	AMD	97-11-053	296-116-410	DECOD	97-08-042
296-46-090	AMD-P	97-03-083	296-86-060	AMD-P	97-03-132	296-116-420	DECOD	97-08-042

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296-116-500	DECOD	97-08-042	296-150R-0640	AMD-P	97-09-039	296-306A-08018	AMD	97-08-051A
296-128-013	NEW-W	97-03-073	296-150R-0850	AMD-P	97-09-039	296-306A-08018	DECOD	97-09-013
296-150C-0040	AMD-P	97-09-039	296-150R-1000	AMD-P	97-09-039	296-306A-08021	DECOD	97-09-013
296-150C-0090	NEW-W	97-04-070	296-150R-2000	AMD-P	97-09-039	296-306A-085	DECOD	97-09-013
296-150C-0100	AMD-P	97-09-039	296-150R-2020	AMD-P	97-09-039	296-306A-090	DECOD	97-09-013
296-150C-1010	NEW-W	97-04-070	296-150R-3000	AMD-P	97-03-132	296-306A-095	DECOD	97-09-013
296-150C-3000	AMD-P	97-03-132	296-150R-3000	AMD-P	97-09-039	296-306A-09503	DECOD	97-09-013
296-150C-3000	AMD	97-11-053	296-150R-3000	AMD	97-11-053	296-306A-09506	DECOD	97-09-013
296-150F-0040	AMD-P	97-09-039	296-155	PREP	97-10-095	296-306A-09509	DECOD	97-09-013
296-150F-0100	AMD-P	97-09-039	296-155-527	AMD-P	97-03-085	296-306A-09512	DECOD	97-09-013
296-150F-3000	AMD-P	97-03-132	296-155-527	AMD	97-11-055	296-306A-09515	DECOD	97-09-013
296-150F-3000	AMD	97-11-053	296-200	PREP	97-03-081	296-306A-09518	DECOD	97-09-013
296-150M-0040	AMD-P	97-09-039	296-200-025	AMD-P	97-03-132	296-306A-100	DECOD	97-09-013
296-150M-0100	AMD-P	97-09-039	296-200-025	AMD	97-11-053	296-306A-10005	DECOD	97-09-013
296-150M-3000	AMD-P	97-03-132	296-200-050	AMD-P	97-03-132	296-306A-10010	DECOD	97-09-013
296-150M-3000	AMD	97-11-053	296-200-050	AMD	97-11-053	296-306A-10015	DECOD	97-09-013
296-150P-0010	NEW-P	97-09-039	296-200-900	AMD-P	97-03-132	296-306A-10020	DECOD	97-09-013
296-150P-0020	NEW-P	97-09-039	296-200-900	AMD	97-11-053	296-306A-10025	DECOD	97-09-013
296-150P-0030	NEW-P	97-09-039	296-306-060	REP-P	97-03-131	296-306A-107	DECOD	97-09-013
296-150P-0040	NEW-P	97-09-039	296-306-060	REP-E	97-06-040	296-306A-110	DECOD	97-09-013
296-150P-0060	NEW-P	97-09-039	296-306-060	REP	97-08-051A	296-306A-11005	DECOD	97-09-013
296-150P-0100	NEW-P	97-09-039	296-306-330	REP-P	97-03-131	296-306A-11010	DECOD	97-09-013
296-150P-0110	NEW-P	97-09-039	296-306-330	REP-E	97-06-040	296-306A-11015	DECOD	97-09-013
296-150P-0120	NEW-P	97-09-039	296-306-330	REP	97-08-051A	296-306A-120	DECOD	97-09-013
296-150P-0130	NEW-P	97-09-039	296-306-400	REP-P	97-03-131	296-306A-12005	DECOD	97-09-013
296-150P-0200	NEW-P	97-09-039	296-306-400	REP-E	97-06-040	296-306A-12010	DECOD	97-09-013
296-150P-0210	NEW-P	97-09-039	296-306-400	REP	97-08-051A	296-306A-12015	DECOD	97-09-013
296-150P-0220	NEW-P	97-09-039	296-306-40007	REP-P	97-03-131	296-306A-12020	DECOD	97-09-013
296-150P-0250	NEW-P	97-09-039	296-306-40007	REP-E	97-06-040	296-306A-12025	DECOD	97-09-013
296-150P-0280	NEW-P	97-09-039	296-306-40007	REP	97-08-051A	296-306A-12030	DECOD	97-09-013
296-150P-0290	NEW-P	97-09-039	296-306-40009	REP-P	97-03-131	296-306A-12035	DECOD	97-09-013
296-150P-0300	NEW-P	97-09-039	296-306-40009	REP-E	97-06-040	296-306A-12040	DECOD	97-09-013
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296-150P-0320	NEW-P	97-09-039	296-306A-003	DECOD	97-09-013	296-306A-12050	DECOD	97-09-013
296-150P-0330	NEW-P	97-09-039	296-306A-006	DECOD	97-09-013	296-306A-12055	DECOD	97-09-013
296-150P-0340	NEW-P	97-09-039	296-306A-009	DECOD	97-09-013	296-306A-130	DECOD	97-09-013
296-150P-0350	NEW-P	97-09-039	296-306A-012	DECOD	97-09-013	296-306A-13005	DECOD	97-09-013
296-150P-0400	NEW-P	97-09-039	296-306A-015	DECOD	97-09-013	296-306A-13010	DECOD	97-09-013
296-150P-0410	NEW-P	97-09-039	296-306A-018	DECOD	97-09-013	296-306A-13015	DECOD	97-09-013
296-150P-0420	NEW-P	97-09-039	296-306A-021	DECOD	97-09-013	296-306A-13020	DECOD	97-09-013
296-150P-0440	NEW-P	97-09-039	296-306A-024	DECOD	97-09-013	296-306A-13025	DECOD	97-09-013
296-150P-0450	NEW-P	97-09-039	296-306A-030	DECOD	97-09-013	296-306A-13030	DECOD	97-09-013
