

Washington State Register

JULY 2, 1997

OLYMPIA, WASHINGTON

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IN THIS ISSUE

Agriculture, Department of
Bellingham Technical College
Convention and Trade Center
Ecology, Department of
Education, State Board of
Evergreen State College, The
Executive Ethics Board
Family and Children's Ombudsman,
Office of
Financial Institutions, Department of
Financial Management, Office of
Fish and Wildlife, Department of
Gambling Commission
Health, Department of
Higher Education Coordinating Board
Insurance Commissioner's Office
Judicial Conduct, Commission on
Labor and Industries, Department of
Licensing, Department of
Liquor Control Board

Minority and Women's Business
Enterprises, Office of
Olympic Air Pollution Control Agency
Outdoor Recreation, Interagency
Committee for
Personnel Resources Board
Personnel, Department of
Pierce College
Public Works Board
Retirement Systems, Department of
Seattle Community Colleges
Secretary of State
Social and Health Services, Department of
South Puget Sound Community College
Supreme Court, State
Transportation Improvement Board
Transportation, Department of
Walla Walla Community College
Washington State Library
Washington State Patrol

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than June 18, 1997

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.

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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.

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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 July 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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Mary F. Gallagher Dilley
Chair, Statute Law Committee

Kerry S. Radcliff
Editor

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Code Reviser

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Subscription Clerk

Gary Reid
Chief Assistant Code Reviser

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
97-12	May 7	May 21	Jun 4	Jun 18	Jul 8
97-13	May 21	Jun 4	Jun 18	Jul 2	Jul 22
97-14	Jun 4	Jun 18	Jul 2	Jul 16	Aug 5
97-15	Jun 25	Jul 9	Jul 23	Aug 6	Aug 26
97-16	Jul 9	Jul 23	Aug 6	Aug 20	Sep 9
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;

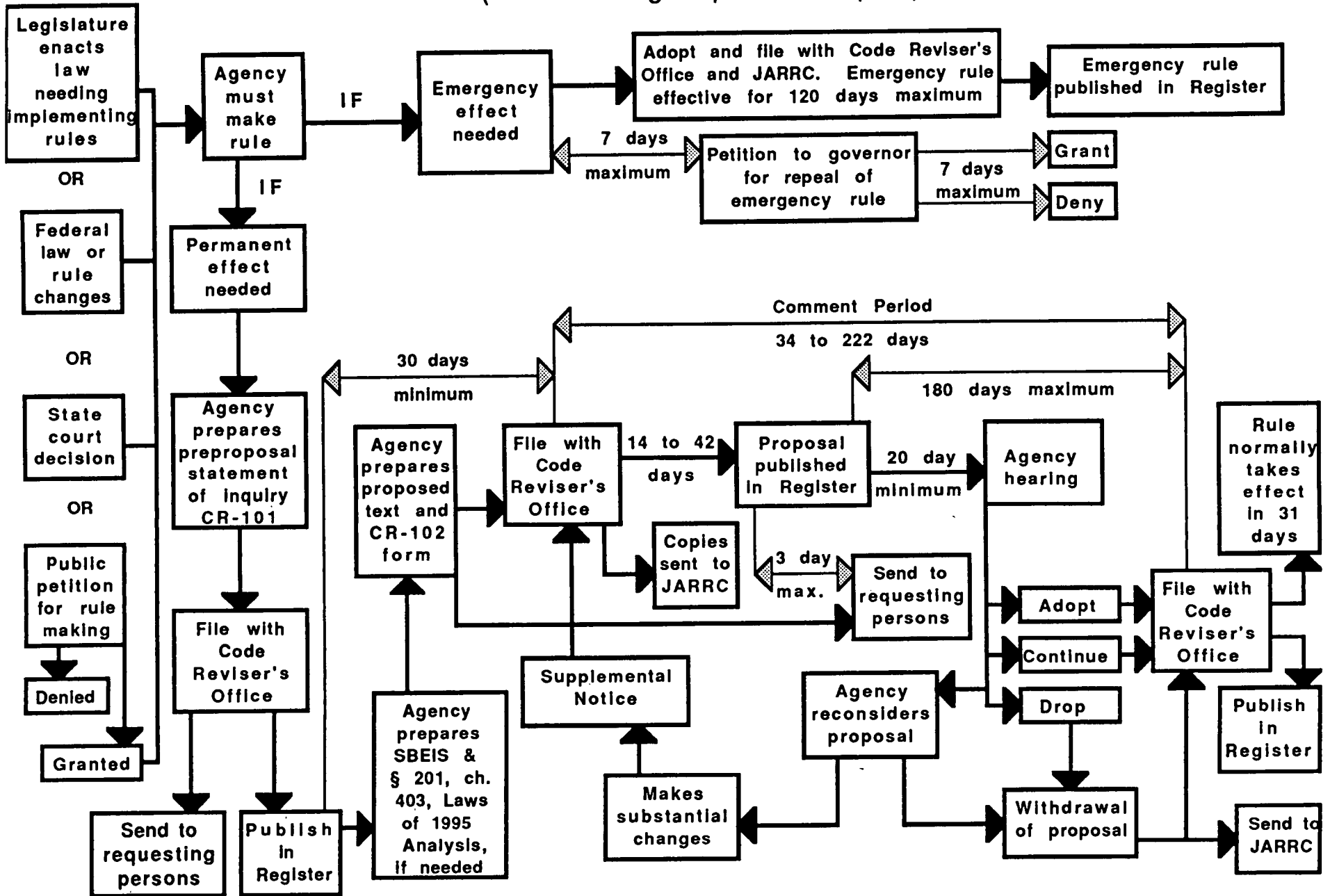
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 97-13-004**PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC WORKS BOARD**

[Filed June 5, 1997, 8:25 a.m.]

Subject of Possible Rule Making: Rules to implement and define terms in RCW 43.155.070 (1)(d) as found in section 29, chapter 429, Laws of 1997.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.155.040 (4), (5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Legislative modification to RCW 43.155.070 (1)(d). Rules are needed to interpret and clarify the statute.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Ecology and the Department of Health. We have already worked with both agencies in development of the emergency rule.

Process for Developing New Rule: Negotiated rule making, technical advisory committee will be utilized.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting P. A. Butkus, P.O. Box 48319, Olympia, WA 98504-8319, phone (360) 586-7186, FAX (360) 664-3029, e-mail peteb@cted.wa.gov. Please [refer to] emergency WAC 399-30-032, 399-30-033 and 399-30-034, filed on June 4, 1997.

June 5, 1997
Pete A. Butkus
Rules Coordinator

WSR 97-13-006**PREPROPOSAL STATEMENT OF INQUIRY
EXECUTIVE ETHICS BOARD**

[Filed June 5, 1997, 2:09 p.m.]

Subject of Possible Rule Making: Amendments to WAC 292-110-010 Use of state resources.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 42.52 RCW, RCW 42.52.360 (2)(b), 42.52.160(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board is responsible for enforcing chapter 42.52 RCW with regard to state officers and employees of the executive branch of state government. WAC 292-110-010 (5)(d) prohibits personal use of state computers unrelated to an official business purpose, regardless of whether or not there is no cost to the state. The board is seeking comments on whether this rule should be revised to permit limited personal use of computers as provided to employees of the legislative branch of state government in Legislative Ethics Board Rule 3.

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 board will request written comments from persons who may be interested in amending WAC 292-110-010 (5)(d). Comments received will be considered by the board before a proposed rule change is published pursuant to a formal notice.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Executive Ethics Board Secretary, 1125 Washington Street S.E., P.O. Box 40100, Olympia, WA 98504-0100, (360) 664-0871.

Written comments must be received by August 15, 1997. These comments will be considered by the board at its September regular meeting. Thereafter, the board may proceed with rule making.

June 5, 1997
Barbara Cook
Board Secretary

WSR 97-13-024**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed June 10, 1997, 9:19 a.m.]

Subject of Possible Rule Making: Personal use rules.
Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is planning to rehabilitate certain lakes, recreational opportunity will exist prior to the rehabilitation, and orderly fishery concerns will require closing the lakes immediately after rehabilitation.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Crawford, Fish Management Assistant Director, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-2325, contact by August 5, 1997.

Expected Proposal Filing: August 6, 1997.

June 10, 1997
Evan Jacoby
Rules Coordinator

WSR 97-13-060**PREPROPOSAL STATEMENT OF INQUIRY
SECRETARY OF STATE**

(Corporations Division)

[Filed June 17, 1997, 9:12 a.m.]

Subject of Possible Rule Making: Digital signatures.
Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 19.34 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Establish rules to implement digital signature law.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Information Services and corporations have meetings twice a month.

Process for Developing New Rule: Negotiated rule making; pilot rule making; and agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Linda Mackintosh, Director, Corporations Division, phone (360) 753-2896, FAX (360) 664-8781, e-mail lindam@secstate.wa.gov. Task force meetings are held second Thursday of each month at the Sea-Tac Marriott, Seattle, 9 a.m. to 12 p.m.

Corporations, Office of the Secretary of State, 505 East Union, P.O. Box 40234, 2nd Floor, Olympia, WA 98504-0234, (360) 753-7115 ext. 222, FAX (360) 664-8781.

June 11, 1997

Tracy Guerin

Assistant Secretary of State

WSR 97-13-066

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed June 17, 1997, 3:38 p.m.]

Subject of Possible Rule Making: Penalty assessment for violations of chapters 69.04, 69.07, 69.10, and 16.49 RCW.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 16.49.680, 69.04.730, 69.07.020, and 69.10.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: For the purpose of establishing fair, uniform and equitable means for assessing civil penalties and licensing actions for violations of chapters 69.04, 69.07, 69.10, and 16.49 RCW. These regulatory actions are necessary to deter violations of food safety laws and rules, to educate persons about the consequences of such violations, and to compel compliance with food safety laws for the protection of consumers. Fair and equitable systems for penalty assessment are strongly encouraged under RCW 34.05.220(4).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Food and Drug Administration, United States Department of Agriculture, state and local health agencies to some extent. We are coordinating this rule through the meetings of the Food Safety Advisory Committee, to which the Food and Drug Administration, the United States Department of Agriculture, the Department of Health and the local health agencies have representation.

Process for Developing New Rule: Rule was discussed and developed in a series of meetings with the Food Safety Advisory Committee and other affected stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mike Donovan, Program Manager, Food Safety Program, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1883, FAX (360) 902-2087.

Michael J. Donovan
Program Manager
for Candace Jacobs
Acting Assistant Director

WSR 97-13-070

PREPROPOSAL STATEMENT OF INQUIRY LIQUOR CONTROL BOARD

[Filed June 18, 1997, 8:46 a.m.]

Subject of Possible Rule Making: WAC 314-60-040 Operations and procedures, revising hours of operation and regular meeting schedule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The board currently meets with staff Tuesdays and Thursdays and conducts formal board meetings on Wednesdays. In order to better meet the needs of the citizens and more quickly respond to their concerns, the board would like to add Mondays and Fridays as days for additional staff work sessions. Further, such meetings would begin at 8:00 a.m. and extend until 5:00 p.m. to make better utilization of the day.

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

Process for Developing New Rule: Discussions with the public, liquor licensees, liquor industry representatives, etc. during public hearing(s).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nathan S. Ford, Jr., Chairman, P.O. Box 43080, Olympia, WA 98504-3080, phone (360) [753]-6268, FAX (360) 664-9689.

June 17, 1997

Nathan S. Ford, Jr.

Chairman

WSR 97-13-071

PREPROPOSAL STATEMENT OF INQUIRY LIQUOR CONTROL BOARD

[Filed June 18, 1997, 8:48 a.m.]

Subject of Possible Rule Making: Establishing the size of a spirituous liquor sample which may be given to a licensee in compliance with chapter 39, Laws of 1997.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amount of a sample which may be given to a licensee would create a maximum limitation and establish a standard that would be followed by all liquor manufacturers' representatives. Similar standards exist for beer and wine samples, but not for spirituous liquor samples which were added to the statutes during the 1997 session.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Bureau of Alcohol, Tobacco and Firearms. No federal standards apply.

Process for Developing New Rule: Input from distilled spirits manufacturers, liquor manufacturers' representatives and licensees will be obtained during the rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

publication by contacting David Goyette, Director, Regulatory Services, P.O. Box 43098, Olympia, WA 98504-3098, phone (360) 753-2724, FAX (360) 753-2710.

June 17, 1997
Nathan S. Ford, Jr.
Chairman

WSR 97-13-072

PREPROPOSAL STATEMENT OF INQUIRY INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 97-2—Filed June 18, 1997, 9:15 a.m.]

Subject of Possible Rule Making: Procedures and standards for health care service contractors and health maintenance organizations to use in filing contract forms and rate schedules with the Insurance Commissioner.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.44.050, and 48.46.200.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Specific provisions of the existing Washington Administrative Code that address filing and review requirements are outdated, or fail to provide clear and consistent guidance for carriers to be able to comply with the law.

New rules would provide consistent and up-to-date guidelines for the filing of contract forms and rate schedules, and specify the standard to be used to determine when proposed premiums are unreasonable in relation to benefits. Such rules can help keep the costs of regulation to the minimum necessary to protect the public, by setting forth on a consistent basis, what documentation a carrier is required to provide with its rate filing; and how the filing will be evaluated. They also will help make the review process smoother and more understandable for all concerned.

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 (1) solicitation of written comments; and (2) the Insurance Commissioner will set up a working group of interested parties to participate in development of the rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may request to participate in the working group by contacting Lillian Harjo at (360) 664-2569 or FAX (360) 586-3535. The commissioner plans to hold two public meetings to take comments and suggestions prior to the formulation of the proposed rule at a time and place to be announced. Interested persons are also encouraged to submit written comments prior to August 1, 1997, to Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, e-mail inscomr@aol.com, FAX (360) 586-3535. Substantive questions may be directed to Bethany Weidner at (360) 664-2532.

June 17, 1997
Greg J. Scully
Chief Deputy Commissioner

WSR 97-13-073

PREPROPOSAL STATEMENT OF INQUIRY WASHINGTON STATE PATROL

[Filed June 18, 1997, 9:20 a.m.]

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

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 182, Laws of 1997 (effective April 23, 1997) require the chief of the Washington State Patrol through the director of fire protection to adopt rules to implement chapter 70.77 RCW, to ensure state-wide minimum standards for enforcement of chapter 70.77 RCW, and to prescribe uniform state-wide standards for retail sale of fireworks. These rules will help to ensure uniform, safe operation of retail fireworks stands throughout the state.

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

Process for Developing New Rule: A committee composed of key stakeholders, including fire service officials and fireworks industry representatives, including wholesalers and retailers, will make recommendations to the Washington State Patrol for repeal, amendment or addition of rules to chapter 212-17 WAC necessary to carry out the statutory changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To find out more information about the committee and when meetings will be held, contact Mr. Lyall H. Smith, Deputy State Fire Marshal, Washington State Patrol, Fire Protection Bureau, P.O. Box 42600, Olympia, WA 98504-2600, phone (360) 753-0470, FAX (360) 753-0395.

June 17, 1997
Annette M. Sandberg
Chief

WSR 97-13-074

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 97-24—Filed June 18, 1997, 9:28 a.m.]

Subject of Possible Rule Making: Watershed planning grants, creating criteria that the Department of Ecology will use to evaluate grant applications for watershed planning grants. Ecology will amend chapter 173-500 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.21A.064(8), 90.54.040(2), and 43.27A.-090(11) direct the department to establish and promulgate rules related to water resources. The watershed planning grants were authorized by 2SHB 2054, chapter 442, Laws of 1997.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As a prerequisite to making grant award decisions, the agency should engage in rule making. We anticipate there may be more demand for grants than available funds. Therefore, rules will be needed to provide criteria for making eligibility determinations and project selection when evaluating competing proposals.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies administer these watershed planning grants. The Department of Ecology will coordinate with other agencies through the Joint Natural Resources Cabinet.

Process for Developing New Rule: Consult advisory committee.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Peggy Clifford, Department of Ecology, P.O. Box 4700, Lacey, WA 98504, phone (360) 407-7262, e-mail pcl461@ecy.wa.gov or request focus sheet for additional information.

Workshops will be held around the state in July 1997: In Wenatchee on July 14 at 3:00 - 5:00 p.m. at the Red Lion Inn; in Moses Lake on July 15 at 3:00 - 5:00 p.m. at the Best Western Hallmark Resort; in Kennewick on July 16 at 3:30 - 5:30 p.m. at the Mid-Columbia Library; in Everett on July 21 at 1:00 - 3:00 at the Travel Lodge; and in Olympia on July 28 at 3:00 - 5:00 p.m. at the Department of Ecology. Hearings will be scheduled.

June 12, 1997
Carol L. Fleskes
Program Manager

WSR 97-13-079

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed June 18, 1997, 10:05 a.m.]

Subject of Possible Rule Making: Establish new rules for the regulation of professional boxing, wrestling, kickboxing, and martial arts.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.08.017 and chapter 205, Laws of 1997.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A new law regulating professional boxing, wrestling, kickboxing, and martial arts has just been adopted. New rules are needed to update the current regulations and to provide for the implementation of kickboxing and martial arts events.

Process for Developing New Rule: Agency study; and focus groups, written comment, public meetings, AD-HOC committee members.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael C. Recor, Program Coordinator, Professional Athletics, Business and Professions Division, P.O. Box 2445, Olympia, WA 98507-2445, phone (360) 753-3713, FAX (360) 753-3747, TDD (360) 586-2788.

June 16, 1997
Michael C. Recor
Program Coordinator
Professional Athletics

WSR 97-13-082

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Language Interpreter Services and Translation)

[Filed June 18, 1997, 10:37 a.m.]

Subject of Possible Rule Making: Ensuring equal access and due process requirements for non-English speaking individuals seeking departmental services by regulating interpretation and translation services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 2.43.070(6), 26.50.035(5), 26.50.055(2), 49.60.010, 74.04.025, 74.04.050, and 74.04.057, *Reyes v. Thompson*, United States District Court for Western District of Washington 1991 (Stipulation, Agreement of settlement and consent order), Title VI Civil Rights Act of 1964.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: State law requires the Department of Social and Health Services to provide equal access to agency services. RCW 74.04.050 and 74.04.057 require the department to administer public assistance programs and promulgate rules to qualify for federal funds. RCW 74.04.025 requires the department to insure bilingual services are provided to non-English speaking applicants. The regulations are intended to assure that these persons are not denied benefits due to their inability to speak and understand English.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington State: Department of Social and Health Services, WAC 388-08-525; Department of Health, WAC 246-10-122; Department of Licensing, WAC 308-20-155(c); Federal: Office for Civil Rights of the United States Department of Health and Human Services, pursuant to Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, and federal regulations issued pursuant to these acts (Title 45 Code of Federal Regulations, Parts 80 and 84). Representatives from the previous agreements made between the Department of Social and Health Services and other interested parties regarding agency interpreters will be contacted and invited to participate in the rule-making process.