296-150P-0600	NEW-P	97-09-039	296-306A-033	DECOD	97-09-013	296-306A-13035	DECOD	97-09-013
296-150P-0610	NEW-P	97-09-039	296-306A-036	DECOD	97-09-013	296-306A-13040	DECOD	97-09-013
296-150P-0620	NEW-P	97-09-039	296-306A-039	DECOD	97-09-013	296-306A-13045	DECOD	97-09-013
296-150P-0630	NEW-P	97-09-039	296-306A-042	DECOD	97-09-013	296-306A-13050	DECOD	97-09-013
296-150P-0640	NEW-P	97-09-039	296-306A-045	DECOD	97-09-013	296-306A-13055	DECOD	97-09-013
296-150P-0700	NEW-P	97-09-039	296-306A-050	DECOD	97-09-013	296-306A-145	DECOD	97-09-013
296-150P-0710	NEW-P	97-09-039	296-306A-055	DECOD	97-09-013	296-306A-14505	DECOD	97-09-013
296-150P-0720	NEW-P	97-09-039	296-306A-05501	DECOD	97-09-013	296-306A-14510	DECOD	97-09-013
296-150P-1000	NEW-P	97-09-039	296-306A-05503	DECOD	97-09-013	296-306A-14520	DECOD	97-09-013
296-150P-1010	NEW-P	97-09-039	296-306A-05505	DECOD	97-09-013	296-306A-150	DECOD	97-09-013
296-150P-1020	NEW-P	97-09-039	296-306A-05507	DECOD	97-09-013	296-306A-15003	DECOD	97-09-013
296-150P-2000	NEW-P	97-09-039	296-306A-060	DECOD	97-09-013	296-306A-15006	DECOD	97-09-013
296-150P-2010	NEW-P	97-09-039	296-306A-061	DECOD	97-09-013	296-306A-15009	DECOD	97-09-013
296-150P-2020	NEW-P	97-09-039	296-306A-065	DECOD	97-09-013	296-306A-15012	DECOD	97-09-013
296-150P-2030	NEW-P	97-09-039	296-306A-070	DECOD	97-09-013	296-306A-160	DECOD	97-09-013
296-150P-3000	NEW-P	97-09-039	296-306A-07001	DECOD	97-09-013	296-306A-16001	DECOD	97-09-013
296-150R	PREP	97-03-082	296-306A-07003	DECOD	97-09-013	296-306A-16003	AMD-P	97-03-131
296-150R	AMD-P	97-09-039	296-306A-07005	DECOD	97-09-013	296-306A-16003	AMD-E	97-06-040
296-150R-0010	AMD-P	97-09-039	296-306A-07007	DECOD	97-09-013	296-306A-16003	AMD	97-08-051A
296-150R-0020	AMD-P	97-09-039	296-306A-07009	DECOD	97-09-013	296-306A-16003	DECOD	97-09-013
296-150R-0030	AMD-P	97-09-039	296-306A-07011	DECOD	97-09-013	296-306A-16005	DECOD	97-09-013
296-150R-0040	AMD-P	97-09-039	296-306A-07013	DECOD	97-09-013	296-306A-16007	DECOD	97-09-013
296-150R-0060	AMD-P	97-09-039	296-306A-073	DECOD	97-09-013	296-306A-16009	DECOD	97-09-013
296-150R-0100	AMD-P	97-09-039	296-306A-076	DECOD	97-09-013	296-306A-16011	DECOD	97-09-013
296-150R-0110	AMD-P	97-09-039	296-306A-080	DECOD	97-09-013	296-306A-16013	AMD-P	97-03-131
296-150R-0120	AMD-P	97-09-039	296-306A-08003	DECOD	97-09-013	296-306A-16013	AMD-E	97-04-048
296-150R-0130	AMD-P	97-09-039	296-306A-08006	DECOD	97-09-013	296-306A-16013	AMD	97-08-051A
296-150R-0200	AMD-P	97-09-039	296-306A-08009	DECOD	97-09-013	296-306A-16013	DECOD	97-09-013
296-150R-0250	AMD-P	97-09-039	296-306A-08012	DECOD	97-09-013	296-306A-16015	DECOD	97-09-013
296-150R-0280	AMD-P	97-09-039	296-306A-08015	DECOD	97-09-013	296-306A-16017	DECOD	97-09-013
296-150R-0400	AMD-P	97-09-039	296-306A-08018	AMD-P	97-03-131	296-306A-16019	DECOD	97-09-013

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-307-50005	RECOD	97-09-013	296-400-300	REP	97-11-052	308-13-210	NEW	97-10-026
296-307-50007	RECOD	97-09-013	296-400A-005	NEW-P	97-03-085	308-13-220	NEW	97-10-026
296-307-50009	RECOD	97-09-013	296-400A-005	NEW	97-11-052	308-13-230	NEW	97-10-026
296-307-50011	RECOD	97-09-013	296-400A-020	NEW-P	97-03-085	308-13-240	NEW	97-10-026
296-307-50013	RECOD	97-09-013	296-400A-020	NEW	97-11-052	308-14-210	NEW-P	97-07-031
296-307-50015	RECOD	97-09-013	296-400A-030	NEW-P	97-03-085	308-14-210	NEW	97-10-053
296-307-50017	RECOD	97-09-013	296-400A-030	NEW	97-11-052	308-14-220	NEW-P	97-07-031
296-307-50019	RECOD	97-09-013	296-400A-031	NEW-P	97-03-085	308-14-220	NEW	97-10-053
296-307-50021	RECOD	97-09-013	296-400A-031	NEW	97-11-052	308-14-230	NEW-P	97-07-031
296-307-50023	RECOD	97-09-013	296-400A-032	NEW-P	97-03-085	308-14-230	NEW	97-10-053
296-307-50025	RECOD	97-09-013	296-400A-032	NEW	97-11-052	308-19-400	NEW-P	97-07-026
296-307-50027	RECOD	97-09-013	296-400A-033	NEW-P	97-03-085	308-19-400	NEW	97-10-047
296-307-50029	RECOD	97-09-013	296-400A-033	NEW	97-11-052	308-19-400	NEW-P	97-07-026
296-307-52001	RECOD	97-09-013	296-400A-035	NEW-P	97-03-085	308-19-410	NEW-P	97-07-031
296-307-52003	RECOD	97-09-013	296-400A-035	NEW	97-11-052	308-19-410	NEW	97-10-053
296-307-52005	RECOD	97-09-013	296-400A-045	NEW-P	97-03-085	308-19-420	NEW-P	97-07-026
296-307-52007	RECOD	97-09-013	296-400A-045	NEW	97-11-052	308-19-420	NEW	97-10-047
296-307-52009	RECOD	97-09-013	296-400A-050	NEW-P	97-03-085	308-20-710	NEW-P	97-07-032
296-307-52011	RECOD	97-09-013	296-400A-050	NEW	97-11-052	308-20-710	NEW	97-10-049
296-307-52013	RECOD	97-09-013	296-400A-070	NEW-P	97-03-085	308-20-720	NEW-P	97-07-032
296-307-52015	RECOD	97-09-013	296-400A-070	NEW	97-11-052	308-20-720	NEW	97-10-049
296-307-52017	RECOD	97-09-013	296-400A-100	NEW-P	97-03-085	308-20-730	NEW-P	97-07-032
296-307-52019	RECOD	97-09-013	296-400A-100	NEW	97-11-052	308-20-730	NEW	97-10-049
296-307-52021	RECOD	97-09-013	296-400A-110	NEW-P	97-03-085	308-29-090	NEW-P	97-07-033
296-307-52023	RECOD	97-09-013	296-400A-110	NEW	97-11-052	308-29-090	NEW-W	97-09-022
296-307-52025	RECOD	97-09-013	296-400A-120	NEW-P	97-03-085	308-29-100	NEW-P	97-07-033
296-307-52027	RECOD	97-09-013	296-400A-120	NEW	97-11-052	308-29-100	NEW-W	97-09-022
296-307-52029	RECOD	97-09-013	296-400A-121	NEW-P	97-03-085	308-29-110	NEW-P	97-07-033
296-307-52031	RECOD	97-09-013	296-400A-121	NEW	97-11-052	308-29-110	NEW-W	97-09-022
296-307-52033	RECOD	97-09-013	296-400A-130	NEW-P	97-03-085	308-30-170	NEW-P	97-07-029
296-307-52035	RECOD	97-09-013	296-400A-130	NEW	97-11-052	308-30-170	NEW	97-10-052
296-307-52037	RECOD	97-09-013	296-400A-140	NEW-P	97-03-085	308-30-180	NEW-P	97-07-029
296-307-52039	RECOD	97-09-013	296-400A-140	NEW	97-11-052	308-30-180	NEW	97-10-052
296-307-52041	RECOD	97-09-013	296-400A-300	NEW-P	97-03-085	308-30-190	NEW-P	97-07-029
296-307-52043	RECOD	97-09-013	296-400A-300	NEW	97-11-052	308-30-190	NEW	97-10-052
296-307-52045	RECOD	97-09-013	296-400A-400	NEW-P	97-03-085	308-32-100	NEW-P	97-07-027
296-307-52047	RECOD	97-09-013	296-400A-400	NEW	97-11-052	308-32-100	NEW	97-10-050
296-307-530	RECOD	97-09-013	296-400A-425	NEW-P	97-03-085	308-32-110	NEW-P	97-07-027
296-307-53001	RECOD	97-09-013	296-400A-425	NEW	97-11-052	308-32-110	NEW	97-10-050
296-307-53003	RECOD	97-09-013	296-401	PREP	97-02-095	308-32-120	NEW-P	97-07-027
296-307-53005	RECOD	97-09-013	296-401-080	AMD-P	97-03-083	308-32-120	NEW	97-10-050
296-307-53007	RECOD	97-09-013	296-401-090	AMD-P	97-03-083	308-33-110	NEW-P	97-07-030
296-307-53009	RECOD	97-09-013	296-401-100	AMD-P	97-03-083	308-33-110	NEW	97-10-054
296-307-53011	RECOD	97-09-013	296-401-120	AMD-P	97-03-083	308-33-120	NEW-P	97-07-030
296-307-53013	RECOD	97-09-013	296-401-165	AMD-P	97-03-083	308-33-120	NEW	97-10-054
296-307-53015	RECOD	97-09-013	296-401-175	AMD-P	97-03-083	308-33-130	NEW-P	97-07-030
296-307-53017	RECOD	97-09-013	308-11-140	NEW-P	97-07-035	308-33-130	NEW	97-10-054
296-400-005	REP-P	97-03-084	308-11-140	NEW	97-10-046	308-56A-060	AMD-P	97-09-002
296-400-020	REP	97-11-052	308-11-150	NEW-P	97-07-035	308-56A-065	AMD	97-03-076
296-400-020	REP	97-03-084	308-11-150	NEW	97-10-046	308-56A-070	AMD	97-03-076
296-400-030	REP-P	97-03-084	308-11-160	NEW-P	97-07-035	308-56A-075	AMD	97-03-076
296-400-030	REP	97-11-052	308-11-160	NEW	97-10-046	308-56A-150	AMD	97-07-014
296-400-035	REP-P	97-03-084	308-11-160	NEW	97-07-035	308-56A-160	AMD	97-07-014
296-400-035	REP	97-11-052	308-12-025	AMD	97-03-121	308-56A-200	AMD-P	97-09-002
296-400-045	REP-P	97-03-084	308-12-031	AMD	97-03-121	308-56A-205	AMD-P	97-09-002
296-400-045	REP	97-11-052	308-12-040	AMD	97-03-121	308-56A-210	AMD-P	97-09-002
296-400-050	REP-P	97-03-084	308-12-050	AMD	97-03-121	308-56A-215	AMD-P	97-09-002