Process for Developing New Rule: The Department of Social and Health Services will send notice of the proposed rules regarding interpreter and translation services to all those persons on the language interpreter services and translation mailing and e-mail list, and welcome public participation through comments and public meetings to be held throughout the rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Hungling Fu, Ph.D, Language Interpreter Services and Translation, Department of Social and Health Services, P.O. Box 45820, Olympia, WA 98504-

5820, phone (360) 902-8113, e-mail FUHX@dshs.wa.gov,
FAX (360) 902-8128.

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

WSR 97-13-083
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)
[Filed June 18, 1997, 10:38 a.m.]

Subject of Possible Rule Making: Chapter 388-233 WAC, General assistance for children—Living with a legal guardian.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, EHB 3901, ESB 6098, Public Law 104-193 (1996).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: General assistance for children living with a legal guardian (GA-H) was based on the aid to families with dependent children (AFDC) program. AFDC has been replaced with work first temporary assistance for needy families (TANF). The references in the GA-H chapter need to be updated to TANF and reflect the eligibility requirements of the TANF program based on recently enacted EHB 3901, ESB 6098 and federal Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act of 1996 legislation.

Process for Developing New Rule: Anyone interested in participating in the development of these rules is encouraged to contact Kay Hanvey at the address below. Draft rules will be sent for review to the field staff, and any interested person upon request. The Department of Social and Health Services will take all comments into consideration before adopting final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kay Hanvey, Program Manager, Adult Program Support Services, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3100, FAX (360) 413-3495.

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

WSR 97-13-084
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)
[Filed June 18, 1997, 10:39 a.m.]

Subject of Possible Rule Making: Chapter 388-265 WAC, Payment of grants, protective payees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.04.057.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To adopt the provision of grant payments and requirements for protective payees in the new state work first temporary assistance to needy families law.

Process for Developing New Rule: Anyone interested in participating in the development of these rules is encouraged to contact Kay Hanvey at the address below. Draft rules will be sent for review to the field staff, and any interested person upon request. The Department of Social and Health Services will take all comments into consideration before adopting final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kay Hanvey, Program Manager, Adult and Program Support Services, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3100, FAX (360) 413-3495.

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

WSR 97-13-085
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)
[Filed June 18, 1997, 10:40 a.m.]

Subject of Possible Rule Making: Chapter 388-230 WAC, General assistance for pregnant women (GA-S).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.04.057.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Bring the GA-S program in accordance with temporary assistance to needy families law.

Process for Developing New Rule: Anyone interested in participating in the development of these rules is encouraged to contact Kay Hanvey at the address below. Draft rules will be sent for review to the field staff, and any interested person upon request. The Department of Social and Health Services will take all comments into consideration before adopting final rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kay Hanvey, Program Manager, Adult and Program Support Services, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3100, FAX (360) 413-3495.

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

WSR 97-13-086
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Division of Vocational Rehabilitation)
 [Filed June 18, 1997, 10:41 a.m.]

publication by contacting Jennell Prentice, Rules Coordinator, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, FAX (360) 705-6654, e-mail Internet address jzp0303@hub.doh.wa.gov.

June 18, 1997
 Bruce Miyahara
 Secretary

Subject of Possible Rule Making: The Division of Vocational Rehabilitation plans to repeal chapter 490-500 WAC in its entirety and implement a new chapter relating to vocational rehabilitation services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 74.29 RCW, RCW 74.29.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Need to adopt and implement newly published code of federal regulations governing the Division of Vocational Rehabilitation Services.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Rehabilitation Services Administration (RSA), Department of Services for the Blind (DSB), and Rehabilitation Advisory Council (RAC) will participate through review and comment.

Process for Developing New Rule: The Division of Vocational Rehabilitation is planning to schedule public meetings and send mailings to solicit feedback on proposed WAC changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kelly Boston, Program Manager, (360) 438-8026; Phyllis Hansen, Program Manager, (360) 438-8047; Division of Vocational Rehabilitation, P.O. Box 45340, Olympia, WA 98504, 1-800-637-5627 (V/TTY).

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

WSR 97-13-097
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH
 [Filed June 18, 1997, 11:55 a.m.]

Subject of Possible Rule Making: Boarding home licensing fees, WAC 246-316-990.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.250, 43.70.110, and 43.20B.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: An increase in boarding home fees is necessary for the department to meet requirements directed by 1997 legislation, chapter 392, Laws of 1997. The department has received authority to exceed I-601 limits to fully fund program.

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

Process for Developing New Rule: The department will document cost of implementing chapter 392, Laws of 1997 and determine fees. All interested parties wishing to participate in the drafting process may contact the Department of Health at the address listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

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

NEW SECTION

WAC 388-550-1050 Definitions. Unless otherwise specified, the terms used in the hospital services WAC chapter shall have the following meaning:

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

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

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

"**ADATSA/DASA assessment centers**" mean agencies contracted by the division of alcohol and substance abuse (DASA) to provide chemical dependency assessment for clients and pregnant women in accordance with the alcohol and drug addiction treatment and support act (ADATSA). Full plans for a continuum of drug and alcohol treatment services for pregnant women are also developed in ADATSA/DASA assessment centers.

"**Add-on procedures**" mean secondary procedures that are performed in addition to another procedure.

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

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

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

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

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

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

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

"**Alcoholism and/or alcohol abuse treatment**" means the provision of medical social services to an eligible client designed to mitigate or reverse the effects of alcoholism or alcohol abuse and to reduce or eliminate alcoholism or alcohol abuse behaviors and restore normal social, physical, and psychological functioning. Alcoholism or alcohol abuse treatment is characterized by the provision of a combination

of alcohol education sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and their families.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Blended rate" means a mathematically weighted average rate.

"Border area hospitals" mean facilities located in areas defined by state law as: Oregon - Astoria, Hermiston, Hood River, Milton-Freewater, Portland, Rainier, and The Dalles; Idaho - Coeur d'Alene, Lewiston, Moscow, Priest River and Sandpoint.

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

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

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

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

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

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

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

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

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

"Charity care" means necessary hospital health care rendered to indigent persons, as defined in this section, to

the extent that these persons are unable to pay for the care or to pay the deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

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

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

"Coinsurance" - See WAC 388-500-005.

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

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

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

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

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

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

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

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

(1) To Medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and

(2) To Medicaid to establish appropriate DRG and RCC reimbursement.

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

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

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

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

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

"Current procedural terminology (CPT)" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians; it is published annually by the American Medical Association (AMA).

"Customary charge or fee" - See **"Allowed charges"** and **"usual and customary charge."**

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

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

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

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

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

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

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

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

"Diagnosis-related group (DRG)" means a classification system which categorizes hospital patients into clinically coherent and homogenous groups with respect to resource

use, i.e., similar treatments and statistically similar lengths of stay for patients with related medical conditions. Classification of patients is based on the International Classification of Diseases, the presence of a surgical procedure, patient age, presence or absence of significant co-morbidities or complications, and other relevant criteria.

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

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

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

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

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

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

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

(3) See WAC 388-81-042.

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

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

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

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

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

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

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

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

"Emergency medical expense requirement (EMER)"

- See WAC 388-500-0005, Medical definitions.

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

"Emergency services" mean medical services, including maternity services, required by and provided to a patient after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. Inpatient maternity services are treated as emergency services.

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

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

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

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

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

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

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

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

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

"Facility triage fee" means the amount the medical assistance administration will pay a hospital for a medical evaluation or medical screening examination, performed in the hospital's emergency department, of a nonemergent condition of a *healthy options* client covered under the primary care case management (PCCM) program. This amount corresponds to the professional care level 1 or level 2 service.

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

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

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

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

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

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

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

"High-cost outlier" means a case with extraordinarily high costs when compared to other cases in the same DRG, in which the allowed charges exceed three times the applicable DRG payment or twenty-eight thousand dollars, whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Inpatient hospital" means an institution licensed by the department of health to provide inpatient hospital services.

"Inpatient services" mean all services provided directly or indirectly by the hospital to a patient subsequent to

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

"Institution" - See WAC 388-500-0005, Medical definitions.

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

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

"Intermediate care facility (ICF)" means an institution or a distinct part of an institution which is licensed under state law and has entered into a contract with the department to provide residents thereof, on a regular basis, the range or level of care suitable to eligible clients who because of their physical or mental condition require living accommodations and care which as a practical matter can be made available to them only through institutional facilities but do not have such disability as to require the degree of care which a skilled nursing home provides (WAC 388-34-015).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Medical care services" - See WAC 388-500-0005, Medical definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Noncovered service or charge" means a service or charge that is not covered by medical assistance, including,

but not limited to, such services or charges as a private room, circumcision, and video recording of the procedure.

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

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

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

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

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

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

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

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

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

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

"Outpatient hospital" means an institution licensed by the department of health to provide outpatient hospital services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Assistance in the activities of daily living.
- (2) Socialization activities.
- (3) Administration of medication.

(4) Maintenance of the resident's room.

(5) Supervision and assistance in the use of durable medical equipment and prescribed therapies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Surgery" - The medical diagnosis and treatment of injury, deformity or disease by manual and instrumental

operations. For reimbursement purposes, surgical procedures are those designated in CPT as procedure codes 10000 to 69999.

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

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

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

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

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

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

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

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

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

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

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

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

"Uninsured indigent patient" means an individual who receives hospital inpatient and/or outpatient services and who cannot meet the cost of services provided because the individual has no or insufficient health insurance or other resources to cover the cost.

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

Chapter 388-550 WAC HOSPITAL SERVICES

NEW SECTION

WAC 388-550-1000 Applicability. The department shall pay for hospital services provided to eligible clients when:

- (1) The eligible client is a patient in a general hospital and the hospital meets the definition in RCW 70.41.020;
- (2) The services are medically necessary as defined under WAC 388-500-0005; and

(3) The conditions, exceptions and limitations in this chapter are met.

NEW SECTION

WAC 388-550-1100 Hospital coverage. (1) Admission of a medical care client to a hospital shall be covered only when the admission is requested by the client's attending physician. For nonemergent hospital admissions, "attending physician" shall mean the client's primary care provider, or the primary provider of care to the patient at the time of hospitalization. For emergent admissions, "attending physician" shall mean the physician who evaluates the client's medical condition upon the client's arrival at the hospital.

(2) In areas where the choice of hospitals is limited by managed care or selective contracting, the department shall not be responsible for payment under fee-for-service for hospital care and/or services:

(a) Provided to managed care clients enrolled in the department's managed care plan, unless the services are excluded from the health carrier's capitation contract with the department and are covered under the medical assistance program; or

(b) Received by a medical care client from a nonparticipating hospital in a selective contracting area (SCA) unless exclusions in WACs 388-550-4600 and 388-550-4700 apply.

(3) The department shall provide chemical-dependent pregnant Medicaid clients up to twenty-six days of inpatient hospital care for hospital-based detoxification, medical stabilization, and drug treatment when:

(a) An alcohol, drug addiction and treatment support act assessment center verifies the need for the inpatient care; and

(b) The hospital chemical dependency treatment unit is certified by the division of alcohol and substance abuse.

(c) See WAC 388-550-6250 for outpatient hospital services for chemical-dependent pregnant Medicaid clients.

(4) The department shall cover medically necessary services provided to eligible clients in a hospital setting for the care or treatment of teeth, jaws, or structures directly supporting the teeth:

(a) If the procedure requires hospitalization; and

(b) A physician or dentist gives or directly supervises such services.

(5) The department shall pay hospitals for services provided in special care units when the provisions of WAC 388-550-2900 (9)(c) are met.

(6) All services shall be subject to review and approval as stated in WAC 388-87-025.

(7) For inpatient psychiatric admissions, whether voluntary or involuntary, see chapter 246-318 WAC.

NEW SECTION

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

(1) Medical care clients enrolled with the department's managed care carriers under:

(a) Comprehensive risk contracts are subject to their respective carriers' policies and procedures regarding hospital services;

(b) Primary care case management contracts are subject to the clients' primary care physicians' approval;

(c) For emergency care exemptions, see WAC 388-538-100.

(2) The department shall limit coverage for clients eligible for the medically indigent (MI) program to emergent hospital services, subject to the conditions and limitations of WAC 388-521-2140, WAC 388-529-2950, and this chapter. The department shall not cover out-of-state hospital or other medical care for clients under the MI program.

(3) The department shall not cover out-of-state medical care for clients under the medical care services program.

(4) See WAC 388-550-1100(3) for chemical-dependent pregnant clients.

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

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

(b) If such benefits are exhausted, the department shall pay for hospitalization for such client subject to MAA rules.

NEW SECTION

WAC 388-550-1300 Revenue code categories and subcategories. (1) For reimbursement and audit purposes, hospitals shall report and bill all services provided to a medical care client under the appropriate cost centers or revenue codes, except the following services which are subject to current procedural terminology codes and rates when provided in an outpatient setting:

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

(2) Revenue code categories in this chapter shall be as listed in the state of Washington's UB-92 procedure manual, implemented October 1, 1993, which was patterned after the national uniform billing data element specifications adopted by the national uniform billing committee.

NEW SECTION

WAC 388-550-1400 Covered revenue codes for hospital services. (1) The department shall cover the following revenue code categories for both inpatient and outpatient hospitalizations:

- (a) Pharmacy, except that:
 - (i) Subcategories take-home drugs, experimental drugs, and "other pharmacy" are not covered; and
 - (ii) Subcategory nonprescription is covered for inpatients only;
- (b) Intravenous (IV) therapy, except subcategory other IV therapy;

(c) Medical/surgical supplies and devices, except for the following subcategories:

- (i) Take home supplies;
 - (ii) Prosthetic devices;
 - (iii) Oxygen - take home; and
 - (iv) Other supplies/devices.
 - (d) Oncology, except subcategory "other oncology;"
 - (e) Respiratory services, except subcategory "other respiratory services;"
 - (f) Subcategories general classification and minor surgery under the operating room services category;
 - (g) Anesthesia, except subcategories acupuncture and "other anesthesia;"
 - (h) Blood storage and processing, except subcategory "other blood storage and processing;"
 - (i) Other imaging services, except subcategory "other image services;"
 - (j) Emergency room, except subcategory "other emergency room;"
 - (k) Pulmonary function, except subcategory "other pulmonary function;"
 - (l) Cardiology, except subcategory "other cardiology;"
 - (m) Magnetic resonance imaging (MRI), except subcategory "other MRI;"
 - (n) Cast room, except subcategory "other cast room;"
 - (o) Recovery room, except subcategory "other recovery room;"
 - (p) Labor room/delivery, except for subcategories circumcision and "other labor room/delivery;"
 - (q) EKG/ECG (electrocardiogram), except subcategory "other EKG/ECG;"
 - (r) EEG (electroencephalogram), except subcategory "other EEG;"
 - (s) Gastrointestinal services, except subcategory "other gastroenteritis;"
 - (t) Treatment or observation room, except subcategory "other treatment room;"
 - (u) Lithotripsy, except subcategory "other lithotripsy;" and
 - (v) Organ acquisition, except for subcategories unknown donor and "other organ."
- (2) Except for certain services, including inpatient hospice services covered by MAA pursuant to other rules, the department shall cover the following revenue code categories and/or subcategories for inpatient hospitalizations only:
- (a) Room and board - private, medical, or general, except subcategory hospice;
 - (b) Semi-private room and board, two to four beds, except subcategory hospice;
 - (c) Nursery for newborns and premature babies;
 - (d) Intensive care, except subcategory post-ICU;
 - (e) Coronary care, except subcategory post-CCU;
 - (f) Laboratory, except subcategory renal patient (home);
 - (g) Laboratory pathological;
 - (h) Radiology, both diagnostic and therapeutic;
 - (i) Nuclear medicine;
 - (j) Physical, occupational, and speech-language therapy;
 - (k) CT (computed tomographic) scans;
 - (l) Operating room services, subcategories organ transplant other than kidney and kidney transplant only;
 - (m) Clinic, subcategory chronic pain center only;

(n) Ambulance, subcategory neonatal ambulance services (support crews) only;

(o) Other donor bank category, except that subcategories peripheral blood stem cell harvesting and reinfusion are limited only to facilities approved by the medical assistance administration (MAA).

In addition to specifically excluded subcategories, the subcategory "other" in each category shall not be covered.

(3) Except for certain services, including inpatient hospice services covered by MAA pursuant to other rules, the department shall cover the following revenue code categories for outpatient hospital services only:

(a) Ambulatory surgical care;

(b) Outpatient services;

(c) Subcategories general classification and dental clinic, under clinic;

(d) Subcategory rural health clinic, under free-standing clinic;

(e) Drugs requiring specific identification, except covered only for certified kidney centers;

(f) Hospice services;

(g) Respite care;

(h) Inpatient renal dialysis;

(i) Hemodialysis - outpatient or home;

(j) Peritoneal dialysis - outpatient or home;

(k) Continuous ambulatory peritoneal dialysis - outpatient or home;

(l) Continuous cycling peritoneal dialysis - outpatient or home;

(m) Miscellaneous dialysis;

(n) Subcategories education/training and weight loss, under the other therapeutic service category, except limited to facilities approved by MAA.

In addition to specifically excluded subcategories, the subcategory "other" in each category shall not be covered.

(4) The department shall cover the following revenue code categories and/or subcategories subject to the following specific limitations:

(a) The "private (deluxe)" and "room and board - ward" categories shall be reimbursed at the semi-private hospital room rates.

(b) All inpatient psychiatric services shall be subject to the policies and procedures of the mental health division, and reimbursed only to department-approved psychiatric facilities. See chapter 246-318 WAC. Inpatient psychiatric revenue codes include, but are not limited to:

(i) The subcategory psychiatric under all room and board categories;

(ii) The subcategory psychiatric under the intensive care category;

(iii) The psychiatric/psychological treatments category; and

(iv) The psychiatric/psychological services category.

(c) The department shall reimburse the subcategory detoxification under all room and board categories only to detoxification facilities approved by the division of alcohol and substance abuse.

(d) The subcategory rehabilitation under all room and board categories shall be reimbursed only to MAA-approved rehabilitation facilities.

(e) Only the subcategories chemical-using pregnant women and administrative days shall be covered in the "other room and board" category.