296-400-050	REP	97-11-052	308-12-140	REP	97-03-121	308-56A-250	AMD-P	97-09-002
296-400-070	REP-P	97-03-084	308-12-145	REP	97-03-121	308-56A-255	REP-P	97-09-002
296-400-070	REP	97-11-052	308-12-210	NEW	97-03-121	308-56A-265	AMD-P	97-09-002
296-400-100	REP-P	97-03-084	308-12-220	NEW	97-03-121	308-56A-270	AMD-P	97-09-002
296-400-100	REP	97-11-052	308-12-230	NEW	97-03-121	308-56A-275	AMD-P	97-09-002
296-400-110	REP-P	97-03-084	308-12-240	NEW-W	97-03-065	308-56A-280	AMD-P	97-09-002
296-400-110	REP	97-11-052	308-12-240	NEW	97-03-121	308-56A-285	AMD-P	97-09-002
296-400-120	REP-P	97-03-084	308-12-250	NEW-W	97-03-065	308-56A-300	AMD-P	97-09-002
296-400-120	REP	97-11-052	308-12-260	NEW-W	97-03-065	308-56A-305	AMD-P	97-09-002
296-400-130	REP-P	97-03-084	308-12-320	AMD	97-06-064	308-56A-310	AMD-P	97-09-002
296-400-130	REP	97-11-052	308-12-324	AMD	97-03-121	308-56A-315	AMD-P	97-09-002
296-400-140	REP-P	97-03-084	308-12-326	AMD	97-06-064	308-56A-320	AMD-P	97-09-002
296-400-140	REP	97-11-052	308-13-045	NEW-P	97-03-022	308-56A-325	AMD-P	97-09-002
296-400-140	REP	97-03-084	308-13-045	NEW	97-06-065	308-56A-330	AMD-P	97-09-002
296-400-300	REP-P	97-03-084	308-13-160	AMD-P	97-03-022	308-56A-335	AMD-P	97-09-002
				AMD	97-06-065	308-56A-340	REP-P	97-09-002
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308-56A-355	REP-P	97-09-002	308-96A-136	AMD	97-07-013	315-10-062	NEW	97-04-047
308-56A-360	AMD-P	97-09-002	308-96A-161	AMD-P	97-06-027	315-10-065	NEW	97-04-047
308-56A-365	AMD-P	97-09-002	308-96A-161	AMD	97-09-003	315-10-070	AMD	97-04-047
308-56A-370	NEW-P	97-09-002	308-96A-162	AMD-P	97-06-027	315-10-075	NEW	97-04-047
308-56A-400	REP-P	97-09-002	308-96A-162	AMD	97-09-003	315-11A-184	AMD-P	97-03-123
308-56A-405	REP-P	97-09-002	308-125-120	PREP	97-09-082	315-11A-184	AMD	97-07-063
308-56A-410	REP-P	97-09-002	308-125-120	PREP	97-09-083	315-11A-187	NEW-P	97-03-123
308-56A-415	REP-P	97-09-002	308-125-120	PREP	97-11-059	315-11A-187	NEW	97-07-063
308-56A-470	AMD	97-07-014	308-127-310	NEW-P	97-07-028	315-11A-188	NEW-P	97-03-123
308-56A-610	AMD-P	97-06-028	308-127-310	NEW	97-10-051	315-11A-188	NEW	97-07-063
308-56A-610	AMD-S	97-09-038	308-127-320	NEW-P	97-07-028	315-11A-189	NEW-P	97-03-123
308-56A-620	AMD-P	97-06-028	308-127-320	NEW	97-10-051	315-11A-189	NEW	97-07-063
308-56A-620	AMD-S	97-09-038	308-127-330	NEW-P	97-07-028	315-11A-190	NEW-P	97-03-123
308-56A-630	REP-P	97-06-028	308-127-330	NEW	97-10-051	315-11A-190	NEW	97-07-063
308-56A-630	REP-S	97-09-038	308-330-121	REP-P	97-07-015	315-11A-191	NEW-P	97-03-123
308-56A-640	AMD-P	97-06-028	308-330-121	REP	97-10-068	315-11A-191	NEW	97-07-063
308-56A-640	AMD-S	97-09-038	308-330-123	REP-P	97-07-015	315-11A-192	NEW-P	97-07-062
308-56A-650	AMD-P	97-06-028	308-330-123	REP	97-10-068	315-11A-192	NEW	97-11-003
308-56A-650	AMD-S	97-09-038	308-330-197	AMD-P	97-07-015	315-11A-193	NEW-P	97-07-062
308-56A-660	AMD-P	97-06-028	308-330-197	AMD	97-10-068	315-11A-193	NEW	97-11-003
308-56A-660	AMD-S	97-09-038	308-330-200	AMD-P	97-07-015	315-11A-194	NEW-P	97-07-062
308-56A-670	AMD-P	97-06-028	308-330-200	AMD	97-10-068	315-11A-194	NEW	97-11-003
308-56A-670	AMD-S	97-09-038	308-330-300	AMD-P	97-07-015	315-11A-195	NEW-P	97-07-062
308-56A-680	AMD-P	97-06-028	308-330-300	AMD	97-10-068	315-11A-195	NEW	97-11-003
308-56A-680	AMD-S	97-09-038	308-330-305	AMD-P	97-07-015	315-11A-196	NEW-P	97-11-058
308-56A-690	AMD-P	97-06-028	308-330-305	AMD	97-10-068	315-11A-197	NEW-P	97-11-058
308-56A-690	AMD-S	97-09-038	308-330-307	AMD-P	97-07-015	315-11A-198	NEW-P	97-11-058
308-57-005	AMD-P	97-07-069	308-330-307	AMD	97-10-068	315-11A-199	NEW-P	97-11-058
308-57-010	AMD-P	97-07-069	308-330-316	AMD-P	97-07-015	315-11A-200	NEW-P	97-11-058
308-57-020	AMD-P	97-07-069	308-330-316	AMD	97-10-068	315-11A-201	NEW-P	97-11-058
308-57-030	AMD-P	97-07-069	308-330-322	AMD-P	97-07-015	315-11A-202	NEW-P	97-11-058