(f) Subcategory nonprescription drugs under the category pharmacy shall be covered for inpatient hospitalizations only. See WAC 388-550-1400 (1)(a)(ii). Certain exemptions apply for pregnant women as described in WAC 388-86-024 (2)(c). For coverage of nonprescription drugs, see WAC 388-530-110 and 388-530-1150.

(g) The subcategories "renal patient (home)" and "nonroutine dialysis" under category laboratory shall be reimbursed in the outpatient setting only to Medicare-certified kidney centers.

(h) Subcategory "chronic pain center" under the clinic category shall be reimbursed only to MAA-approved chronic pain treatment facilities.

(i) Only the subcategory "neonatal ambulance services (support crews)" under the ambulance category shall be covered, and only for inpatient hospitalizations.

(j) The category "drugs requiring specific identification" shall be reimbursed only for outpatients and only to Medicare-approved kidney centers.

(k) Subcategories education/training and weight loss, under the "other therapeutic service" category, shall be reimbursed only to MAA-approved facilities.

NEW SECTION

WAC 388-550-1500 Noncovered revenue codes. (1) All revenue code subcategories titled "other" shall not be covered by the medical assistance administration (MAA), unless otherwise specified.

(2) The department shall not cover the following revenue code categories in either an inpatient or outpatient setting:

(a) All-inclusive rate;

(b) Other room and board, except as indicated in WAC 388-550-1400 (4)(e);

(c) Leave of absence;

(d) Not assigned (all such categories);

(e) Special charges;

(f) Incremental nursing charges;

(g) All-inclusive ancillary care;

(h) Pharmacy subcategories for take home and experimental drugs;

(i) Durable medical equipment (other than renal);

(j) Blood and blood products;

(k) Audiology;

(l) Clinic, except as specified in WAC 388-550-1400 (3)(c);

(m) Free-standing clinic, except as specified in WAC 388-550-1400 (3)(d);

(n) Osteopathic services;

(o) Ambulance, except as specified in WAC 388-550-1400 (4)(i);

(p) Skilled nursing;

(q) Medical social services;

(r) Home health aide (home health) and other visits (home health);

(s) Units of service for home health;

(t) Oxygen category (home health);

(u) Medicare/surgical supplies;

- (v) Home IV therapy services;
- (w) Preventive care services;
- (x) Other diagnostic services;
- (y) Professional fees (all such categories); and
- (z) Patient convenience items.

(3) The department shall not cover the following subcategories in the "other therapeutic service" category:

- (a) General classification;
- (b) Recreational therapy;
- (c) Cardiac rehabilitation;
- (d) Drug rehabilitation, except under the chemically-using pregnant (CUP) women program;
- (e) Alcohol rehabilitation, except under the CUP program; and

(f) Air fluidized support beds.

(4) The department shall not cover the following subcategories under the free-standing clinic category:

- (a) General classification;
- (b) Rural health - home;
- (c) Family practice; and
- (d) Other clinic.

(5) The department shall not cover revenue code categories for professional fees. Professional fees, including fees for the services of anesthesiologists or certified registered nurse anesthetists employed by or contracting independently with the hospital, shall be billed by the individual performing provider on the Health Care Financing Administration 1500 form.

(6) The department shall not cover the revenue code category for patient convenience items.

NEW SECTION

WAC 388-550-1600 Specific items/services not covered. The department shall not cover certain hospital items/services for any hospital stay including, but not limited to, the following:

- (1) Personal care items such as, but not limited to, slippers, toothbrush, comb, hair dryer, and make-up;
- (2) Telephone/telegraph services or television/radio rentals;
- (3) Medical photographic or audio/videotape records;
- (4) Crisis counseling;
- (5) Psychiatric day care;
- (6) Ancillary services, such as respiratory and physical therapy, performed by regular nursing staff assigned to the floor or unit;
- (7) Standby personnel and travel time;
- (8) Routine hospital medical supplies and equipment such as bed scales;
- (9) Handling fees and portable X-ray charges;
- (10) Room and equipment charges ("rental charges") for use periods concurrent with another room or similar equipment for the same client;
- (11) Cafeteria charges;
- (12) Services and supplies provided to nonpatients, such as meals and "father packs"; and
- (13) Standing orders. The department shall cover routine tests and procedures only if the department determines such services are medically necessary, according to the following criteria. The procedure or test:

(i) Is specifically ordered by the admitting physician or, in the absence of the admitting physician, the hospital staff physician having responsibility for the client;

(ii) Is for the diagnosis or treatment of the individual's condition; and

(iii) Does not unnecessarily duplicate a test available or made known to the hospital which is performed on an outpatient basis prior to admission; or

(iv) Is performed in connection with a recent admission.

NEW SECTION

WAC 388-550-1700 Hospital services—Prior approval. (1) Providers of hospital-related services to clients not enrolled with the department's managed care carriers shall obtain prior approval from the medical assistance administration (MAA) for hospital services requiring prior approval. For inpatient psychiatric admissions and inpatient treatment for alcohol and other substance abuse, see chapter 246-318 and 246-326 WAC respectively.

(2) The department shall require that for medical care clients not enrolled with the department's managed care carriers, providers receive prior approval from the department for the following hospital-related services:

(a) All nonemergent admissions to or planned inpatient hospital surgeries in nonparticipating hospitals in selective contracting areas;

(b) Inpatient detoxification, medical stabilization, and drug treatment for a pregnant Medicaid client as described under WAC 388-550-1100(3);

(c) Cataract surgery that does not meet requirements in WAC 388-86-030;

(d) The following surgical procedures, regardless of the diagnosis or place of service:

(i) Hysterectomies for clients forty-four years and younger;

(ii) Reduction mammoplasty; and

(iii) Surgical bladder repair.

(e) All physical medicine and rehabilitation (PM&R) inpatient hospital stays, even when provided by MAA-approved PM&R contract facilities (see WAC 388-550-2300);

(f) All outpatient magnetic resonance imaging and magnetic resonance angiography procedures;

(g) All nonemergent inpatient hospital transfers (see WAC 388-550-3600);

(h) All out-of-state non-emergent hospital stays;

(i) Hospital-related services as described in WAC 388-550-1800 when not provided in an MAA-approved facility; and

(j) Services in excess of the department's established limits.

(3) The department shall inform providers which diagnosis codes from the International Classification of Diseases, 9th Revision, Clinical Modification and procedure codes from physicians' current procedural terminology require prior authorization for nonemergent hospital admissions.

(4) When a client's hospitalization exceeds the number of days allowed by WAC 388-550-4300(2):

(a) The hospital shall, within sixty days after discharge, submit to MAA a request for authorization of the extra days

with adequate medical justification, to include at a minimum the following:

- (i) History and physical examination;
- (ii) Social history;
- (iii) Progress notes and doctor's orders for the entire length of stay;
- (iv) Treatment plan/critical pathway; and
- (v) Discharge summary.

(b) The department shall approve or deny a length of stay extension request within fifteen working days of receiving the request.

(5) The department shall require prior approval for out-of-state hospital admissions of clients not enrolled with department's managed care carriers, except for emergent hospitalizations. The department shall inform providers which codes from the current revision of ICD-9CM are designated as emergent diagnosis codes. The nature of the client's emergent medical condition must be fully documented in the client's hospital's records.

(6) The department shall not reimburse ambulance providers for ambulance transports in cases involving hospital transfers not prior authorized by the department.

(7) The department shall require that providers receive prior approval from the department for medical transportation to out-of-state treatment programs or services authorized by the department for clients not enrolled with the department's managed care carriers.

NEW SECTION

WAC 388-550-1750 Services requiring approval. (1)

The department shall require that for medical services clients not enrolled with the department's managed care carriers, providers receive approval from the department for the following:

- (a) Hospital length-of-stay extensions, in order for the provider to receive payment for the additional hospital days;
- (b) All hospital readmissions within seven days of discharge; and
- (c) All hospitalizations billed under miscellaneous diagnosis-related group (DGR) four hundred sixty-eight.

(2) Providers shall obtain approval for:

- (a) Length-of-stay extensions, during or after the extension;
- (b) Readmissions, immediately after the readmission; and
- (c) Hospitalizations under miscellaneous DRG four hundred sixty-eight, immediately after the hospitalization.

NEW SECTION

WAC 388-550-1800 Services—Contract facilities.

The department shall reimburse certain services without requiring prior authorization when such services are provided in medical assistance administration (MAA)-approved contract facilities. These services include, but are not limited to, the following:

(1) All transplant procedures specified in WAC 388-550-1900(2);

(2) Chronic pain management services, including outpatient evaluation and inpatient treatment, as described under WAC 388-550-2400;

(3) Polysomnograms and multiple sleep latency tests for clients one year of age and older (allowed only in outpatient hospital settings), as described under WAC 388-550-6350;

(4) Diabetes education (allowed only in outpatient hospital setting), as described under WAC 388-550-6400; and

(5) Weight loss program (allowed only in outpatient hospital setting), as described under WAC 388-550-6450.

NEW SECTION

WAC 388-550-1900 Transplant coverage. (1) The department shall pay for transplant procedures only for eligible clients who:

- (a) Meet the criteria in WAC 388-550-2000; and
- (b) Are not otherwise subject to a managed care plan.

(2) The department shall cover the following transplant procedures:

(a) Solid organs involving the heart, kidney, liver, lung, heart-lung, pancreas, kidney-pancreas;

(b) Bone marrow and peripheral stem cell (PSC);

(c) Skin grafts; and

(d) Corneal transplants.

(3) For procedures covered under subsections (2)(a) and (b) of this section, the department shall pay facility charges only to those medical centers that meet the standards and conditions:

(a) Established by the department; and

(b) Specified in WAC 388-550-2100 and 388-550-2200.

(4) The department shall pay facility charges for skin grafts and corneal transplants to any qualified medical facility, subject to the limitations in this chapter.

(5) The department shall deem organ procurement fees included in the reimbursement to the transplant facility. The department may make an exception to this policy and reimburse these fees separately to a transplant facility when an eligible medical care client is covered by a third-party payer which will pay for the organ transplant procedure itself but not for the organ procurement.

(6) The department shall, without requiring prior authorization, pay for up to fifteen matched donor searches per client approved for a bone marrow transplant. The department shall require prior authorization for matched donor searches in excess of fifteen per bone marrow transplant client.

(7) The department shall not pay for experimental transplant procedures. In addition, the department shall consider experimental those services including, but not limited to, the following:

(a) Transplants of three or more different organs during the same hospital stay;

(b) Solid organ and bone marrow transplants from animals to humans; and

(c) Transplant procedures used in treating certain medical conditions for which use of the procedure has not been generally accepted by the medical community or for which its efficacy has not been documented in peer-reviewed medical publications.

(8) The department shall pay for a solid organ transplant procedure only once per client's lifetime, except in cases of organ rejection by the client's immune system during the original hospital stay. The department shall cover bone

marrow, PSC, skin grafts and corneal transplants whenever medically necessary.

(9) In reviewing coverage for transplant services, the department shall consider cost benefit analyses on a case-by-case basis.

NEW SECTION

WAC 388-550-2000 Medical criteria—Transplant services. (1) The department shall pay for transplant surgery in accordance with the provisions of this chapter for an eligible client who has:

(a) End-stage organ disease, except end-stage renal disease and diseases treatable with bone marrow or peripheral stem cell (PSC) transplants;

(b) A critical medical need for a transplant and a poor prognosis for survival without one. MAA shall exempt from this criterion a client requesting a kidney, skin graft, or corneal transplant;

(c) Tried all other appropriate medical and surgical therapies that customarily yield both short and long term survival comparable to that of a transplant;

(d) Been identified by the transplant facility as a candidate for whom the transplant, as a therapy, has a high probability of a successful clinical outcome, defined as a better than sixty percent survival rate after one year; and

(e) Agreed to long-term adherence to a disciplined medical regimen.

(2) Medical care clients enrolled with the department's managed care carriers shall be subject to their respective carriers' criteria and policies.

(3) The department shall not cover transplant procedures for clients with the following medical conditions:

(a) An irreversible terminal state in which the client has had multi-organ system failure, is moribund, or on life support, defined as mechanical systems such as ventilators or heart-lung respirators which are used to supplement or supplant the normal autonomic functions of a person;

(b) Current active and incurable or metastatic malignancy within other organ systems;

(c) An active infection that will interfere with the client's recovery;

(d) Irreversible renal or hepatic disease that substantially affects longevity. MAA shall exempt from this criterion clients requesting a kidney, liver, bone marrow, PSC, skin graft or corneal transplant;

(e) Significant atherosclerotic vascular disease or atherosclerotic coronary disease that substantially affects longevity. MAA shall not apply this criterion to clients requesting a heart, bone marrow, PSC, skin graft or corneal transplant;

(f) Any other major irreversible disease likely to substantially limit life expectancy to three years or less;

(g) Inability to follow a drug regimen or maintain necessary therapies and/or other prescribed health care regimens;

(h) Ventilator dependence, except when used in short-term, acute situations. The department shall not consider ventilator dependence for transplants involving bone marrow, PSC, skin or cornea;

(i) Current use or history within the past year of alcohol or substance abuse and/or smoking, or failure to have

abstained for long enough to indicate low likelihood of recidivism; and

(j) A history of behavior pattern or psychiatric illness that has not been assessed, treated or considered stable, that would likely lead to nonconformance or interference with a disciplined medical regimen.

(4) The department may deny coverage for corneal transplants for clients with an associated disease severe enough to prevent visual improvement, such as macular degeneration or diabetic retinopathy.

NEW SECTION

WAC 388-550-2100 Requirements—Transplant facilities. (1) The department shall require a transplant facility to meet the following requirements in order to be reimbursed for transplant services provided to medical care clients. The facility shall have:

(a) An approved certificate of need (CON) from the state department of health (DOH) for the type(s) of transplant procedure(s) to be performed, except that MAA shall not require CON approval for peripheral stem cell (PSC), skin graft and corneal transplant facilities;

(b) Approval from the United Network of Organ Sharing (UNOS) to perform transplants, except that MAA shall not require UNOS approval for PSC, skin graft and corneal transplant facilities; and

(c) Been approved by the department as a center of excellence transplant center for the specific organ(s) or procedure(s) the facility proposes to perform. An out-of-state transplant center shall be a Medicare-certified facility participating in that state's Medicaid program.

(2) The department shall consider a facility for approval as a transplant center of excellence when the facility submits to the department documentation that it meets or exceeds the following standards for facilities and practitioners. The facility shall have:

(a) Organ-specific transplant physicians for each organ or transplant team. The transplant surgeon and other responsible team members shall be experienced and board-certified or board-eligible practitioners in their respective disciplines, including, but not limited to, the fields of cardiology, cardiovascular surgery, anesthesiology, hemodynamics and pulmonary function, hepatology, hematology, immunology, oncology, and infectious diseases. The department shall consider this requirement met when the facility submits to the department a copy of its DOH-approved CON for transplant services;

(b) Component teams which are integrated into a comprehensive transplant team with clearly defined leadership and responsibility. Transplant teams shall include, but not be limited to:

(i) A team-specific transplant coordinator for each type of organ;

(ii) An anesthesia team available at all times;

(iii) A nursing service team trained in the hemodynamic support of the patient and in managing immunosuppressed patients;

(iv) Pathology resources for studying and reporting the pathological responses of transplantation;

(v) Infectious disease services with both the professional skills and the laboratory resources needed to discover, identify, and manage a whole range of organisms; and

(vi) Social services resources.

(c) An organ procurement coordinator;

(d) The department shall consider this requirement met when the facility submits to the department a copy of its DOH-approved CON for transplant services;

(e) A method ensuring that transplant team members are familiar with transplantation laws and regulations;

(f) An interdisciplinary body and procedures in place to evaluate and select candidates for transplantation;

(g) An interdisciplinary body and procedures in place to ensure distribution of donated organs in a fair and equitable manner conducive to an optimal or successful patient outcome;

(h) Extensive blood bank support;

(i) Patient management plans and protocols;

(j) Written policies safeguarding the rights and privacy of patients; and

(k) Satisfied the annual volume and survival rates criteria for the particular transplant procedures performed at the facility, as specified in WAC 388-550-2200(2).

(3) In addition to the requirements of subsection (2) of this section, the department shall require a facility being considered for approval as a transplant center of excellence to submit documentation showing that the facility:

(a) Participates in the national donor procurement program and network; and

(b) Systematically collects and shares data on its transplant program(s) with the network.

(c) The department shall consider this requirement met when the facility submits to the department a copy of its approval from UNOS to perform transplants.

(4) The department shall apply the following specific requirements to PSC transplant facilities:

(a) A PSC transplant facility may receive approval from the department to do PSC:

(i) Harvesting, if it has its own apheresis equipment which meets federal or American Association of Blood Banks (AABB) requirements;

(ii) Processing, if it meets AABB bank quality of care requirements for human tissue/tissue banking; and/or

(iii) Reinfusion, if it meets the criteria established by the Foundation for the Accreditation of Hematopoietic Cell Therapy.

(b) A hospital may purchase PSC processing and harvesting from other department-approved processing providers.

(c) The department shall not reimburse a PSC transplant facility for AABB inspection and certification fees related to PSC transplant services.

NEW SECTION

WAC 388-550-2200 Transplant requirements—COE.

(1) The department shall measure the effectiveness of transplant centers of excellence (COE) using the performance criteria in this section. Unless otherwise waived by the department, the department shall apply these criteria to a facility during both initial and periodic evaluations for

designation as a transplant COE. The COE performance criteria shall include, but not be limited to:

(a) Meeting annual volume requirements for the specific transplant procedures for which approved;

(b) Patient survival rates, and

(c) Relative cost per case.

(2) A transplant COE shall meet or exceed annually the following applicable volume criteria for the particular transplant procedures performed at the facility, except for cornea transplants which do not have established minimum volume requirements. Annual volume requirements for transplant centers of excellence include:

(a) Twelve or more heart transplants;

(b) Ten or more lung transplants;

(c) Ten or more heart-lung transplants;

(d) Twelve or more liver transplants;

(e) Twenty-five or more kidney transplants;

(f) Eighteen or more pancreas transplants;

(g) Eighteen or more kidney-pancreas transplants;

(h) Ten or more bone marrow transplants; and

(i) Ten or more peripheral stem cell (PSC) transplants.

Dual-organ procedures may be counted once under each organ and the combined procedure.

(3) A transplant facility within the state that fails to meet the volume requirements in subsection (1) of this section may submit a written request to the department for conditional approval as a transplant center of excellence. The department shall consider the minimum volume requirement met when the requestor submits an approved certificate of need for transplant services from the state department of health.

(4) In-state facilities granted conditional approval by the department as transplant centers of excellence shall meet the department's criteria, as established in this chapter, within one year of the conditional approval. The department shall automatically revoke such conditional approval for any facility which fails to meet the department's published criteria within the allotted one year period, unless:

(a) The facility submits a written request for extension of the conditional approval thirty calendar days prior to the expiration date; and

(b) Such request is granted by the department.