308-57-110	AMD-P	97-07-069	308-330-322	AMD	97-10-068	315-11A-203	NEW-P	97-11-058
308-57-120	AMD-P	97-07-069	308-330-329	REP-P	97-07-015	315-12-020	AMD-P	97-03-123
308-57-130	AMD-P	97-07-069	308-330-329	REP	97-10-068	315-12-020	AMD	97-07-063
308-57-135	NEW-P	97-07-069	308-330-370	AMD-P	97-07-015	315-12-030	PREP	97-07-061
308-57-140	AMD-P	97-07-069	308-330-370	AMD	97-10-068	315-12-030	AMD-P	97-11-058
308-57-210	AMD-P	97-07-069	308-330-375	REP-P	97-07-015	315-12-080	AMD-P	97-03-123
308-57-220	REP-P	97-07-069	308-330-375	REP	97-10-068	315-12-080	AMD	97-07-063
308-57-230	AMD-P	97-07-069	308-330-400	AMD-P	97-07-015	315-12-090	AMD-P	97-03-123
308-57-240	AMD-P	97-07-069	308-330-400	AMD	97-10-068	315-12-090	AMD	97-07-063
308-57-250	REP-P	97-07-069	308-330-406	AMD-P	97-07-015	315-34	PREP	97-11-057
308-57-310	REP-P	97-07-069	308-330-406	AMD	97-10-068	317-31-200	AMD-P	97-07-065
308-57-320	REP-P	97-07-069	308-330-408	AMD-P	97-07-015	317-31-200	AMD	97-10-097
308-57-410	REP-P	97-07-069	308-330-408	AMD	97-10-068	317-31-220	AMD-P	97-07-065
308-57-420	REP-P	97-07-069	308-330-415	AMD-P	97-07-015	317-31-220	AMD	97-10-097
308-57-430	REP-P	97-07-069	308-330-415	AMD	97-10-068	317-31-230	AMD-P	97-07-065
308-57-440	REP-P	97-07-069	308-330-421	AMD-P	97-07-015	317-31-230	AMD	97-10-097
308-58-010	AMD-P	97-03-096	308-330-421	AMD	97-10-068	317-40	PREP	97-07-066
308-58-010	AMD-S	97-08-005	308-330-425	AMD-P	97-07-015	317-50-010	NEW-P	97-07-064
308-58-010	AMD	97-11-049	308-330-425	AMD	97-10-068	317-50-010	NEW	97-10-096
308-58-030	AMD-P	97-03-096	308-330-436	AMD-P	97-07-015	317-50-020	NEW-P	97-07-064
308-58-030	AMD-S	97-08-005	308-330-436	AMD	97-10-068	317-50-020	NEW	97-10-096
308-58-030	AMD	97-11-049	308-330-462	AMD-P	97-07-015	317-50-030	NEW-P	97-07-064
308-58-040	AMD-P	97-03-096	308-330-462	AMD	97-10-068	317-50-030	NEW	97-10-096
308-58-040	AMD-S	97-08-005	308-330-800	AMD-P	97-07-015	317-50-040	NEW-P	97-07-064
308-58-040	AMD	97-11-049	308-330-800	AMD	97-10-068	317-50-040	NEW	97-10-096
308-58-050	NEW-P	97-03-096	308-330-825	AMD-P	97-07-015	317-50-050	NEW-P	97-07-064
308-58-050	NEW-S	97-08-005	308-330-825	AMD	97-10-068	317-50-050	NEW	97-10-096
308-58-050	NEW	97-11-049	308-420-250	NEW-P	97-07-034	317-50-060	NEW-P	97-07-064
308-96A-005	AMD-P	97-06-027	308-420-250	NEW	97-10-048	317-50-060	NEW	97-10-096
308-96A-005	AMD	97-10-003	308-420-260	NEW-P	97-07-034	317-50-070	NEW-P	97-07-064
308-96A-046	AMD-P	97-03-028	308-420-260	NEW	97-10-048	317-50-070	NEW	97-10-096
308-96A-046	AMD	97-07-013	308-420-270	NEW-P	97-07-034	317-50-080	NEW-P	97-07-064
308-96A-056	AMD-P	97-03-028	308-420-270	NEW	97-10-048	317-50-080	NEW	97-10-096
308-96A-056	AMD	97-07-013	315-06	PREP	97-11-057	317-50-900	NEW-P	97-07-064
308-96A-057	AMD-P	97-03-028	315-10-010	AMD	97-04-047	317-50-900	NEW	97-10-096
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308-96A-072	AMD	97-07-013	315-10-025	NEW	97-04-047	332-24-221	AMD-P	97-09-065
308-96A-073	AMD	97-07-014	315-10-030	AMD	97-04-047	332-24-720	AMD	97-05-066
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352-32-235	AMD-P	97-09-114	363-11-530	RECOD	97-08-042	374-70-120	AMD	97-06-080
356-05-055	AMD-P	97-08-089	363-11-540	RECOD	97-08-042	374-70-120	AMD-E	97-07-049
356-05-055	AMD-W	97-10-088	363-11-550	RECOD	97-08-042	374-70-130	AMD-P	97-03-113
356-06-020	AMD-P	97-08-089	363-11-560	RECOD	97-08-042	374-70-130	AMD	97-06-080
356-06-020	AMD-W	97-10-088	363-11-570	RECOD	97-08-042	374-70-130	AMD-E	97-07-049
356-06-060	AMD-P	97-08-089	363-11-580	RECOD	97-08-042	388-11	PREP	97-09-109
356-06-060	AMD-W	97-10-088	363-11-590	RECOD	97-08-042	388-11-032	PREP	97-09-111
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356-06-070	REP-W	97-10-088	363-116-020	RECOD	97-08-042	388-11-048	PREP	97-09-111
356-06-080	REP-P	97-08-089	363-116-030	RECOD	97-08-042	388-11-285	AMD-P	97-09-019
356-06-080	REP-W	97-10-088	363-116-050	RECOD	97-08-042	388-11-285	AMD-W	97-10-083
356-06-090	REP-P	97-08-089	363-116-060	RECOD	97-08-042	388-14-020	AMD-P	97-09-020
356-06-090	REP-W	97-10-088	363-116-070	RECOD	97-08-042	388-14-030	AMD-P	97-09-020
356-10-030	AMD-P	97-08-089	363-116-075	RECOD	97-08-042	388-14-030	PREP	97-09-110
356-10-030	AMD-W	97-10-088	363-116-080	RECOD	97-08-042	388-14-030	AMD-W	97-10-082
356-30-065	AMD-E	97-09-028	363-116-081	RECOD	97-08-042	388-14-260	AMD-P	97-09-020
356-30-065	AMD-P	97-10-090	363-116-082	RECOD	97-08-042	388-14-270	AMD-P	97-09-020
356-30-067	AMD-E	97-09-028	363-116-082	AMD-P	97-10-084	388-14-271	NEW-P	97-09-020
356-30-067	AMD-P	97-10-090	363-116-083	RECOD	97-08-042	388-14-272	NEW-P	97-09-020
363-11-001	RECOD	97-08-042	363-116-085	RECOD	97-08-042	388-14-274	NEW-P	97-09-020
363-11-003	RECOD	97-08-042	363-116-110	RECOD	97-08-042	388-14-276	NEW-P	97-09-020
363-11-010	RECOD	97-08-042	363-116-115	RECOD	97-08-042	388-14-300	AMD-P	97-09-020
363-11-020	RECOD	97-08-042	363-116-120	RECOD	97-08-042	388-14-375	NEW-P	97-09-020
363-11-030	RECOD	97-08-042	363-116-140	RECOD	97-08-042	388-14-385	AMD-P	97-09-020
363-11-040	RECOD	97-08-042	363-116-150	RECOD	97-08-042	388-14-390	AMD-P	97-09-020
363-11-050	RECOD	97-08-042	363-116-170	RECOD	97-08-042	388-14-400	REP-P	97-09-020
363-11-060	RECOD	97-08-042	363-116-175	RECOD	97-08-042	388-14-405	REP-P	97-09-020
363-11-070	RECOD	97-08-042	363-116-185	RECOD	97-08-042	388-14-415	AMD-P	97-09-020
363-11-080	RECOD	97-08-042	363-116-185	AMD-P	97-10-062	388-14-420	AMD-P	97-09-020
363-11-090	RECOD	97-08-042	363-116-200	RECOD	97-08-042	388-14-425	REP-P	97-09-020
363-11-100	RECOD	97-08-042	363-116-205	RECOD	97-08-042	388-14-430	REP-P	97-09-020
363-11-110	RECOD	97-08-042	363-116-2051	RECOD	97-08-042	388-14-435	AMD-P	97-09-020
363-11-120	RECOD	97-08-042	363-116-300	RECOD	97-08-042	388-14-440	AMD-P	97-09-020
363-11-130	RECOD	97-08-042	363-116-315	RECOD	97-08-042	388-14-445	AMD-P	97-09-020
363-11-140	RECOD	97-08-042	363-116-35001	RECOD	97-08-042	388-14-450	AMD-P	97-09-020
363-11-150	RECOD	97-08-042	363-116-360	RECOD	97-08-042	388-14-460	AMD-P	97-09-020
363-11-160	RECOD	97-08-042	363-116-370	RECOD	97-08-042	388-14-495	NEW-P	97-09-020
363-11-170	RECOD	97-08-042	363-116-400	RECOD	97-08-042	388-14-496	NEW-P	97-09-020
363-11-180	RECOD	97-08-042	363-116-410	RECOD	97-08-042	388-14-500	NEW-P	97-09-020
363-11-190	RECOD	97-08-042	363-116-420	RECOD	97-08-042	388-15-120	AMD-P	97-11-083
363-11-200	RECOD	97-08-042	363-116-500	RECOD	97-08-042	388-15-134	AMD-P	97-09-106
363-11-210	RECOD	97-08-042	365-135-010	AMD	97-02-093	388-15-196	PREP	97-08-072
363-11-220	RECOD	97-08-042	365-135-020	AMD	97-02-093	388-46-110	AMD-P	97-05-070
363-11-230	RECOD	97-08-042	365-135-035	NEW	97-02-093	388-46-110	AMD	97-10-038
363-11-240	RECOD	97-08-042	365-135-040	AMD	97-02-093	388-46-120	NEW-P	97-05-070
363-11-250	RECOD	97-08-042	365-135-050	AMD	97-02-093	388-46-120	NEW	97-10-038
363-11-260	RECOD	97-08-042	365-135-060	AMD	97-02-093	388-49-020	AMD	97-06-096
363-11-270	RECOD	97-08-042	365-135-070	AMD	97-02-093	388-49-160	AMD-P	97-06-098
363-11-280	RECOD	97-08-042	374-70-020	AMD-P	97-03-113	388-49-160	AMD	97-09-030
363-11-290	RECOD	97-08-042	374-70-020	AMD	97-06-080	388-49-190	AMD-P	97-06-097
363-11-300	RECOD	97-08-042	374-70-020	AMD-E	97-07-049	388-49-190	AMD	97-09-031
363-11-310	RECOD	97-08-042	374-70-030	AMD-P	97-03-113	388-49-310	AMD	97-06-074
363-11-320	RECOD	97-08-042	374-70-030	AMD	97-06-080	388-49-310	AMD-P	97-09-107
363-11-330	RECOD	97-08-042	374-70-030	AMD-E	97-07-049	388-49-355	NEW	97-03-035
363-11-340	RECOD	97-08-042	374-70-060	AMD-P	97-03-113	388-49-360	AMD-E	97-05-052
363-11-350	RECOD	97-08-042	374-70-060	AMD	97-06-080	388-49-360	AMD-P	97-05-053
363-11-360	RECOD	97-08-042	374-70-060	AMD-E	97-07-049	388-49-360	AMD	97-09-012