(5) Transplant centers of excellence shall meet Medicare's survival rate requirements for the transplant procedure(s) performed at the facility.

(6) Transplant centers of excellence shall annually submit to the department documentation showing:

(a) The numbers of transplants performed at the facility during its preceding fiscal year, by type of procedure; and

(b) Survival rates data for procedures performed over the preceding three years as reported on the United Network of Organ Sharing report form.

(c) This documentation shall be submitted to the department at the same time the hospital submits a copy of its annual Medicare cost report (HCFA 2552 report).

(7)(a) Transplant facilities shall submit to the department, within sixty days of the date of the facility's approval as a center of excellence, a complete set of the comprehensive patient selection criteria and treatment protocols used by the facility for each transplant procedure it has been approved to perform.

(b) The facility shall submit to the department updates to said documents annually thereafter, or whenever the facility makes a change to the criteria and/or protocols.

(c) If no changes occurred during a reporting period the facility shall so notify the department to this effect.

(8) The department shall evaluate compliance with the provisions of WAC 388-550-2100 (2)(d) and (e) based on the protocols and criteria submitted to the department by transplant centers of excellence in accordance with subsection (7) of this section. The department shall terminate a facility's designation as a transplant center of excellence if a review or audit finds that facility in noncompliance with:

(a) Its protocols and criteria in evaluating and selecting candidates for transplantation; and

(b) Distributing donated organs in a fair and equitable manner that promotes an optimal or successful patient outcome.

(9)(a) The department shall provide transplant centers of excellence it finds in noncompliance with subsection (8) of this section sixty days within which such centers may submit a plan to correct a breach of compliance;

(b) The department shall not allow the sixty-day option as stated in (a) of this subsection for a breach that constitutes a danger to the health and safety of clients as stated in WAC 388-87-005 (3)(d);

(c) Within six months of submitting a plan to correct a breach of compliance, a center shall report to the department showing:

(i) The breach of compliance has been corrected; or

(ii) Measurable and significant improvement toward correcting such breach of compliance.

(10) The department shall periodically review the list of approved transplant centers of excellence. The department may limit the number of facilities it designates as transplant centers of excellence or contracts with to provide services to medical care clients if, in the department's opinion, doing so would promote better client outcomes and cost efficiencies.

(11) The department shall reimburse department-approved centers of excellence for covered transplant procedures using any of the methods identified in chapter 388-550 WAC.

NEW SECTION

WAC 388-550-2400 Chronic pain management program. (1)(a) The department shall cover inpatient chronic pain management training to assist eligible clients to manage chronic pain.

(b) The department shall pay for only one inpatient hospital stay, up to a maximum of twenty-one days, for chronic pain management training per eligible client's lifetime.

(c) Refer to WAC 388-550-1700 (2)(i) and 388-550-1800 for prior authorization.

(2) The department shall reimburse approved chronic pain management facilities an all-inclusive per diem facility fee under the revenue code published in the department's chronic pain management fee schedule. MAA shall reimburse professional fees for chronic pain management services to performing providers in accordance with the department's fee schedule.

(3) The department shall not reimburse a contract facility for unrelated services provided during the client's inpatient stay for chronic pain management, unless the facility requested and received prior approval from the department for those services.

NEW SECTION

WAC 388-550-2500 Inpatient hospice services. (1) The department shall reimburse hospice agencies participating in the medical assistance program for general inpatient and inpatient respite services provided to clients in hospice care, when:

(a) The hospice agency coordinates the provision of such inpatient services; and

(b) Such services are related to the medical condition for which the client sought hospice care.

(2) Hospice agencies shall bill the department for their services using revenue codes. The department shall reimburse hospice providers a set per diem fee according to the type of care provided to the client on a daily basis.

(3) The department shall reimburse hospital providers directly pursuant to this chapter for inpatient care provided to clients in the hospice program for medical conditions not related to their terminal illness.

NEW SECTION

WAC 388-550-2600 Inpatient psychiatric services. For psychiatric hospitalizations, including involuntary admissions, see chapter 246-318 WAC.

NEW SECTION

WAC 388-550-2700 Substance abuse detoxification services. For hospital-based alcohol and/or drug detoxification services, see chapter 246-326 WAC.

NEW SECTION

WAC 388-550-2750 Hospital discharge planning services. For discharge planning service requirements, see chapter 246-318 WAC.

NEW SECTION

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

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

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

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

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

general public for the services. The department will recoup amounts of total annual aggregate Medicaid payments in excess of such charges.

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

(4) Reimbursement to a hospital shall not increase by more than the amount allowed under 42 U.S.C. Section 1385x (v)(1)(O) as a result of a change of ownership.

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

(a) A copy of their HCFA 2552 uniform cost report; and

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

(6) The reports referred to in subsection (5) of this section shall be completed in accordance with Medicare cost reporting requirements, the provisions of this chapter, and such instructions as may be issued by the department from time to time. Unless regulated or instructed by the department, providers shall follow generally accepted accounting principles.

NEW SECTION

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

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

(b) Inpatient psychiatric facilities and alcohol or drug treatment centers approved by the department;

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

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

(3) The department shall not be responsible for payments to a hospital for care or services provided to a client enrolled in the hospice program, except as provided under WAC 388-550-2500(3).

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

(a) Laboratory services;

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

(c) Drugs and pharmacy services;

(d) Respiratory therapy and related services;

(e) Physical therapy and related services;

(f) Occupational therapy;

(g) Speech therapy and related services;

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

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

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

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

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

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

(c) The LOS limit for a hospitalization shall be the 75th percentile of the PAS length of stay for that diagnosis code or combination of codes, published in the PAS Length of Stay-Western Region edition, as periodically updated.

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

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

(a) Death of a client;

(b) Obstetrical delivery;

(c) Initial care of a newborn; or

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

(8)(a) Under the ratio of costs-to-charge (RCC) method, the department shall not pay inpatient hospital services prior to the day before a scheduled or elective surgery, nor shall these services be charged to the client.

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

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

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

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

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

(a) The department shall pay hospitals for accommodation costs at the multiple occupancy rate even when a private room is provided to the client. The department shall pay

accommodation costs at the semi-private or ward room rate, consistent with the type of accommodations provided.

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

(c) The department shall reimburse hospitals for special care charges only when:

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

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

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

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

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

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

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

NEW SECTION

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

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

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

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

(4) The department shall reimburse for a hospital readmission within seven days of discharge for the same client:

(a) When department review concludes the readmission did not occur as a result of premature hospital discharge;

(b) In combination with the previous admission when the department finds the readmission is related to a premature hospital discharge.

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

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

(a) The department shall pay the Medicare deductible and co-insurance related to the inpatient hospital services provided to clients eligible for Medicare and Medicaid.

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

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

(i) Such client's Medicare part A benefits including lifetime reserve days are exhausted; and

(ii) The Medicaid outlier threshold status is reached.

NEW SECTION

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

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

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

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

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

(e) The department shall test the stability of Washington Medicaid relative weights established in subsection (1)(c) of this section using the null hypothesis test at seventy-five percent confidence interval. The department shall accept as stable and adopt those Washington Medicaid relative weights that pass the null hypothesis test.

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

(g) The department shall replace remaining unstable Washington Medicaid relative weights with New York proxy relative weights. For the purposes of this chapter, remaining unstable Washington Medicaid relative weights" are those that fail the null hypothesis test and for which there are no stable CHARS-derived relative weight replacements.

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

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

(b) Assure all Medicaid stable and proxy weights equal a statement case mix of 1.0.

NEW SECTION

WAC 388-550-3150 Base period costs and claims data. (1) The department shall set hospitals' cost-based conversion factors using base period cost data from their Medicare cost reports (Form HCFA 2552) for their fiscal year corresponding with the base period.

(2) The department shall use in rate-setting only base period cost data that have been desk reviewed and/or field audited by the Medicare intermediary.

(3) The department shall, to the extent feasible, factor out of a hospital's base period cost data nonallowable hospital charges associated with the items/services listed in WAC 388-550-1600(1) before calculating the hospital's conversion factor.

(4) The department shall use the figures for total costs, capital costs, and direct medical education costs from a hospital's HCFA 2552 report in calculating that hospital's allowable costs for each of the thirty-eight categories of cost/revenue centers, listed in subsections (5) and (6) below, used to categorize Medicaid claims.

(5) The department shall use nine categories to assign hospitals' accommodation costs and days of care. These accommodation categories are:

- (a) Routine;
- (b) Intensive care;
- (c) Intensive care-psychiatric;
- (d) Coronary care;
- (e) Nursery;
- (f) Neonatal intensive care unit;
- (g) Alcohol/substance abuse;
- (h) Psychiatric; and
- (i) Oncology.

(6) The department shall use twenty-nine categories to assign ancillary costs and charges. These ancillary categories are:

- (a) Operating room;
- (b) Recovery room;
- (c) Delivery/labor room;
- (d) Anesthesiology;
- (e) Radiology-diagnostic;
- (f) Radiology-therapeutic;
- (g) Radioisotope;
- (h) Laboratory;
- (i) Blood storage;
- (j) Intravenous therapy;
- (k) Respiratory therapy;
- (l) Physical therapy;
- (m) Occupational therapy;
- (n) Speech pathology;
- (o) Electrocardiography;
- (p) Electroencephalography;
- (q) Medical supplies;
- (r) Drugs;
- (s) Renal dialysis;
- (t) Ancillary oncology;
- (u) Cardiology;
- (v) Ambulatory surgery;

(w) Computerized tomography scan/magnetic resonance imaging;

- (x) Clinic;
- (y) Emergency;
- (z) Ultrasound;
- (aa) Neonatal intensive care unit transportation;
- (bb) Gastrointestinal laboratory; and
- (cc) Miscellaneous.

(7) The department shall:

(a) Extract from the Medicaid Management Information System all Medicaid paid claims data for each hospital's base year;

(b) Assign line item charges from the paid hospital claims to the appropriate accommodation and ancillary cost center categories; and

(c) Use them to apportion Medicaid costs.

NEW SECTION

WAC 388-550-3200 Medicaid cost proxies. (1) For cases in which hospitals have Medicaid charges (claims) for certain accommodation or ancillary cost centers which are not separately reported on their Medicare cost report, the department shall establish cost proxies to estimate such costs in order to ensure recognition of Medicaid related costs.

(2) The department shall develop per diem proxies for accommodation cost centers using the median value of the hospital's per diem cost data within the affected hospital peer group.

(3) The department shall develop ratio of cost-to-charge (RCC) proxies for ancillary cost centers using the median value of the hospital's RCC data within the affected hospital peer group.

NEW SECTION

WAC 388-550-3250 Indirect medical education costs.

(1) For hospitals with graduate medical education programs, the department shall remove indirect medical education-related costs from the aggregate operating and capital costs of each hospital in the peer group before calculating a peer group's cost cap.

(2) To arrive at indirect medical education costs for each component, the department shall:

(a) Multiply Medicare's indirect cost factor of 0.579 by the ratio of the number of interns and residents in each hospital's approved teaching programs to the number of hospital beds; and

(b) Multiply the product obtained in subsection (2)(a) of this section by the hospital's operating and capital components.

(3) After the peer groups' cost caps have been calculated, the department shall add back to each hospital's aggregate costs its indirect medical education costs. See WAC 388-550-3450(6).

NEW SECTION

WAC 388-550-3300 Hospital peer groups and cost caps. (1) For rate-setting purposes the department shall group hospitals into peer groups and establish cost caps for each peer group. The department shall set hospital reim-

bursement rates at levels that recognize the cost of reasonable, efficient, and effective providers.

(2) The department shall use the Washington state department of health's (DOH) four hospital peer groupings for rate-setting purposes. The four peer groups are:

- (a) Group A, rural hospitals;
- (b) Group B, urban hospitals without medical education programs;
- (c) Group C, urban hospitals with medical education program; and
- (d) Group D, specialty hospitals or other hospitals not easily assignable to the other three groups.

(3) The department shall use a cost cap at the seventieth percentile for a peer group.

(a) The department shall cap at the seventieth percentile the costs of hospitals in peer groups B and C whose costs exceed the seventieth percentile for their peer group.

(b) The department shall exempt peer group A hospitals from the cost cap because they are paid under the ratio of cost-to-charge methodology.

(c) The department shall exempt peer group D hospitals from the cost cap because they are specialty hospitals without a common peer group on which to base comparisons.

(4) Before calculating a peer group's cost cap, the department shall remove:

(a) Indirect medical education costs, as determined in WAC 388-550-3250(2), from the aggregate operating and capital costs of each hospital in the peer group; and

(b) The cost of outlier cases from the aggregate costs in accordance with WAC 388-550-3350(1).

(c) The department shall use in calculating the peer group cost cap the hospitals' base period costs remaining after the adjustments described in subsection (4)(a) and (b) are made.

(5)(a) The department shall use the lesser of each individual hospital's calculated aggregate cost or the peer group's seventieth percentile cost cap as the base amount in calculating the individual hospital's adjusted cost-based conversion factor.

(b) After the peer group cost cap is calculated, the department shall add back to the base amount the individual hospital's indirect medical education costs and appropriate outlier costs, as determined in WAC 388-550-3350(2).

(6) The department shall recognize in its rate-setting process changes in peer group status as a result of DOH approval or recommendation. However, in cases where corrections or changes in individual hospitals' base-year cost or peer group assignment occur after peer group cost caps are calculated, the department shall update the peer group cost caps involved only if the change in the individual hospital's base-year cost or peer group assignment would result in a five percent or greater change in the seventieth percentile of costs calculated for its peer group.

NEW SECTION

WAC 388-550-3350 Outlier costs. (1)(a) The department shall remove the cost of low- and high-cost outlier cases from individual hospitals' aggregate costs before calculating the peer group cost cap.

(b) After this initial step, all subsequent calculations involving outliers in subsections (2) through (5) of this section pertain only to high-cost outliers.

(c) For a definition of outliers see WAC 388-550-1050, Definitions.

(2) After an individual hospital's base period costs and its peer group cost cap are determined, the department shall add the individual hospital's indirect medical education costs and an outlier cost adjustment back to:

(a) The lesser of the hospital's calculated aggregate cost; or

(b) The peer group's seventieth percentile cost cap.

(3) The outlier cost adjustment is determined as follows to reduce the original high-cost outlier amount in proportion to the reduction in the hospital's base period costs as a result of the capping process:

(a) If the individual hospital's aggregate operating, capital, and direct medical education costs for the base period are less than the seventieth percentile costs for the peer group, the entire high-cost outlier amount is added back.

(b) A reduced high-cost outlier amount is added back if:

(i) The individual hospital's aggregate base period costs are higher than the seventieth percentile for the peer group; and

(ii) The hospital is capped at the seventieth percentile.

(iii) The amount of the outlier added back is determined by multiplying the original high-cost outlier amount by the percentage obtained when the hospital's final cost cap, which is the peer group's seventieth percentile cost, is divided by its uncapped base period costs, as determined in WAC 388-550-3300(4).

(4) The department shall pay high-cost outlier claims from the outlier set-aside pool. The department shall calculate an individual hospital's high-cost outlier set-aside as follows:

(a) For each hospital, the department extracts utilization and paid claims data from the Medicaid Management Information System (MMIS) for the most recent twelve-month period for which the department estimates the MMIS has complete payment information.

(b) Using the data in (a) of this subsection, the department determines the projected annual amount above the high-cost DRG outlier threshold that the department paid to each hospital.

(c) The department's projected high-cost outlier payment to the hospital determined in (b) of this subsection is divided by the department's total projected annual DRG payments to the hospital to arrive at a hospital-specific high-cost outlier percentage. This percentage becomes the hospital's outlier set-aside factor.

(5) The department shall use the individual hospital's outlier set-aside factor to reduce the hospital's CBCF by an amount that goes into a set-aside pool to pay for all high-cost outlier cases during the year. The department shall fund the outlier set-aside pool on hospitals' prior high-cost outlier experience. No cost settlements shall be made to hospitals for outlier cases.

NEW SECTION

WAC 388-550-3400 Case-mix index. (1)(a) The department shall adjust hospital costs for case mix under the diagnosis-related group (DRG) payment systems.

(b) The department shall calculate a case-mix index (CMI) for each individual hospital to measure the relative cost for treating Medicaid cases in a given hospital.

(2) The department shall calculate the CMI for each hospital using Medicaid admissions data from the individual hospital's base period cost report, as described in WAC 388-550-3150. The hospital-specific CMI is calculated as follows:

(a) The department shall multiply the number of Medicaid admissions to the hospital for a specific DRG by the relative weight for that DRG. The department shall repeat this process for each DRG billed by the hospital.

(b) The department shall add together the products in (a) of this subsection for all of the Medicaid admissions to the hospital in the base year.

(c) The department shall divide the sum obtained in (b) of this subsection by the corresponding number of Medicaid hospital admissions.

(d) Example: If the average case mix index for a group of hospitals is 1.0, a CMI of 1.0 or greater for a hospital in that group means that the hospital has treated a mix of patients in the more costly DRGs. A CMI of less than 1.0 indicates a mix of patients in the less costly DRGs.

(3) The department shall recalculate each hospital's case mix index periodically, but no less frequently than each time rebasing is done.

NEW SECTION

WAC 388-550-3450 Payment method—CBCF rate calculation. (1)(a) The department shall use each hospital's base period cost data to calculate the hospital's total operating, capital, and direct medical education costs for each of the nine accommodation categories described in WAC 388-550-3150(5).

(b) The department shall divide operating, capital, and direct medical education costs by total hospital days per category to arrive at a per day accommodation cost.

(c) The department shall multiply the accommodation costs per day by the total Medicaid days to arrive at total Medicaid accommodation costs per category for the three components.

(2)(a) The department shall also use the base period cost data to calculate total operating, capital and direct medical education costs for each of the hospital's twenty-nine ancillary categories.

(b) The department shall divide these costs by total charges per category to arrive at a cost-to-charge ratio per ancillary category.

(c) The department shall multiply these cost-to-charge ratios by Medicaid charges per category, as tracked by the Medicaid Management Information System (MMIS), to arrive at total Medicaid ancillary costs per category for the three components.

(3) The department shall combine Medicaid accommodation and ancillary costs to derive the hospital's operating, capital and direct medical education components for the base year. The department shall divide these components'

combined total will be divided by the number of Medicaid cases during the base year to arrive at an average cost per DRG admission for the hospital.