363-11-370	RECOD	97-08-042	374-70-070	AMD-P	97-03-113	388-49-362	NEW-E	97-05-052
363-11-380	RECOD	97-08-042	374-70-070	AMD	97-06-080	388-49-362	NEW-P	97-05-053
363-11-390	RECOD	97-08-042	374-70-070	AMD-E	97-07-049	388-49-362	NEW	97-09-012
363-11-400	RECOD	97-08-042	374-70-080	AMD-P	97-03-113	388-49-364	NEW-E	97-05-052
363-11-410	RECOD	97-08-042	374-70-080	AMD	97-06-080	388-49-364	NEW-P	97-05-053
363-11-420	RECOD	97-08-042	374-70-080	AMD-E	97-07-049	388-49-364	NEW	97-09-012
363-11-430	RECOD	97-08-042	374-70-090	AMD-P	97-03-113	388-49-366	NEW-E	97-05-052
363-11-440	RECOD	97-08-042	374-70-090	AMD	97-06-080	388-49-366	NEW-P	97-05-053
363-11-450	RECOD	97-08-042	374-70-090	AMD-E	97-07-049	388-49-366	NEW	97-09-012
363-11-460	RECOD	97-08-042	374-70-100	AMD-P	97-03-113	388-49-368	NEW-E	97-05-052
363-11-470	RECOD	97-08-042	374-70-100	AMD	97-06-080	388-49-368	NEW-P	97-05-053
363-11-480	RECOD	97-08-042	374-70-100	AMD-E	97-07-049	388-49-368	NEW	97-09-012
363-11-490	RECOD	97-08-042	374-70-110	REP-P	97-03-113	388-49-369	NEW-E	97-05-052
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388-49-380	AMD-P	97-05-053	388-218-1530	AMD-P	97-03-051	388-550-2000	NEW-P	97-11-008
388-49-380	AMD	97-09-012	388-218-1530	AMD	97-06-078	388-550-2100	NEW-P	97-11-008
388-49-385	NEW-E	97-05-052	388-218-1630	PREP	97-11-079	388-550-2200	NEW-P	97-11-008
388-49-385	NEW-P	97-05-053	388-218-1710	PREP	97-11-079	388-550-2300	NEW-P	97-11-008
388-49-385	NEW	97-09-012	388-218-1730	PREP	97-11-079	388-550-2400	NEW-P	97-11-008
388-49-470	AMD	97-05-002	388-218-1740	PREP	97-11-079	388-550-2500	NEW-P	97-11-008
388-49-640	AMD	97-04-024	388-218-1820	AMD-E	97-03-047	388-550-2600	NEW-P	97-11-008
388-49-670	AMD	97-04-023	388-218-1820	AMD-P	97-03-051	388-550-2700	NEW-P	97-11-008
388-87-020	AMD	97-04-005	388-218-1820	AMD	97-06-078	388-550-2750	NEW-P	97-11-008
388-96-010	PREP	97-06-072	388-250-1700	AMD-P	97-10-035	388-550-2800	NEW-P	97-11-008
388-96-220	PREP	97-06-072	388-250-1700	AMD-E	97-10-036	388-550-2900	NEW-P	97-11-008
388-96-221	PREP	97-06-072	388-265-1350	REP-P	97-05-071	388-550-3000	NEW-P	97-11-008
388-96-224	PREP	97-06-072	388-265-1350	REP	97-08-033	388-550-3100	NEW-P	97-11-008
388-96-505	PREP	97-06-072	388-265-1350	REP	97-10-042	388-550-3150	NEW-P	97-11-008
388-96-534	PREP	97-06-072	388-265-1750	PREP	97-06-132	388-550-3200	NEW-P	97-11-008
388-96-553	PREP	97-06-072	388-265-1750	AMD-E	97-06-133	388-550-3250	NEW-P	97-11-008
388-96-554	PREP	97-06-072	388-265-1750	AMD-P	97-10-039	388-550-3300	NEW-P	97-11-008
388-96-559	PREP	97-06-072	388-320-225	AMD-E	97-03-046	388-550-3350	NEW-P	97-11-008
388-96-565	PREP	97-06-072	388-320-225	AMD-P	97-03-053	388-550-3400	NEW-P	97-11-008
388-96-585	PREP	97-06-072	388-320-225	AMD	97-07-008	388-550-3450	NEW-P	97-11-008
388-96-709	PREP	97-06-072	388-330-035	AMD-P	97-09-106	388-550-3500	NEW-P	97-11-008
388-96-745	PREP	97-06-072	388-500-0005	PREP	97-11-075	388-550-3600	NEW-P	97-11-008
388-96-776	PREP	97-06-072	388-501-0135	AMD	97-03-038	388-550-3700	NEW-P	97-11-008
388-97-027	PREP	97-06-131	388-503-0310	AMD	97-03-036	388-550-3800	NEW-P	97-11-008
388-110-110	PREP	97-11-043	388-503-0310	PREP	97-11-075	388-550-3900	NEW-P	97-11-008
388-200-1400	NEW-E	97-03-046	388-505-0510	AMD-P	97-11-082	388-550-4000	NEW-P	97-11-008
388-200-1400	NEW-P	97-03-053	388-505-0520	AMD-E	97-08-074	388-550-4100	NEW-P	97-11-008
388-200-1400	NEW	97-07-008	388-505-0520	PREP	97-11-075	388-550-4200	NEW-P	97-11-008
388-215-1000	AMD-E	97-04-050	388-505-0540	AMD	97-04-005	388-550-4300	NEW-P	97-11-008
388-215-1000	AMD-P	97-04-051	388-506-0630	AMD	97-10-022	388-550-4400	NEW-P	97-11-008
388-215-1000	AMD	97-07-024	388-507-0710	AMD-P	97-07-023	388-550-4500	NEW-P	97-11-008
388-215-1115	NEW-P	97-05-068	388-507-0710	AMD	97-09-112	388-550-4600	NEW-P	97-11-008