(4) The department shall adjust the average cost per admission for each component to a common fiscal year end using the appropriate McGraw-Hill Data Resources, Inc., (DRI) Prospective Payment System (PPS)-Type Hospital Market Basket update. The department shall standardize these three admission cost components by dividing the average cost by the hospital's case-mix index.

(5)(a) For hospitals with medical education programs, the department shall remove the indirect medical education costs from operating and capital costs before the peer group cost cap is set.

(b) The department shall also remove the cost of outlier cases in accordance with WAC 388-550-3350(1).

(c) For hospitals in peer group B and C, the department shall set aggregate costs for the operating, capital, and direct medical education components at the lesser of hospital-specific aggregate cost or the peer group cost cap.

(6) The department shall add to the lesser of the hospital-specific aggregate cost or the peer group cost cap determined in subsection (5) of this section

(a) The individual hospital's indirect medical education costs, as determined in WAC 388-550-3250(2); and

(b) An outlier cost adjustment in accordance with WAC 388-550-3350(2).

(7)(a) The department shall multiply the sum obtained in subsection (6) of this section by the DRI PPS-type hospital market basket update for the period January 1 of the year after the base year through September 30 of the rebase year.

(b) The department shall then reduce the product obtained in (a) of this subsection by the outlier set-aside percentage determined in accordance with WAC 388-550-3350(3) to arrive at the hospital's adjusted cost-based conversion factor for July 1 of the rebase year.

(8) The department shall multiply the hospital's adjusted cost-based conversion factor determined in subsection (7) of this section by the applicable DRG relative weight to calculate the DRG payment for each admission.

NEW SECTION

WAC 388-550-3500 Inflation adjustments. (1) Effective on October 1 of each year, the department shall adjust all cost-based conversion factors for inflation for the federal fiscal year October 1 through September 30.

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

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

NEW SECTION

WAC 388-550-3600 Payment—Hospital transfers. The department shall apply the following payment rules when a client is transferred from one hospital to another:

(1) The department shall deny payment to a hospital that transfers a nonemergent case to another hospital without the department's prior approval.

(2) The department shall pay a hospital transferring a client to another acute care hospital the lesser of:

(a) A per diem rate multiplied by the number of medically necessary days at the transferring hospital. The department shall determine the per diem rate by dividing the hospital's diagnosis-related group (DRG) payment amount for the appropriate DRG by that DRG's average length of stay; or

(b) The appropriate DRG payment.

(3) The department shall use the hospital's midnight census to determine the number of days a client stayed in the transferring hospital prior to the transfer. The department shall use the medical assistance administration's length of stay data to determine the number of medically necessary days for a hospital stay.

(4) The department shall pay the hospital that ultimately discharges the client to the home or a nursing facility the full DRG payment. The department shall apply the outlier payment methodology if a transfer case qualifies as a high- or low-cost outlier.

(5) The department shall not pay a discharging hospital any additional amounts as a transferring hospital if it transfers a client to another hospital which subsequently sends the client back to the original hospital from which the client is discharged.

(6)(a) The extent of the department's payment to the discharging hospital shall be the full DRG payment.

(b) The department shall pay the intervening hospital a per diem payment based on the method described in subsection (2) of this section.

NEW SECTION

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

(a) To qualify as a DRG high-cost outlier, the allowed charges for the case must exceed a threshold of three times the applicable DRG payment or twenty-eight thousand dollars, whichever is greater.

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

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

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

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

(a) To qualify as a DRG low-cost outlier, the allowed charges for the case shall be less than or equal to ten percent

of the applicable DRG payment or four hundred dollars, whichever is greater.

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

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

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

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

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

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

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

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

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

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

(c) The charge for the hospitalization is below the high-cost outlier threshold (three times the DRG rate or twenty-eight thousand dollars, whichever is greater); and

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

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

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

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

NEW SECTION

WAC 388-550-3800 Rebasing and recalibration. (1) The department shall rebase the Medicaid payment system periodically using each hospital's cost report for its fiscal year that ends during the calendar year designated by the department to be used for each update.

(2) The department shall recalibrate diagnosis-related group weights periodically, as described in WAC 388-550-3100, but no less frequently than each time rebasing is done. The department shall make recalibrated weights effective July 1 of that year.

NEW SECTION

WAC 388-550-3900 Border area hospitals payment method. (1) The department shall deem border area hospitals include facilities located in areas as defined in WAC 388-501-0175.

(2) Under the diagnosis-related group (DRG) payment method, the department shall calculate border area hospitals' cost-based conversion factors (CBCF) in accordance with WAC 388-550-3450.

(a) For border area hospitals with insufficient Medicare cost report (HCFA Form 2552) data, the department shall assign a CBCF based on the peer group average final conversion factor for their Washington hospital peer group.

(b) The department shall include in this average final conversion factor all adjustments to the CBCF, including the outlier set-aside factor described in WAC 388-550-3350(3).

(3) Under the ratio of cost-to-charge (RCC) payment method, the department shall calculate border area hospitals' RCCs in accordance with WAC 388-550-4500. For border area hospitals with insufficient Medicare cost report (HCFA Form 2552) data, the department shall assign an RCC based on the weighted average of the RCC ratios for in-state Washington hospitals.

NEW SECTION

WAC 388-550-4000 Out-of-state hospitals payment method. The department shall pay out-of-state hospitals the lesser of billed charges or the amount calculated using the weighted average of ratio of cost-to-charge ratios for in-state Washington hospitals multiplied by the allowed charges for medically necessary services.

NEW SECTION

WAC 388-550-4100 New hospitals payment method. (1) For rate-setting purposes, the department shall consider as new hospitals those entities which began services after the most recent base period used for calculating cost-based conversion factors (CBCFs).

(2) The department shall base new hospitals' cost-based rates on the peer group average final conversion factor for their Washington hospital peer group. The department shall include in this average final conversion factor all adjustments to the CBCF, including the outlier set aside factor described in WAC 388-550-3350(3).

(3) The department shall base new hospitals' ratio of cost-to-charge (RCC) rates on the statewide weighted average RCC rate.

(4) The department shall not consider a change in ownership as constituting creation of a new hospital.

NEW SECTION

WAC 388-550-4200 Change in hospital ownership.

(1) For purposes of this section, a change in hospital ownership may involve one or more, but is not limited to, the following events:

- (a) A change in the composition of the partnership;
- (b) A sale of an unincorporated sole proprietorship;
- (c) The statutory merger or consolidation of two or more corporations;

(d) The leasing of all or part of a provider's facility if the leasing affects utilization, licensure, or certification of the provider entity;

(e) The transfer of a government-owned institution to a governmental entity or to a governmental corporation;

(f) Donation of all or part of a provider's facility to another entity if the donation affects licensure or certification of the provider entity;

(g) Disposition of all or some portion of a provider's facility or assets through sale, scrapping, involuntary conversion, demolition or abandonment if the disposition affects licensure or certification of the provider entity; or

(h) A change in the provider's federal identification tax number.

(2) Hospitals shall notify the department in writing ninety days prior to the date of an expected change in the hospital's ownership, but in no case later than thirty days after the change in ownership takes place.

(3) When a change in a hospital's ownership occurs, the department shall set the new provider's cost-based conversion factor (CBCF) at the same level as the prior owner's, except as provided in subsection (4) below.

(4) The department shall set for entities formed as a result of a merger:

(a) A blended CBCF based on the old entities' rates, proportionately weighted by admissions for the old entities; and

(b) An RCC rate determined by combining the old entities' cost reports and following the process described in WAC 388-550-4500.

(5) The department shall recapture depreciation and acquisition costs as required by section 1861 (V)(1)(O) of the Social Security Act.

NEW SECTION

WAC 388-550-4300 Payment—Exempt hospitals.

(1) The department shall exempt the following hospitals from the diagnosis-related group (DRG) payment method:

(a) Peer group A hospitals, as defined in WAC 388-550-3300(2);

(b) Rehabilitation units: Rehabilitation services provided in specifically identified rehabilitation hospitals and designated rehabilitation units of general hospitals. The department shall use the same criteria employed by the Medicare program to identify exempt hospitals and units those employed by the Medicare program to identify designated distinct part rehabilitation units;

(c) Out-of-state hospitals: Those facilities located outside of Washington and outside designated border areas as described in WAC 388-501-0175. The department shall pay these hospitals according to WAC 388-550-4000; and

(d) Military hospitals: Military hospitals may individually elect to get reimbursed a negotiated per diem rate, or the DRG or RCC reimbursement method. The department shall exempt military hospitals from the DRG payment method if no other specific arrangements have been made.

(2) The department shall limit inpatient hospital stays in hospitals identified in subsection (1) above to the number of days established at the seventy-fifth percentile in the current edition of the publication, "Length of Stay by Diagnosis and Operation, Western Region," unless:

(a) The department has a prior arrangement for a specified length of stay; or

(b) The stay is for chemical dependency treatment which is subject to WAC 388-550-1100(3).

NEW SECTION

WAC 388-550-4400 Services—Exempt from DRG payment. (1) The department shall exclude the following services from the diagnosis-related group (DRG)-based payment system:

(a) Neonatal services: The department shall exempt DRGs 602-619, 621-628, 630, 635, 637-641 neonatal services from the DRG payment methods. The department shall reimburse DRGs 620 and 629 (normal newborns) by the DRG payment method.

(b) Acquired immunodeficiency syndrome (AIDS)-related inpatient services: AIDS-related inpatient services for those cases with a reported diagnosis of, AIDS-related complex and other human immunodeficiency virus infections.

(c) Alcohol detoxification and treatment services: Alcoholism detoxification and treatment services provided in department-approved alcohol treatment centers.

(d) Detoxification, medical stabilization, and drug treatment for chemically-dependent pregnant women: Hospital-based intensive inpatient care for detoxification, medical stabilization, and drug treatment provided to chemically-dependent pregnant women by a certified hospital.

(e) Physical medicine and rehabilitation: Rehabilitation services provided in department-approved rehabilitation hospitals and general hospital distinct units, and services for physical medicine and rehabilitation patients.

(f) Chronic pain management: Pain management treatment provided in department-approved pain treatment facilities.

(g) Inpatient services for managed care plan enrollees: The department shall reimburse hospitals for these enrollees according to the contract between the hospital and the managed care plan.

(h) Long-term care administrative day services: The department shall reimburse long-term care services based on the statewide average Medicaid nursing facility per diem rate, which is adjusted annually each October 1. The department shall apply this rate to patient days identified as administrative days on the hospital's notice of rates. Hospitals must request a long-term care administrative day designation on a case-by-case basis.

(2) Except when otherwise specified, the department shall reimburse hospitals and services exempt from the DRG

payment method under the RCC method, as described in WAC 388-550-4500.

NEW SECTION

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

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

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

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

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

(4) The department shall use the RCC payment method to reimburse:

(a) Peer group A hospitals;

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

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

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

(6) The department shall calculate an outpatient ratio of cost-to-charge by dividing the projected costs by the projected charge multiplied by the average RCC.

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

(b) The factor shall be updated each October 1.

NEW SECTION

WAC 388-550-4600 Hospital selective contracting program. (1) The department shall designate selective contracting areas (SCA) in which hospitals participate in competitive bidding to provide hospital services to medical care clients. Selective contracting areas are based on historical patterns of hospital use by Medicaid clients.

(2) The department shall require medical care clients in a selective contracting area obtain their elective (nonemergent) inpatient hospital services from participating or exempt hospitals in the SCA. Elective (nonemergent) inpatient hospital services provided by nonparticipating hospitals in an SCA shall not be reimbursed by the department, except as provided in WAC 388-550-4700.

(3) The department shall exempt from the selective contracting program those hospitals that are:

(a) In an SCA but designated by the department as remote. The department shall designate as remote hospitals meeting the following criteria:

(i) Located more than ten miles from the nearest hospital in the SCA;

(ii) Having fewer than seventy-five beds; and

(iii) Having fewer than five hundred Medicaid admissions in a two-year period.

(b) Owned by health maintenance organizations (HMOs) and providing inpatient services to HMO enrollees only;

(c) Children's hospitals;

(d) State psychiatric hospitals or separate (freestanding) psychiatric facilities; and

(e) Out-of-state hospitals in nonborder areas, and out-of-state hospitals in border areas not designated as selective contracting areas.

(4)(a) The department shall negotiate with selectively contracted hospitals a negotiated conversion factor (NCF) for inpatient hospital services.

(b) The department shall calculate its maximum financial obligation for a client under the hospital selective contract in the same manner as DRG payments using cost-based conversion factors (CBCFs).

(c) The department shall apply NCFs to Medicaid clients only. The department shall use CBCFs in calculating payments for MI/medical care services clients.

NEW SECTION

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

(2) The department shall pay any qualified hospital for medically necessary but nonemergent inpatient hospital services provided to an eligible medical care client deemed by the department to reside an excessive travel distance from a contracting hospital.

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

<u>County</u>	<u>Community Travel Distance Norm</u>
Adams	25 miles
Asotin	15 miles
Benton	15 miles
Chelan	15 miles
Clallam	20 miles
Clark	15 miles
Columbia	19 miles
Cowlitz	15 miles
Douglas	20 miles
Ferry	27 miles
Franklin	15 miles
Garfield	30 miles
Grant	24 miles
Grays Harbor	23 miles
Island	15 miles
Jefferson	15 miles

King	15 miles
Kitsap	15 miles
Kittitas	18 miles
Klickitat	15 miles
Lewis	15 miles
Lincoln	31 miles
Mason	15 miles
Okanogan	29 miles
Pacific	21 miles
Pend Oreille	25 miles
Pierce	15 miles
San Juan	34 miles
Skagit	15 miles
Skamania	40 miles
Snohomish	15 miles
Spokane	15 miles
Stevens	22 miles
Thurston	15 miles
Wahkiakum	32 miles
Walla Walla	15 miles
Whatcom	15 miles
Whitman	20 miles
Yakima	15 miles

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

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

(4) The department shall pay a licensed hospital all applicable Medicare deductible and coinsurance amounts for inpatient services provided to Medicaid clients who are also beneficiaries of Medicare part A.

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

NEW SECTION

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

(i) Diagnosis-related group (DRG); or

(ii) Ratio of cost-to-charge (RCC) methodologies; and

(b) The department shall reduce hospitals' Title XIX rates by their ratable and/or equivalency (EQ) factors, as applicable.

(2) The department shall calculate ratables as follows:

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

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

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

PROPOSED

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

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

MI/medical care services RCC = Title XIX RCC x (1-Ratable)

MI/medical care services CBCF = Title XIX Conversion Factor x (1-Ratable) x EQ

(3) The department shall update each hospital's ratable annually on July 1.

(4)(a) The department shall use the equivalency factor (EQ) to hold the DRG reimbursement rates for the MI/medical care services programs at their current level prior to any rebasing. The department shall apply the EQ only to the Title XIX DRG CBCFs. The department shall not apply the EQ when the DRG rate change is due to the application of the annual DRI inflation adjustment.

(b) The department shall calculate a hospital's equivalency factor as follows:

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

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

(6) When the MI/medical care services client has a trauma severity factor of sixteen or more, the department shall pay the full Medicaid Title XIX amount when care has been provided in a nongovernmental hospital designated by DOH as a trauma center. The department shall apply the reduction in MI cases where the trauma severity factor is less than sixteen. The department shall give an annual grant to governmental hospitals certified by DOH.

NEW SECTION

WAC 388-550-4900 Disproportionate share payments. (1) As required by section 1902 (a)(13)(A) of the Social Security Act, the department shall give consideration to hospitals which serve a disproportionate number of low-income patients with special needs by making a payment adjustment to eligible hospitals. The department shall deem this adjustment a disproportionate share payment.

(2) The department shall deem a hospital a disproportionate share hospital if:

(a) The hospital's Medicaid inpatient utilization rate (MIPUR), as defined in WAC 388-550-1050, is at least one standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the state; or

(b) The hospital's low-income utilization rate (LIUR), as defined in WAC 388-550-1050, exceeds twenty-five percent; and

(c) The hospital has at least two obstetricians who have staff privileges at the hospital and who have agreed to

provide obstetric services to eligible individuals, except that this requirement shall not apply to a hospital:

(i) The inpatients of which are predominantly individuals under eighteen years of age; or

(ii) Which did not offer nonemergency obstetric services to the general public as of December 22, 1987, when section 1923 of the Social Security Act was enacted.

(3) For hospitals located in rural areas, "obstetrician" shall mean any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

(4) The department may define or deem a hospital a disproportionate share hospital if:

(a) The hospital has a Medicaid inpatient utilization rate (MIPUR) of not less than one percent; and

(b) The hospital meets the requirement of subsection (2)(c) of this section.

(5) The department shall administer the following disproportionate share programs:

(a) Low-income disproportionate share hospital;

(b) Medically-indigent disproportionate share hospital;

(c) General assistance-unemployable disproportionate share hospital;

(d) Small rural hospital assistance program disproportionate share hospital;

(e) Teaching hospital assistance program disproportionate share hospital;

(f) State teaching hospital financing program disproportionate share hospital;

(g) County teaching hospital financing program disproportionate share hospital; and

(h) Public hospital district disproportionate share hospital.

(6) The department shall allow a hospital to receive any one or all of the disproportionate share hospital (DSH) payment adjustments discussed in subsection (5) of this section if:

(a) The hospital applies to the department; and

(b) Meets the eligibility requirements for the particular DSH payment program, as discussed in WAC 388-550-5000 through 388-550-5400.

(7) The department shall ensure each hospital's total DSH payments does not exceed the individual hospital's DSH limit, defined as the cost to the hospital of providing services to Medicaid patients, including patients served under Medicaid managed care programs, less the amount paid by the state under the non-DSH payment provision of the state plan, plus the cost to the hospital of providing services to uninsured patients, less any cash payments made by uninsured patients.

(8)(a) The department's total annual DSH payments shall not exceed the state's DSH allotment for the federal fiscal year.

(b) If the DSH statewide allotment is exceeded, the department shall recoup overpayments from hospitals in the following program order:

(i) Public hospital district disproportionate share hospital;

(ii) Teaching hospital assistance program disproportionate share hospital;

(iii) County teaching hospital financing program disproportionate share hospital;

- (iv) State teaching hospital financing program disproportionate share hospital;
 - (v) Small rural hospital assistance program disproportionate share hospital;
 - (vi) Medically-indigent disproportionate share hospital;
 - (vii) General assistance-unemployable disproportionate share hospital; and
 - (viii) Low-income disproportionate share hospital.
- (9) The department shall make periodic DSH payments to eligible hospitals. The department shall have sole discretion regarding the timing of DSH payments.

NEW SECTION

WAC 388-550-5000 Payment method—LIDSH. (1) The department shall deem a hospital serving the department's clients eligible for a low-income disproportionate share hospital (LIDSH) payment adjustment if the hospital meets the requirements of WAC 388-550-4900(2).

(2) The department shall pay hospitals deemed eligible under the criteria in subsection (1) of this section DSH payment amounts which in total equal the funding set by the state's appropriations act for LIDSH. The amount appropriated for LIDSH may vary from year to year.

(3) The department shall apportion LIDSH payments to individual hospitals as follows:

(a) For each LIDSH-eligible hospital, the department shall determine the standardized Medicaid inpatient utilization rate (MIPUR). The MIPUR is standardized by dividing the hospital's MIPUR by the average MIPUR of all LIDSH-eligible hospitals.

(b) The hospital's standardized MIPUR is multiplied by the hospital's most recent fiscal year case mix index, and then by the hospital's most recent fiscal year Title XIX admissions. The product is then multiplied by an initial random base amount.

(c) The annual LIDSH payment so calculated for individual hospitals shall be added and compared to the appropriated amount. If the amounts differ, a new base amount shall be selected progressively by trial and error until the sum of the LIDSH payments to hospitals equals the appropriated amount.

NEW SECTION

WAC 388-550-5100 Payment method—MIDSH. (1) The department shall deem a hospital eligible for the medically indigent disproportionate share hospital (MIDSH) payment if the hospital:

- (a) Meets the criteria in WAC 388-550-4900 (2)(c) and (4);
- (b) Is an in-state or border area hospital;
- (c) Provides services to clients under the medically indigent program; and
- (d) Has a low-income utilization rate of one percent or more.

(2) The department shall determine the MIDSH payment for each eligible hospital in accordance with WAC 388-550-4800.

NEW SECTION

WAC 388-550-5150 Payment method—GAUDSH.

(1) The department shall deem a hospital eligible for the general assistance-unemployable disproportionate share hospital (GAUDSH) payment if the hospital:

- (a) Meets the criteria in WAC 388-550-4900 (2)(c) and (4);
- (b) Is an in-state or border area hospital;
- (c) Provides services to clients under the medical care services program; and
- (d) Has a low-income utilization rate (LIUR) of one percent or more.

(2) The department shall determine the GAUDSH payment for each eligible hospital in accordance with WAC 388-550-4800, except that the payment shall not be reduced by the additional three percent specified in WAC 388-550-4800(4).

NEW SECTION

WAC 388-550-5200 Payment method—SRHAPDSH.

(1) The department shall deem a hospital eligible for the small rural hospital assistance program disproportionate share hospital (SRHAPDSH) payment if the hospital:

- (a) Meets the criteria in WAC 388-550-4900 (2)(c) and (4);
- (b) Is an in-state hospital;
- (c) Is a small, rural hospital, defined as a hospital with fewer than seventy-five licensed beds and located in a city or town with a nonstudent population of thirteen thousand or less; and
- (d) Provides at least one percent of its services to low-income patients in rural areas of the state.

(2)(a) The department shall pay hospitals qualifying for SRHAPDSH payments from a legislatively appropriated pool.

(b) The department shall determine each individual hospital's SRHAPDSH payment as follows: The total dollars in the pool will be multiplied by the percentage derived from dividing the Medicaid payments to the individual hospital during the fiscal year that is two years previous to the state fiscal year immediately preceded by the total Medicaid payments to all SRHAPDSH hospitals during the same hospital fiscal year.

(3) The department's SRHAPDSH payments to a hospital may not exceed one hundred percent of the projected cost of care for Medicaid and uninsured indigent patients. The department shall reallocate dollars not allocated because a hospital would otherwise exceed this ceiling to the remaining hospitals in the SRHAPDSH pool.

NEW SECTION

WAC 388-550-5250 Payment method—THAPDSH.

(1) The department shall deem a hospital eligible for the teaching hospital assistance program disproportionate share hospital (THAPDSH) program if the hospital:

- (a) Meets the criteria in WAC 388-550-4900 (2)(c) and (4);
- (b) Is a Washington State University hospital;
- (d) Has a Medicaid inpatient utilization rate (MIPUR) of twenty percent or more.

(2) The department shall fund THAPDSH payments with legislatively appropriated monies. The department shall divide the legislatively appropriated THAPDSH amount equally between qualifying hospitals.

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.

NEW SECTION

WAC 388-550-5300 Payment method—STHFPDSH.

(1) The department shall deem a hospital eligible for the state teaching hospital financing program disproportionate share hospital (STHFPDSH) if the hospital:

(a) Meets the criteria in WAC 388-550-4900 (2)(c) and (4);

(b) Is a state-owned university or public corporation hospital (border area hospitals are included);

(c) Provides a major medical teaching program, defined as a hospital with more than one hundred residents and/or interns; and

(d) Has a Medicaid inpatient utilization rate (MIPUR) of at least twenty percent.

(2)(a) The department shall pay hospitals deemed eligible under the criteria in subsection (1) of this section a STHFPDSH payment from the legislatively appropriated pool specifically designated for DSH payments to state and county teaching hospitals.

(b) The department shall limit STHFPDSH payments to eligible hospitals to seventy percent of the legislatively appropriated pool for DSH payments to state and county teaching hospitals.

NEW SECTION

WAC 388-550-5350 Payment method—CTHFPDSH.

(1) The department shall deem a hospital eligible for the county teaching hospital financing program disproportionate share hospital (CTHFPDSH) payment if the hospital:

(a) Meets the criteria in WAC 388-550-4900 (2)(c) and (4);

(b) Is a county hospital in Washington state (border area hospitals are excluded), so designated by the county in which located;

(c) Provides a major medical teaching program, defined as a hospital with more than one hundred residents and/or interns; and

(d) Has a low-income utilization rate (LIUR) of at least twenty-five percent.

(2)(a) The department shall pay hospitals deemed eligible under the criteria in subsection (1) of this section a CTHFPDSH payment from the legislatively appropriated pool specifically designated for DSH payments to state and county teaching hospitals.

(b) The department shall limit CTHFPDSH payments to eligible hospitals to thirty percent of the legislatively appropriated pool for DSH payments to state and county teaching hospitals.

NEW SECTION

WAC 388-550-5400 Payment method—PHDDSH.

(1) The department shall deem a hospital eligible for the public hospital district disproportionate share hospital (PHDDSH) payment if the hospital:

(a) Meets the criteria in WAC 388-550-4900 (2)(c) and (4);

(b) Is a public district hospital in Washington state including border area hospitals; and

(c) Provides at least one percent of its services to low-income patients.

(2) The department shall pay hospitals deemed eligible under the criteria in subsection (1) of this section a PHDDSH payment amount from the legislatively appropriated PHDDSH pool.

NEW SECTION

WAC 388-550-5500 Payment—Hospital-based RHCs.

(1) The department shall reimburse hospital-based rural health clinics under the prospective payment methods effective July 1, 1994. Under the prospective payment method, the department shall not make reconciliation payments to a hospital-based rural health clinic to cover its costs for a preceding period.

(2) The department shall pay an amount equal to the hospital-based rural health clinic's charge multiplied by the hospital's specific ratio of costs to charges (RCC), not to exceed one hundred percent of the charges.

(3) The department shall determine the hospital-based rural health clinic's RCC from the hospital's annual Medicare cost report, pursuant to WAC 388-550-4500(1).

NEW SECTION

WAC 388-550-5600 Hospital rate appeals and disputes.

(1) A hospital may appeal any aspect of its Medicaid payment rates by submitting a written notice of appeal and supporting documentation to the medical assistance administration's (MAA) hospital reimbursement section, except that no administrative appeals may be filed challenging the method described herein.

(a) The grounds for rate adjustments include, but are not limited to:

(i) Errors or omissions in the data used to establish rates; and

(ii) Peer group change recommended by the Washington state department of health.

(b) The department may require additional documentation from the provider in order to complete the appeal review. The department may conduct an audit and/or desk review if necessary to complete the appeal review.

(c) Unless the written rate notification specifies otherwise, a hospital shall file an appeal within sixty days after being notified of an action or determination the hospital wishes to challenge. The department shall deem the notification date of an action or determination the date of the written rate notification letter.

(i) A hospital which files an appeal within the sixty-day period described in subsection (1)(c) of this section shall be eligible for retroactive rate adjustments if it prevails.

(ii) The department shall not consider a hospital rate appeal filed after the sixty-day period described in this subsection for retroactive rate adjustments.

(d) When a hospital appeals a rate the department may review all aspects of its rate.

(e) Unless the written rate notification specifies otherwise, the department shall deem rate changes resulting from an appeal effective as follows:

(i) Increases in rates resulting from an appeal filed within sixty days after the written rate notification letter that the hospital is challenging shall be effective retroactive to the date of the rate change specified in the original notification letter.

(ii) Increases in rates resulting from a rate appeal filed after the sixty day period or exception period shall be effective on the date the appeal was filed with the department.

(iii) A rate decrease resulting from an appeal shall be effective on the date specified in the appeal decision notification.

(2)(a) A hospital may request a dispute conference to appeal an administrative review decision. The conference shall be conducted by the assistant secretary for the MAA or his/her designee.

(b) The hospital shall submit a request for a conference within thirty days of receipt of the administrative review decision.

(c) The department shall deem the dispute conference decision its final decision regarding rate appeals.

NEW SECTION

WAC 388-550-5700 Hospital reports and audits. (1) In-state and border area hospitals shall complete and submit a copy of their annual Medicare cost reports (HCFA 2552) to the department. These hospital providers shall:

(a) Maintain adequate records for audit and review purposes, and assure the accuracy of their cost reports;

(b) Complete their annual Medicare HCFA 2552 cost report according to the applicable Medicare statutes, regulations, and instructions; and

(c) Submit a copy to the department:

(i) Within one hundred fifty days from the end of the hospital's fiscal year; or

(ii) If the hospital provider's contract is terminated, within one hundred fifty days of effective termination date; or

(d) Request up to a thirty day extension of the time for submitting the cost report in writing at least ten days prior to the due date of the report. Hospital providers shall include in the extension request the completion date of the report, and the circumstances prohibiting compliance with the report due date;

(2) If a hospital provider improperly completes a cost report or the cost report is received after the due date or approved extension date, the department may withhold all or part of the payments due the hospital until the department receives the properly completed or late report.

(3) Hospitals shall submit other financial information required by the department to establish rates.

(4) The department shall periodically audit:

(a) Cost report data used for rate setting;

(b) Hospital billings; and

(c) Other financial and statistical records.

NEW SECTION

WAC 388-550-5800 Outpatient and emergency hospital services. The department shall cover outpatient services, emergent outpatient surgical care, and other emergency care performed on an outpatient basis in a hospital for categorically needy or limited casualty program-medically needy clients. The department shall limit clients eligible for the medically indigent program to emergent hospital services, subject to the conditions and limitations of WAC 388-521-2140, 388-529-2950, and this chapter.

NEW SECTION

WAC 388-550-5900 Prior authorization—Outpatient services. The department shall require providers to obtain prior authorization for the following selected outpatient hospital services:

(1) Magnetic resonance imaging;

(2) Magnetic resonance angiography;

(3) Sleep studies/polysomnograms for clients over one year old, unless provided in a medical assistance administration (MAA)-approved facility;

(4) Peripheral stem cell transplants, unless provided in an MAA-approved facility;

(5) Positron emission tomography scans, except that the department shall not require prior authorization for brain PET scans;

(6) Evaluation, management and treatment of chronic pain, unless provided in an MAA-approved facility; and

(7) Weight loss program costs, unless provided in a department-approved outpatient weight-loss facility.

(8) See WAC 388-550-1700 for hospital services requiring prior approval and WAC 388-550-1800 for certain prior approval exemptions.

NEW SECTION

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

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

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

(a) Laboratory/pathology;

(b) Radiology, diagnostic and therapeutic;

(c) Nuclear medicine;

(d) Computerized tomography scans, magnetic resonance imaging, and other imaging services;

(e) Physical therapy;

(f) Occupational therapy;

(g) Speech/language therapy; and

(h) Other hospital services as identified and published by the department.

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

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

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

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

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

(a) Death of a client;

(b) Obstetrical delivery;

(c) Initial care of a newborn; or

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

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

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

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

NEW SECTION

WAC 388-550-6100 Outpatient hospital physical therapy. (1) The department shall pay for physical therapy as an outpatient hospital service when:

(a) The attending physician prescribes physical therapy;

(b) A licensed physical therapist or physiatrist or a physical therapist assistant supervised by a licensed physical therapist provides the treatment; and

(c) The therapy assists the client:

(i) In avoiding hospitalization or nursing facility care; or

(ii) In becoming employable; or

(iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The hospital shall bill outpatient hospital physical therapy services to the department using the appropriate current procedural terminology or department-assigned codes. The department shall not pay outpatient hospitals a facility fee for such services.

(3) The department shall pay for outpatient hospital physical therapy for clients eligible under the:

(a) Categorically needy, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program; or

(ii) Receiving home health care services.

(4) The department shall not pay for physical therapy programs for clients under the limited casualty program-medically indigent program.

(5)(a) For clients who are twenty years of age or under, the department shall not require prior authorization or limit the number of physical therapy sessions payable per client per calendar year, subject to the provision of subsection (8) below, provided the services are medically necessary.

(b) Providers shall fully document in the client's medical record the medical justification for continued therapy.

(6)(a) Except as provided in subsection (6) below, the department shall pay for categorically needy, medically needy and medical care services clients who are twenty-one years of age or older a total of eighteen hours of physical therapy in a calendar year, in any combination of modalities and procedures, for:

(i) Acute conditions; or

(ii) Following joint surgery.

(b) The department shall set time unit equivalents for each physical therapy procedure or modality, and publish such schedules periodically.

(7) For a client twenty-one years of age or older who has a medical diagnosis specified in the outpatient hospital billing instructions as normally requiring more intensive physical therapy treatment, the department shall cover up to twenty-four hours of physical therapy in a calendar year, in any combination of modalities and procedures.

(8)(a) Notwithstanding the hours per calendar year limit, the department shall reimburse a maximum of one hour of physical therapy session per day, except that a maximum of two hours shall be allowed when a client assessment/evaluation is performed on the same date.

(b) The physical therapy provider shall document in each client's record the amount of time spent on services to the client.

(9)(a) The department shall require that physical therapy begin within thirty days of the date the therapy was prescribed.

(b) The department may deny payment for therapy started more than thirty days after the date of the prescription, unless medical justification for the delay is presented to the department.

(c) The hospital shall include prescription must be in the client's medical record.

(10) The department shall not pay for physical therapy services under fee-for-service when physical therapy is already included in other reimbursement methodologies applied to the case, including but not limited to DRG payment for inpatient hospital services and nursing facility per diem.

NEW SECTION

WAC 388-550-6150 Outpatient hospital occupational therapy. (1) The department shall pay for occupational therapy as an outpatient hospital service when:

(a) The service is provided by a licensed occupational therapist or a licensed occupational therapy assistant supervised by a licensed occupational therapist;

(b) The provider obtains approval from the department before services are performed, for services requiring prior approval as designated in the department's billing instructions; and

(c) The occupational therapy is provided:

(i) As part of an outpatient program when identified in the early and periodic screening, diagnosis, and treatment program of a recipient twenty years of age and younger; or

(ii) As part of the physical medicine and rehabilitation program.

(2)(a) The hospital shall bill outpatient hospital occupational therapy services to the department using the appropriate current procedural terminology or department-assigned codes.

(b) The department shall not pay outpatient hospitals a facility fee for these services.

(3) The department shall pay for occupational therapy provided to clients eligible under the:

(a) Categorically needy, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age and younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program; or

(ii) Receiving home health care services.

(4) The department shall reimburse for occupational therapy as part of an outpatient program when identified in the early and periodic screening, diagnosis, and treatment program of an eligible client.

(5) The department shall cover one assessment, two durable medical equipment needs assessments, and twelve sessions of outpatient hospital occupational therapy per year.

(6) The department shall pay for up to twenty-four additional therapy visits for clients under the children with special health care needs program when the therapy visits are related to the approved list of diagnoses as published by the department.

(7) The department shall not pay for occupational therapy when payment for occupational therapy is included in the reimbursement of other treatment programs including, but not limited to the hospital inpatient diagnosis related group and inpatient physical medicine and rehabilitation services.

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.

NEW SECTION

WAC 388-550-6200 Outpatient hospital speech therapy services. (1) The department shall cover speech therapy services for eligible medical care clients who have a medically recognized disease or defect which requires speech therapy services, except as limited below:

(a) Under the medically needy program the department shall limit therapy to clients twenty years of age and under.

(b) The department shall not pay for specialized speech therapy under the medically indigent program.

(2) The department shall cover speech therapy when provided under a written plan of treatment:

(a) Established by a speech pathologist who has been granted a certificate of clinical competence by the American Speech, Language and Hearing Association; or

(b) An individual who has completed the equivalent educational and work experience necessary for such a certificate; and

(c) That is periodically reviewed by the client's primary care physician.

(3) The department shall cover one medical diagnostic evaluation and twelve speech therapy sessions in a calendar year per client. The department may cover up to twenty-four additional speech therapy sessions only when associated with the specific diagnoses listed in the department's outpatient hospital billing instructions. The department shall make such instructions available to the public.

(4) The department shall require providers to submit authorization requests to the office of children with special health care needs on the appropriate form for children with special health care needs who need more than twelve speech therapy sessions or the additional twenty-four sessions, but do not have any of the specific diagnoses identified in subsection (3) of this section.

(5) The department shall require swallowing (dysphagia) evaluations to be performed by a speech/language pathologist who holds a master's degree in speech pathology and who has received extensive training in the anatomy and physiology of the swallowing mechanism, with additional training in the evaluation and treatment of dysphagia.

(6) The department shall require a swallowing evaluation to include:

(a) An oral-peripheral exam to evaluate the anatomy and function of the structures used in swallowing;

(b) Dietary recommendations for oral food and liquid intake therapeutic or management techniques;

(c) Therapeutic or management techniques; and

(d) Videofluoroscopy, when necessary, for further evaluation of swallowing status and aspiration risks.

(7) Providers shall bill outpatient hospital speech therapy services to the department using the appropriate current procedural terminology or department-assigned codes. The department shall not pay outpatient hospitals a facility fee for these services.

(8) The department shall not pay for speech therapy when payment for speech therapy is included in the reimbursement as part of other treatment programs including, but not limited to the hospital inpatient diagnosis-related group and nursing facility services.

NEW SECTION

WAC 388-550-6250 Pregnancy—Enhanced outpatient benefits. The department shall provide outpatient chemical dependency treatment in programs qualified under chapter 440-25 WAC and certified under chapter 440-22 WAC or its successor.