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388-215-1400	AMD-P	97-05-071	388-509-0960	AMD-E	97-08-031	388-550-5000	NEW-P	97-11-008
388-215-1400	AMD	97-08-033	388-510	PREP	97-11-075	388-550-5100	NEW-P	97-11-008
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388-215-1550	NEW-P	97-03-052	388-511-1140	AMD	97-10-022	388-550-5250	NEW-P	97-11-008
388-215-1550	NEW	97-06-077	388-511-1160	AMD	97-03-034	388-550-5300	NEW-P	97-11-008
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388-215-1570	NEW	97-10-040	388-513-1330	AMD	97-10-022	388-550-5500	NEW-P	97-11-008
388-215-1650	AMD-E	97-03-054	388-513-1350	AMD-P	97-07-023	388-550-5600	NEW-P	97-11-008
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388-215-1650	AMD	97-06-076	388-513-1365	AMD	97-05-040	388-550-5800	NEW-P	97-11-008
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388-215-1660	NEW	97-09-029	388-517-1760	AMD-E	97-08-031	388-550-6150	NEW-P	97-11-008
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388-216-2500	AMD-P	97-03-050	388-528-2810	REP	97-03-037	388-550-6300	NEW-P	97-11-008
388-216-2500	AMD	97-06-075	388-538-070	PREP	97-11-076	388-550-6350	NEW-P	97-11-008
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415-112-460	NEW	97-03-016	458-10-030	NEW	97-08-068	468-86-130	NEW	97-09-046
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415-112-4603	NEW	97-03-016	458-10-050	NEW	97-08-068	468-86-140	NEW	97-09-046
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415-112-4605	NEW	97-03-016	458-10-070	NEW	97-08-068	468-86-150	NEW	97-09-046
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415-112-473	NEW	97-03-016	458-20-17401	AMD-P	97-07-079	468-105-050	AMD-P	97-11-040
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440-22-260	AMD-S	97-08-073	468-16-160	AMD	97-09-045	478-116-116	NEW-P	97-09-071
440-22-280	AMD-S	97-08-073	468-16-170	AMD-P	97-05-007	478-116-120	REP-P	97-09-071
440-22-300	AMD-S	97-08-073	468-16-170	AMD	97-09-045	478-116-121	NEW-P	97-09-071
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446-16-050	REP	97-05-048	468-86-040	NEW-P	97-06-005	478-116-161	NEW-P	97-09-071
446-16-070	AMD	97-05-048	468-86-040	NEW	97-09-046	478-116-163	NEW-P	97-09-071
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446-16-120	AMD	97-05-048	468-86-060	NEW	97-09-046	478-116-171	NEW-P	97-09-071
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478-116-200	REP-P	97-09-071	478-116-670	NEW-P	97-09-071	495A-141-055	NEW-P	97-07-002
478-116-201	NEW-P	97-09-071	478-136	PREP	97-10-077	495A-141-060	NEW-P	97-07-002
478-116-210	REP-P	97-09-071	478-160-035	AMD-P	97-08-062	495A-141-065	NEW-P	97-07-002
478-116-211	NEW-P	97-09-071	478-160-040	AMD-P	97-08-062	495A-141-070	NEW-P	97-07-002
478-116-220	REP-P	97-09-071	478-160-050	AMD-P	97-08-062	495A-141-080	NEW-P	97-07-002
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478-116-223	NEW-P	97-09-071	478-160-065	AMD-P	97-08-062	495A-141-100	NEW-P	97-07-002
478-116-225	NEW-P	97-09-071	478-160-085	AMD-P	97-08-062	495A-141-110	NEW-P	97-07-002
478-116-227	NEW-P	97-09-071	478-160-105	AMD-P	97-08-062	495A-141-120	NEW-P	97-07-002
478-116-230	REP-P	97-09-071	478-160-110	AMD-P	97-08-062	495A-141-130	NEW-P	97-07-002
478-116-231	NEW-P	97-09-071	478-160-120	AMD-P	97-08-062	495A-141-140	NEW-P	97-07-002
478-116-240	REP-P	97-09-071	478-160-125	AMD-P	97-08-062	495A-141-150	NEW-P	97-07-002
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478-116-271	NEW-P	97-09-071	478-160-295	AMD-P	97-08-062	516-12-420	AMD-P	97-11-025
478-116-280	REP-P	97-09-071	478-160-310	AMD-P	97-08-062	516-12-430	AMD-P	97-11-025
478-116-281	NEW-P	97-09-071	478-160-320	AMD-P	97-08-062	516-12-450	AMD-P	97-11-025
478-116-290	REP-P	97-09-071	478-250-050	AMD-P	97-08-062	516-12-460	AMD-P	97-11-025
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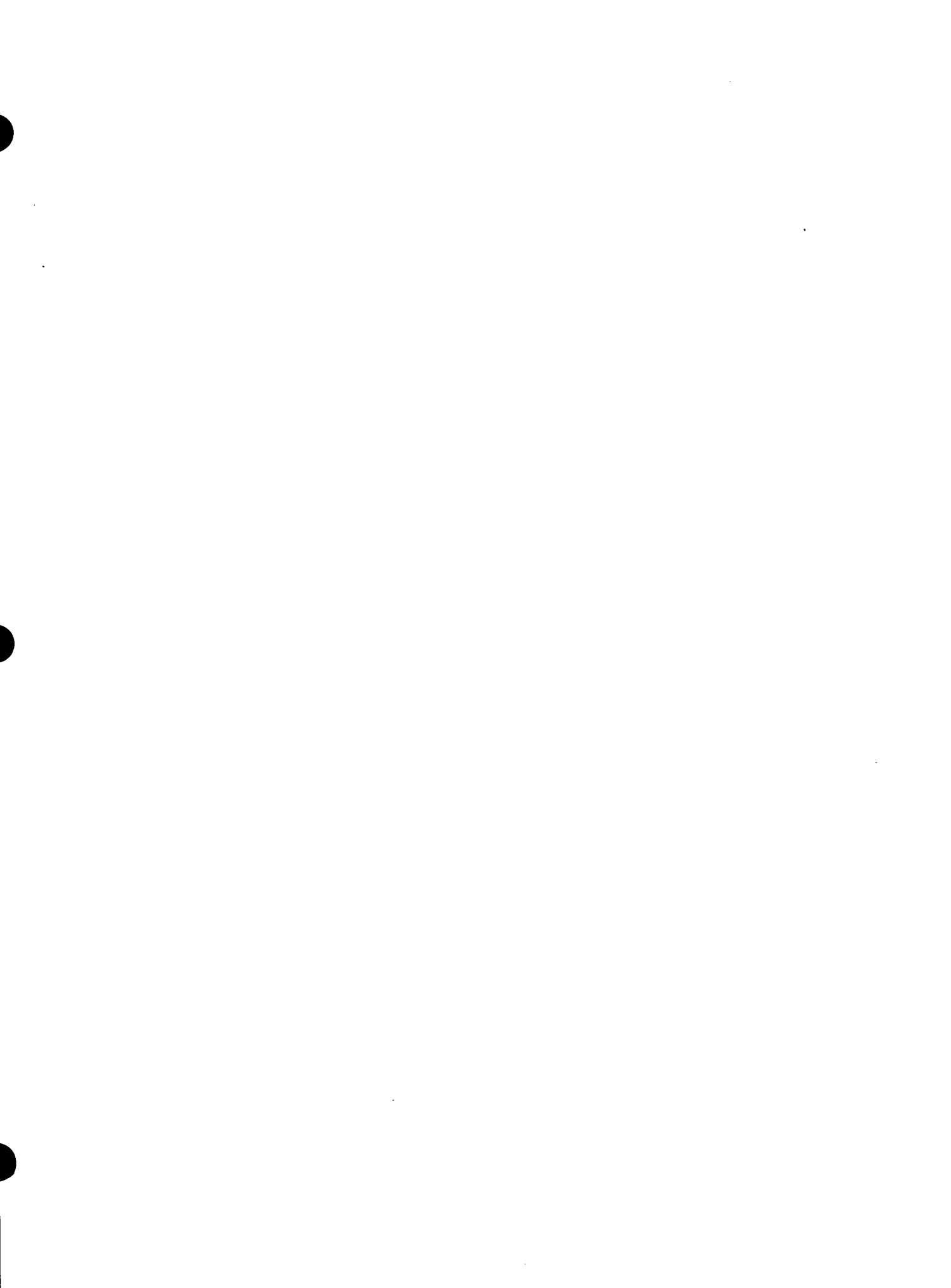
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