NEW SECTION

WAC 388-550-6300 Outpatient nutritional counseling. (1) The department shall cover nutritional counseling services only for eligible Medicaid clients twenty years of age and under referred during an early and periodic screening, diagnosis and treatment screening to a certified dietitian.

(2) Except for children under the children's medical program, the department shall not cover nutritional counseling for clients under the medically indigent and other state-only funded programs.

(3) The department shall pay for nutritional counseling for the following conditions:

(a) Inadequate or excessive growth such as failure to thrive, undesired weight loss, underweight, major change in weight-to-height percentile, and obesity;

(b) Inadequate dietary intake, such as formula intolerance, food allergy, limited variety of foods, limited food resources, and poor appetite;

(c) Infant feeding problems, such as poor suck/swallow reflex, breast-feeding difficulties, lack of developmental feeding progress, inappropriate kinds or amounts of feeding offered, and limited caregiver knowledge and/or skills;

(d) Chronic disease requiring nutritional intervention, such as congenital heart disease, pulmonary disease, renal disease, cystic fibrosis, metabolic disorder, and gastrointestinal disease;

(e) Medical conditions requiring nutritional intervention, such as iron-deficiency anemia, familial hyperlipidemia, and pregnancy;

(f) Developmental disability, such as increasing the risk of altered energy and nutrient needs, oral-motor or behavioral feeding difficulties, medication-nutrient interaction, and tube feedings; or

(g) Psycho-social factors, such as behavior suggesting eating disorders.

(4) The department shall pay for maximum of twenty sessions, in any combination, of assessment/evaluation and/or nutritional counseling in a calendar year.

(5) The department shall require each assessment/evaluation or nutritional counseling session be for a period of twenty-five to thirty minutes of direct interaction with a client and/or the client's caregiver.

(6) The department shall pay providers for a maximum of two sessions per day.

NEW SECTION

WAC 388-550-6350 Outpatient sleep apnea/sleep study programs. (1) The department shall pay for polysomnograms or multiple sleep latency tests only for clients one year of age or older with obstructive sleep apnea or narcolepsy.

(2) The department shall pay for polysomnograms or multiple sleep latency tests only when performed in outpatient hospitals approved by the medical assistance administration (MAA) as centers of excellence for sleep apnea/sleep study programs.

(3) The department shall not require prior authorization for sleep studies as outlined in WAC 388-550-1800.

(4) Hospitals shall bill the department for sleep studies using current procedural terminology codes. The department

shall not reimburse hospitals for these services when billed under revenue codes.

NEW SECTION

WAC 388-550-6400 Outpatient hospital diabetes education. (1) The department shall pay for outpatient hospital-based diabetes education for an eligible client when:

(a) The facility is approved by the department of health (DOH) as a diabetes education center, and

(b) The client is referred by a licensed health care provider.

(2) The department shall require the diabetes education teaching curriculum to have measurable, behaviorally-stated educational objectives. The diabetes education teaching curriculum shall include all the following core modules:

(a) An overview of diabetes;

(b) Nutrition, including individualized meal plan instruction that is not part of the Women, Infants, and Children program;

(c) Exercise, including an individualized physical activity plan;

(d) Prevention of acute complications, such as hypoglycemia, hyperglycemia, and sick day management;

(e) Prevention of other chronic complications, such as retinopathy, nephropathy, neuropathy, cardiovascular disease, foot and skin problems;

(f) Monitoring, including immediate and long term diabetes control through monitoring of glucose, ketones, and glycosylated hemoglobin; and

(g) Medication management, including administration of oral agents and insulin, and insulin start-up.

(3) The department shall pay for maximum of six hours of individual core survival skills outpatient diabetes education per lifetime per client.

(4) The department shall require DOH-approved centers to bill the department for diabetes education services on the UB92 billing form using the specific revenue codes assigned and published by the department.

(5) The department shall reimburse for outpatient hospital-based diabetes education based on the individual hospital's current specific ratio of costs-to-charges, or the hospital's customary charge for diabetes education, whichever is less.

NEW SECTION

WAC 388-550-6450 Outpatient hospital weight loss program. The department may pay for an outpatient weight loss program only when provided through an outpatient weight loss facility approved by the medical assistance administration. The department shall deny payment for services provided by nonapproved providers.

NEW SECTION

WAC 388-550-6500 Blood and blood products. (1) The department shall limit Medicaid reimbursement to hospitals for blood derivatives to blood bank service charges for processing the blood and blood products.

(2) Other than payment of blood bank service charges, the department shall not pay for blood and blood derivatives.

(3) The department shall not separately reimburse blood bank service charges for handling and processing blood and blood derivatives provided to an individual who is hospitalized when the hospital is reimbursed under the diagnosis-related group (DRG) system. The department shall bundle these service charges into the total DRG payment.

(3) The hospital may include on its bill to the department:

- (a) Blood bank service charges for blood derivatives provided in outpatient hospitals;
- (b) Peer-group A hospitals; and
- (c) Other settings reimbursed under the ratio of cost-to-charge methodology.

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.

NEW SECTION

WAC 388-550-6600 Hospital-based physician services. See chapter 388-531 WAC regarding rules for inpatient and outpatient physician services.

NEW SECTION

WAC 388-550-6700 Hospital services provided out-of-state. (1) The department shall reimburse only emergency care for an eligible Medicaid client who goes to another state, other than specified border cities, specifically for the purpose of obtaining medical care that is available in the state of Washington. See WAC 388-501-0175 for a list of border cities.

(2) The department shall authorize and provide comparable medical care services to a Medicaid client who is temporarily outside the state to the same extent that such medical care services are furnished to an eligible Medicaid client in the state, subject to the exceptions and limitations in this section.

(3) The department shall not authorize payment for out-of-state medical care furnished to state-funded clients (medically indigent/medical care services), but may authorize medical services in designated bordering cities.

(4) The department shall cover hospital care provided to Medicaid clients in areas of Canada as described in WAC 388-501-0180 (1)(b).

(5) The department shall review all cases involving out-of-state medical care to determine whether the services are within the scope of the medical assistance program.

(6)(a) If the client can claim deductible or coinsurance portions of Medicare, the provider shall submit the claim to the intermediary or carrier in the provider's own state on the appropriate Medicare billing form.

(b) If the state of Washington is checked on the form as the party responsible for medical bills, the intermediary or carrier may bill on behalf of the provider or may return the claim to the provider for submission to the state of Washington.

(7) For reimbursement for out-of-state inpatient hospital services, see WAC 388-550-4000.

(8) The department shall reimburse out-of-state outpatient hospital services billed under the physician's current

procedural terminology codes at an amount that is the lower of:

- (a) The billed amount; or
- (b) The rate paid by the Washington state Title XIX Medicaid program.

(9) Out-of-state providers shall present final charges to MAA within three hundred sixty-five days of the date of service. In no case shall the state of Washington be liable for payment of charges received beyond one year from the date services were rendered.

NEW SECTION

WAC 388-550-2300 Payment—PM&R. (1) The department may pay for acute inpatient physical medicine and rehabilitation (PM&R) evaluation and individualized treatment for a client for a period of up to four weeks when all of the following conditions are met:

- (a) The client suffers from severe disabilities including, but not limited to, motor and/or cognitive deficits;
- (b) The client's condition is of hospital-level acuity and:
 - (i) The condition is medically stable;
 - (ii) The client is able to actively participate in rehabilitation at least three hours per day, five days per week;
 - (iii) The client is alert, cooperative, and follows commands;
 - (iv) The client can mobilize out of bed;
 - (v) The client is ready to participate in rehabilitation; and
 - (vi) The client must have new deficits or recent loss of his/her previous level of function.

(c) The client must show an impairment in two or more of the following areas:

- (i) Mobility and strength;
 - (ii) Self care/activities of daily living (ADLs);
 - (iii) Communication;
 - (iv) Continence, evacuation of bowel and/or bladder;
 - (v) Kitchen/food preparation, safety and skill;
 - (vi) Cognitive perceptual functioning; or
 - (vii) Pathfinding skills and safety.
- (d) PM&R treatment would potentially enable the client to obtain a greater degree of self-care and/or independence;
- (e) The client's medical condition requires that intensive PM&R services be provided in an inpatient setting;
- (f) The department authorizes services; and
- (g) The services are provided in a contract facility approved by the department to provide inpatient PM&R services.

(2) The department shall pay hospitals admitting PM&R clients who do not meet the above criteria according to the administrative day rate based at the statewide average daily nursing home rate as determined by the department.

(3) The department may authorize an extension to the inpatient treatment period specified in subsection (1) of this section if the PM&R facility submits adequate written medical justification to the department prior to the expiration of the initial approved stay.

(4) The department shall consider only written applications from facilities requesting designation as approved contract facilities for inpatient PM&R services. To be an inpatient PM&R contract facility, a hospital shall be a commission on accreditation of rehabilitation facilities

(CARF)-approved level I or level II rehabilitation facility, as approved by the department.

(5) The department may approve a skilled nursing facility or a hospital as a level II PM&R contract inpatient rehabilitation facility if it meets the following criteria. The skilled nursing facility is:

(a) Medicare and Medicaid-certified;

(b) Accredited by the CARF. The facility shall submit to the department documentation showing its CARF accreditation; and

(c) In good standing with the department.

(6) The department may conditionally approve an inpatient rehabilitation facility as a level II PM&R contract rehabilitation facility if it meets the criteria in subsections (5)(a) and (c) above, and provides documentation showing it:

(a) Is actively operating under CARF standards; and

(b) Has begun the process of obtaining full CARF accreditation.

(7) An inpatient rehabilitation facility conditionally approved as a level II contract rehabilitation facility shall obtain full CARF accreditation within twelve months of being granted conditional approval by the department. The department shall automatically revoke conditional approval for any facility which fails to obtain full CARF accreditation within the allotted one year period.

(8) The department shall determine the most appropriate acute inpatient PM&R facility (inpatient hospital or skilled nursing facility) placement which provides clients the least restrictive environment at the least cost to the department.

(9) A level I PM&R contract rehabilitation facility shall be reimbursed by the department according to the individual hospital's current ratio of cost-to-charge, as described in WAC 388-550-4500.

(10)(a) The department shall reimburse an approved level II PM&R contract rehabilitation facility, whether a hospital or skilled nursing facility, according to the all-inclusive contracted reimbursement allowance, except that such allowance shall not be deemed to include customized adaptive appliances or specialized therapeutic bed, wheelchair, ventilator, or orthotics for home use.

(b) Reimbursement for other medical services provided by the facility which are unrelated to the client's PM&R stay shall be determined by the department on a case-by-case basis.

(11) A hospital not approved by the department as a contract PM&R facility may be reimbursed under the diagnosis-related group methodology, using the initial admitting diagnosis, for rehabilitation services it provides to medical assistance clients.

WSR 97-13-009

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

[Filed June 6, 1997, 9:41 a.m.]

The Department of Licensing hereby withdraws rules proposed in WSR 97-09-002, filed April 2, 1997.

The rules were proposed to update chapter 308-56A WAC pertaining to applications for certificate of ownership when the owner is deceased, bankrupt, incapacitated, involuntary divestiture, proper release of interest, signature authorizations, and repeal of vehicle dealer requirements.

Nancy Kelly, Administrator
Title and Registration Services

WSR 97-13-016

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed June 9, 1997, 11:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-05-026.

Title of Rule: Chapter 180-115 WAC, Grant project—Student teaching pilot projects.

Purpose: To repeal chapter 180-115 WAC.

Summary: RCW 28A.410.150, the previous authorizing statute for these rules, no longer exists.

Reasons Supporting Proposal: The grant project was effective until January 16, 1990. The rules under chapter 180-115 WAC are no longer necessary.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: Rules will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

Hearing Location: Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502, on July 23, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by July 9, 1997, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by July 21, 1997.

Date of Intended Adoption: July 25, 1997.

June 9, 1997

Larry Davis
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 180-115-005	Authority.
WAC 180-115-010	Purpose.

- WAC 180-115-015 Student teaching—Definition.
- WAC 180-115-020 Grant project participants—Definition.
- WAC 180-115-025 Cooperating teacher—Definition.
- WAC 180-115-030 Grantee agency—Definition.
- WAC 180-115-035 Responsibilities of the grantee agency.
- WAC 180-115-040 Pilot program grants.
- WAC 180-115-045 Program development, implementation, and administration.
- WAC 180-115-050 Grant application components.
- WAC 180-115-055 Funding priorities.
- WAC 180-115-060 Advisory committee.
- WAC 180-115-065 Advisory committee selection criteria.
- WAC 180-115-075 Applications procedures.
- WAC 180-115-080 Form and content of proposals.
- WAC 180-115-081 Continuation of 1987-89 pilot projects.
- WAC 180-115-085 Assurance of assessment.
- WAC 180-115-090 Date for receipt of proposals by the superintendent of public instruction.
- WAC 180-115-095 Indirect costs.
- WAC 180-115-100 General provision—Carryover provision.
- WAC 180-115-105 Timeline for projects.

Hearing Location: Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502, on July 23, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by July 9, 1997, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by July 21, 1997.

Date of Intended Adoption: July 25, 1997.

June 9, 1997

Larry Davis

Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 180-110-010 Authority.
- WAC 180-110-015 Purpose.
- WAC 180-110-017 Public policy statement.
- WAC 180-110-020 Pilot project—Definition.
- WAC 180-110-030 Delivery of applications—Deadlines—Modifications.
- WAC 180-110-035 Application contents.
- WAC 180-110-040 Information and recommendations to be submitted to the state board of education.
- WAC 180-110-045 Considerations respecting the approval of pilot projects.
- WAC 180-110-050 Standards for the modification or waiver of the state board of education rules.
- WAC 180-110-052 Waiver of state statutes.
- WAC 180-110-053 Waiver of federal rules.
- WAC 180-110-055 Pilot project monitoring.
- WAC 180-110-060 Annual school district reports.
- WAC 180-110-065 Duration and termination of pilot project approval.

**WSR 97-13-017
PROPOSED RULES
STATE BOARD OF EDUCATION**

[Filed June 9, 1997, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-05-027.

Title of Rule: Chapter 180-110 WAC, Grant program—Schools for the twenty-first century.

Purpose: To repeal chapter 180-110 WAC.

Summary: RCW 28A.630.210, the previous authorizing statute for these rules, no longer exists.

Reasons Supporting Proposal: The grant program ended June 30, 1994. The rules under chapter 180-110 WAC are no longer necessary.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: Rules will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

**WSR 97-13-028
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION**

[Filed June 11, 1997, 3:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-070.

Title of Rule: Chapter 468-66 WAC, Highway Advertising Control Act.

Purpose: Amends WAC 468-66-010 Definitions; 468-66-030 General provision; and 468-66-150 Penalties.

Statutory Authority for Adoption: Chapter 47.42 RCW.

Summary: Amends WAC 468-66-010 Definitions, by adding new definition WAC 468-66-010(28) "Tri-vision sign"; WAC 468-66-030 General provisions, by adding new general provision WAC 468-66-030(13); and WAC 468-66-150 Penalties, by clarifying language pertaining to discontinued signs in WAC 468-66-150 [(1)](e).

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James R. Shanafelt, P.O. Box 47344, Olympia, WA 98504-7344, (360) 705-7282.

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: WAC 468-66-010(28), provides for a definition of "Tri-vision signs"; WAC 468-66-030(13), defines the general provisions for "Tri-vision" signs; and WAC 468-66-150 [(1)](e), clarifies language pertaining to "discontinued" signs.

Proposal Changes the Following Existing Rules: See above explanation.

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

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

Hearing Location: Department of Transportation, Commission Board Room 1D2, Transportation Building, Olympia, Washington 98504, on August 7, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact (360) 705-6980.

Submit Written Comments to: James R. Shanafelt, Washington State Department of Transportation, P.O. Box 47344, Olympia, WA 98504, FAX (360) 705-6826.

Date of Intended Adoption: August 7, 1997.

June 5, 1997
E. R. Burch
Deputy Secretary
for Operations

AMENDATORY SECTION (Amending WSR 96-13-007, filed 6/6/96, effective 7/7/96)

WAC 468-66-010 Definitions. The following terms when used in this chapter shall have the following meanings:

- (1) "Abandoned." A sign for which neither sign owner nor land owner claim any responsibility.
- (2) "Act" shall mean the Highway Advertising Act of 1961, as amended and embodied in chapter 47.42 RCW.
- (3) "Centerline of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a nondivided highway.
- (4) "Commercial and industrial areas" means any area zoned commercial or industrial by a county or municipal code, or if unzoned or zoned for general uses by a county or municipal code, that area occupied by three or more separate and distinct commercial and/or industrial activities within a space of five hundred feet and the area within five hundred feet of such activities on both sides of the highway. The area shall be measured from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activity and not from the property lines of the parcels upon which such activities are located. Measurements shall be along or parallel to the edge of the main-traveled way of the highway. The following shall not be considered commercial or industrial activities:

(a) Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(b) Transient or temporary activities;

(c) Railroad tracks and minor sidings;

(d) Signs;

(e) Activities more than six hundred and sixty feet from the nearest edge of the right of way;

(f) Activities conducted in a building principally used as a residence.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for a period of six continuous months, any signs located within the former unzoned area shall become nonconforming and shall not be maintained by any person after May 10, 1974.

(5) "Commission" means the Washington state transportation commission.

(6) "Discontinued." A sign shall be considered discontinued if, after receiving notice of absence of advertising content for three months, the permit holder fails to put advertising content on the sign within three months of the notice.

(7) "Entrance roadway" means any public road or turning roadway including acceleration lanes, by which traffic may enter the main-traveled way of a controlled access highway from the general road system within the state, including rest areas, view points, and sites used by the general public, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(8) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(9) "Exit roadway" means any public road or turning roadway including deceleration lanes, by which traffic may leave the main-traveled way of a controlled access highway to reach the general road system within the state, including rest areas, view points, and sites used by the general public, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(10) "Interstate system" means any state highway which is or does become part of the national system of interstate and defense highways as described in section 103(e) of Title 23, United States Code.

(11) "Legible" means capable of being read without visual aid by a person of normal visual acuity.

(12) "Maintain" means to allow to exist. A sign loses its right to remain as a nonconforming sign if its size is increased more than fifteen percent over its size on the effective date of the Scenic Vistas Act on May 10, 1971, or the effective date of control of a given route, whichever is applicable. The sign may continue as long as it is not destroyed, abandoned, or discontinued. Such signs may be reerected in kind if destroyed due to vandalism, and other criminal or tortious acts.

(13) "Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, entrance roadways, exit roadways, or parking areas.

(14) "Person" means this state or any public or private corporation, firm, partnership, association, as well as any individual, or individuals.

(15) "Primary system" means any state highway which is part of the federal-aid primary system as described in section 103(b) of Title 23, United States Code, in existence on June 1, 1991, as enacted in the 1991 Intermodal Surface Transportation Efficiency Act, and any highway which is not on such system but which is on the National Highway System.

(16) "Scenic system" means:

(a) Any state highway within any public park, federal forest area, public beach, public recreation area, or national monument;

(b) Any state highway or portion thereof outside the boundaries of any incorporated city or town designated in RCW 47.42.140 by the legislature as a part of the scenic system; or

(c) Any national scenic byway, state scenic byway, or state highway or portion thereof, outside the boundaries of any incorporated city or town, designated by the legislature in chapter 47.39 RCW as a part of the scenic and recreational highway system except for the sections of highways specifically excluded in RCW 47.42.025 or located within areas zoned by the governing county for predominantly commercial and industrial uses, and having development visible to the highway as determined by the department.

(17) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system or other state highway.

(18) "Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(19) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(20) "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of an interchange.

(21) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(22) "Electronic sign" means an outdoor advertising sign, display, or device whose message may be changed by electrical or electronic process, and includes the device known as the electronically changeable message center for advertising on-premise activities (WAC 468-66-070).

(23) "Public service information" means a message on an electronic sign which provides the time, date, temperature, weather, or information about nonprofit activities sponsored by civic or charitable organizations.

(24) "Temporary agricultural directional sign" means a sign on private property adjacent to state highway right of way to provide directional information to places of business offering for sale seasonal agricultural products.

(25) "National scenic byway" means any state highway designated as part of the national scenic byway system authorized by the 1991 Intermodal Surface Transportation Efficiency Act.

(26) "State scenic byway" means any scenic and recreational highway established by chapter 47.39 RCW.

(27) "Visible development" means those areas determined by the department to have development, both in type and location, that meet the requirements for unzoned commercial and industrial areas prescribed by RCW 47.42.020(9) and such development is not visually obstructed by vegetation or other natural features. It is prohibited to remove vegetation or other natural features, located within the state highway right of way, that may act as visual obstructions.

(28) "Tri-vision sign" means a sign having a series of three-sided rotating slats arranged side by side, either horizontally or vertically, which are rotated by an electric-mechanical process, capable of displaying a total of three separate and distinct messages, one message at a time.

AMENDATORY SECTION (Amending Order 96, filed 8/12/85)

WAC 468-66-030 General provisions. Notwithstanding any other provision of the act or these regulations, no signs visible from the main-traveled way of the interstate system, primary system, or scenic system which have any of the following characteristics shall be erected or maintained:

(1) Signs advertising activities that are illegal under state or federal laws or regulations in effect at the location of such signs or at the location of such activities.

(2) Illegal, destroyed, abandoned, discontinued or obsolete signs.

(3) Signs that are not clean and in good repair.

(4) Signs that are not securely affixed to a substantial structure.

(5) Signs which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(6) Signs which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(7) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights (except those signs giving public service information).

(8) Signs which use any lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highway or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(9) Signs which move or have any animated or moving parts (except revolving signs giving public service information).

(10) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(11) Signs which exceed twenty feet in length, width or height, or one hundred fifty square feet in area, including border and trim but excluding supports, except:

(a) Larger signs as permitted within commercial and industrial areas adjacent to the primary system pursuant to RCW 47.42.062; and

(b) Type 3 signs not more than fifty feet from the advertised activity; and

(c) Type 8 signs shall not exceed thirty-two square feet in area, unless they qualify as Type 3 (on-premise) signs.

(12) Electronic signs may be used only to advertise activities conducted or goods and services available on the property on which the signs are located or to present public service information.

(a) Advertising messages may contain words, phrases, sentences, symbols, trade-marks, and logos. A single message or a segment of a message must have a display time of at least two seconds including the time to move onto the sign board, with all segments of the total message to be displayed within ten seconds. A message consisting of only one segment may remain on the sign board as long as desired.

(b) Electronic signs requiring more than four seconds to change from one single message display to another shall be turned off during the change interval.

(c) Displays traveling horizontally across the sign board must move between sixteen and thirty-two light columns per second. Displays can scroll onto the sign board but must hold for two seconds including scrolling.

(d) Sign displays shall not include any art animations or graphics that portray motion, except for movement of graphics onto or off of the sign board as previously described.

(e) No electronic sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be too bright shall be adjusted in accordance with the instructions of the department.

(f) As on-premise signs, electronic signs are subject to the provisions of RCW 47.42.045 and 47.42.062.

(13) Tri-vision signs may be used as Type 3, Type 4, or Type 5 signs, with the following provisions:

(a) Visible to Interstate highways, tri-vision signs may only be used as Type 3 signs.

(b) Rotation of one sign face to another sign face is no more frequent than every eight seconds and the actual rotation process shall be accomplished in four seconds or less.

(c) Tri-vision signs shall contain a default mechanism that will stop the sign in one position should a malfunction occur.

(d) Maximum size limitations shall independently apply to each sign face, including framework and border.

(e) Tri-vision signs are subject to all other applicable provisions of chapter 47.42 RCW and chapter 468-66 WAC.

AMENDATORY SECTION (Amending Order 99, filed 12/17/85)

WAC 468-66-150 Penalties. (1) After hearing, as required by chapter 34.04 RCW (Administrative Procedure Act) and the rules and regulations of the department of transportation adopted pursuant thereto, any permit may be revoked without refund by the department for any of the following reasons:

(a) For the making of any false or misleading statements in the application for any permit, whether or not the same is material to or relied upon by the department in the issuance of such permit when such false or misleading statement or

information shall remain uncorrected after the expiration of thirty days following written notification thereof.

(b) For allowing or suffering any sign to remain in a condition of disrepair or unreasonable state of repair after the expiration of thirty days following written notification thereof.

(c) For maintaining any sign, for which a permit has been issued, in violation of any provision of the act or these regulations after the expiration of thirty days following written notification thereof.

(d) For any convictions of a violation of the act or any of these regulations, any permit held by the convicted person may be revoked whether or not such violation is related to the sign for which the permit is revoked.

(e) For maintaining a discontinued sign as defined in WAC 468-66-010(6) ~~(, or for not erecting a sign structure with advertising on a permitted site within six months of the date of permit issue. A notice of failure to erect the sign structure will be sent after three months, and the sign must be erected within three months of the notice))~~.

(2) Notice whenever required herein shall be given to the person entitled thereto by registered mail at the last known address of such person which shall be such address as may be on file with the department, if any, otherwise the last address of such person shown by the tax records of the county in which the real property upon which the sign in question is maintained.

(3) Computation of time when dependent upon giving of notice shall relate to the day of mailing such notice rather than the day of receipt.

WSR 97-13-030

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed June 12, 1997, 8:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-082.

Title of Rule: WAC 308-125-120 Fees and charges.

Purpose: To increase charges for examinations and reexaminations.

Statutory Authority for Adoption: RCW 43.24.086.

Statute Being Implemented: RCW 18.140.050.

Summary: Increase WAC 308-125-120 (2) and (3) to \$100.00 each.

Reasons Supporting Proposal: The charge for taking a real estate appraiser examination is established by contract between the Department of Licensing and an independent testing service. The examination fee is paid by an applicant directly to the testing service. The proposed rate charge reflects provisions in the new contract.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Cleotis Borner, Jr., Olympia, (360) 753-1062.

Name of Proponent: Department of Licensing, Real Estate Appraiser Program, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-125-120 (2) and (3) will be increased to

\$100.00 each to reflect provisions of a new contract for testing between the department and an independent testing service. The charge is paid directly to the testing service with no funds returning to the department.

Proposal Changes the Following Existing Rules: Conforms examination fees to the current contract amount.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed change only informs applicants of the increase in testing fees charged by the outside testing service.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to rules that set or adjust fees or rates. See RCW 34.05.328 (1)(b)(vi).

Hearing Location: Department of Licensing, 405 Black Lake Boulevard, Building #2, Conference Room, Olympia, WA, on Tuesday, July 22, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Ralph Birkedahl by July 14, 1997, TDD (360) 753-1966, or (360) 753-1062.

Submit Written Comments to: Cleotis Borner, Jr., Real Estate Appraiser Program, P.O. Box 9015, Olympia, WA 98507-9015, FAX (360) 586-0998, by July 21, 1997.

Date of Intended Adoption: July 23, 1997.

June 9, 1997
Cleotis Borner, Jr.
Program Manager

AMENDATORY SECTION (Amending WSR 97-02-004, filed 12/20/96, effective 1/20/97)

WAC 308-125-120 Fees and charges. The following fees shall be paid under the provisions of chapter 18.140 RCW:

Title of Fee	Fee
(1) Application for examination	\$175.00
(2) Examination	((75.00)) 100.00**
(3) Reexamination	((75.00)) 100.00**
(4) Original certification	100.00*
(5) Certification renewal	275.00*
(6) Late renewal penalty	35.00
(7) Duplicate certificate	25.00
(8) Certification history record	25.00
(9) Application for reciprocity	175.00
(10) Original certification via reciprocity	100.00*
(11) Temporary practice	150.00

* Proposed fees for these categories marked with an asterisk include an estimated \$25.00 to be submitted by the state to Federal Government. Title XI, SEC. 1109 requires each state to submit a roster listing of state certified appraisers to the Appraiser Subcommittee "no less than annually." The state is also required to collect from such individuals who perform appraisals in federally related transactions, an annual registry fee of "not more than \$50," such fees to be transmitted by the state to the federal government on an annual basis.

** Charges for categories marked with a double asterisk are determined by contract with an outside testing service.

WSR 97-13-044

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF PERSONNEL**

[Filed June 13, 1997, 11:17 a.m.]

The Washington Personnel Resources Board (WPRB) hereby withdraws the proposed amendments to WAC 356-30-065 and 356-30-067 filed as WSR 97-10-090 on May 7, 1997.

If you have any questions, please contact Judy Montoure at 586-1770.

Dennis Karras
Secretary

WSR 97-13-057

**PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

(Public Assistance)

[Filed June 16, 1997, 4:25 p.m.]

Original Notice.

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

Title of Rule: WAC 388-508-0805, 388-509-0920, 388-509-0960, 388-513-1380, 388-517-1720, 388-517-1740, and 388-517-1760.

Purpose: Implement increased federal poverty levels.

Other Identifying Information: CR-103 filed as an emergency rule effective April 1, 1997 (WSR 97-08-031 filed March 27, 1997).

Statutory Authority for Adoption: RCW 74.04.050, 74.09.530, 74.04.057, 74.08.090.

Statute Being Implemented: Social Security Act-Federal Register, March 10, 1997, pages 10856 - 10859, 42 USC 1396 (a), (l), (m) and 42 USC 1396 (d)(p).

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 98504, (360) 753-7462.

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

Rule is necessary because of federal law, 42 USC 1396 (a), (l), (m) and 42 USC 1396 (d)(p).

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 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 currently 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 July 22, 1997, at 10:00 a.m.

PROPOSED

Assistance for Persons with Disabilities: Contact Leslie Baldwin, Rules Coordinator, by July 13, 1997, TTY (360) 902-8324, phone (360) 902-7540, e-mail lbaldwin@dshs.wa.gov.

Submit Written Comments to and Identify WAC Numbers: 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: No sooner than July 23, 1997.

June 16, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-15-029, filed 7/10/96, effective 7/10/96)

WAC 388-508-0805 Pregnant woman—Income standards. (1) The department shall find a pregnant woman eligible for Medicaid as categorically needy when the pregnant woman meets the income requirements of this section.

(2) The department shall ensure total family income will not exceed one hundred eighty-five percent of the Federal Poverty Level (FPL). One hundred eighty-five percent of the current FPL is:

Family Size	Monthly Income
(a) One	(\$1,194) <u>\$1,217</u>
(b) Two	(\$1,598) <u>\$1,636</u>
(c) Three	(\$2,002) <u>\$2,056</u>
(d) Four	(\$2,405) <u>\$2,475</u>
(e) Five	(\$2,809) <u>\$2,894</u>
(f) Six	(\$3,213) <u>\$3,314</u>
(g) Seven	(\$3,617) <u>\$3,733</u>
(h) Eight	(\$4,021) <u>\$4,152</u>
(i) Nine	(\$4,425) <u>\$4,572</u>
(j) Ten	(\$4,829) <u>\$4,991</u>

(k) For family units with more than ten members, add ~~(\$404)~~ \$420 to the monthly income for each additional member.

AMENDATORY SECTION (Amending WSR 96-15-029, filed 7/10/96, effective 7/10/96)

WAC 388-509-0920 Children's health program. (1) The department shall consider a child seventeen years of age or younger, eligible for state-funded medical services with the same coverage as categorically needy, when:

(a) The child is not eligible for a federally-funded Medicaid program; and

(b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

(a) Following AFDC methodology; and

(b) Applying the medical income rules as described under WAC 388-506-0610.

(3) The department shall not require a child to meet the following eligibility factors:

- (a) Citizenship;
- (b) Social Security number; or
- (c) Resources limits.
- (4) The department shall find that one hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	(\$645) <u>\$658</u>
(b) Two	(\$864) <u>\$885</u>
(c) Three	(\$1,082) <u>\$1,111</u>
(d) Four	(\$1,300) <u>\$1,338</u>
(e) Five	(\$1,519) <u>\$1,565</u>
(f) Six	(\$1,737) <u>\$1,791</u>
(g) Seven	(\$1,955) <u>\$2,018</u>
(h) Eight	(\$2,174) <u>\$2,245</u>
(i) Nine	(\$2,392) <u>\$2,471</u>
(j) Ten	(\$2,610) <u>\$2,698</u>

(k) For family units with more than ten members, add ~~(\$219)~~ \$227 to the monthly income for each additional member.

(5) For a child determined eligible under this section, the department shall not consider a change in family income during the certification period.

AMENDATORY SECTION (Amending 96-15-029, filed 7/10/96, effective 7/10/96)

WAC 388-509-0960 Children's income standards.

(1) The department shall determine a child meeting the eligibility requirements under WAC 388-509-0910 eligible as categorically needy when the total family countable income does not exceed two hundred percent of the federal poverty level (FPL). The department shall find that two hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	(\$1,290) <u>\$1,315</u>
(b) Two	(\$1,727) <u>\$1,769</u>
(c) Three	(\$2,164) <u>\$2,222</u>
(d) Four	(\$2,600) <u>\$2,675</u>
(e) Five	(\$3,037) <u>\$3,129</u>
(f) Six	(\$3,474) <u>\$3,582</u>
(g) Seven	(\$3,910) <u>\$4,035</u>
(h) Eight	(\$4,347) <u>\$4,489</u>
(i) Nine	(\$4,784) <u>\$4,942</u>
(j) Ten	(\$5,220) <u>\$5,395</u>

(k) For family units with more than ten members, add ~~(\$437)~~ \$454 to the monthly income for each additional member.

(2) For a child determined eligible under WAC 388-509-0910, the department shall not consider a change in family income during the certification period.

AMENDATORY SECTION (Amending Order 3963, filed 4/10/96, effective 5/11/96)

WAC 388-513-1380 Institutional—Participation. (1) In reducing payment to the institution, the department shall consider the institutionalized client's:

- (a) Income under WAC 388-513-1330 (3)(a), (b), (c), and (d); and

PROPOSED

(b) Resources under WAC 388-513-1350, 388-513-1360, and 388-513-1365.

(2) In reducing payment to the institution, the department shall consider the eligible institutionalized client's excess resources available to meet the cost of care after the following allocations:

(a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and

(b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(3) The department shall not use allocations used to reduce excess resources under subsection (2) of this section to reduce income under subsection (4) of this section.

(4) The department shall deduct the following amounts, in the following order, from the institutionalized client's total income, including amounts disregarded in determining eligibility:

(a) Specified personal needs allowance as follows:

(i) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;

(ii) Ninety dollars for a single veteran receiving an improved veteran's pension; or

(iii) Forty-one dollars and sixty-two cents for all other clients in medical institutions.

(b) Federal, state, or local income taxes:

(i) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the client;

(ii) Not covered by withholding, but are owed or have been paid by the client; and

(iii) Does not exceed the one-person medically needy income level less the client's personal needs allowance.

(c) Wages not to exceed the one-person medically needy income level (MNIL) less the client's personal needs allowance for a client who:

(i) Is SSI-related; and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction, the department shall:

(A) Not allow a deduction for employment expenses; and

(B) Apply the client's wages not deducted under this subsection to the client's cost of care.

(d) The total amounts deducted under subsection (4)(a), (b), and (c) of this section shall not exceed the one-person MNIL.

(e) A monthly needs allowance for the community spouse not to exceed, effective January 1, ~~((1996))~~ 1997, one thousand nine hundred ~~((nineteen))~~ seventy-six dollars, unless specified in subsection (6) of this section. The department shall ensure the monthly needs allowance is:

(i) An amount added to the community spouse's gross income to provide a total community spouse's income of one thousand ~~((two))~~ three hundred ~~((ninety-five))~~ twenty-seven dollars;

(ii) Excess shelter expenses as specified under subsection (5) of this section; and

(iii) Allowed only to the extent income of the institutionalized spouse is made available to the community spouse.

(f) An amount for the maintenance needs of each dependent family member residing with the community spouse:

(i) Equal to one-third of the amount one thousand ~~((two))~~ three hundred ~~((ninety-five))~~ twenty-seven dollars exceeds the family member's income. Child support received from an absent parent is the child's income.

(ii) "Family member" means a:

(A) Dependent or minor child;

(B) Dependent parent; or

(C) Dependent sibling of the institutionalized or community spouse.

(g) When an institutional client does not have a community spouse, an amount for the maintenance needs of family members residing in the client's home equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents.

(h) Amounts for incurred medical expenses not subject to third-party payment which are the current liability of the client including, but not limited to:

(i) Health insurance premiums, coinsurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(i) Maintenance of the home of a single person or couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period; and

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) When social service staff documents initial need for the income exemption and reviews the person's circumstances after ninety days.

(5) For the purposes of this section, the department shall:

(a) Determine shelter expenses to be the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Consider the standard shelter allocation to be three hundred ~~((eighty-nine))~~ ninety-nine dollars, effective April 1, ~~((1996))~~ 1997.

(c) Consider as "excess shelter expenses" an amount equal to the actual expenses under subsection (5)(a) of this section less the standard shelter allocation under subsection (5)(b) of this section.

(6) The department shall determine the amount the institutional spouse allocates to the community spouse may only be greater than the amount in subsection (4)(e)(i) of this section when:

(a) A court enters an order against the institutionalized client for the community spouse support; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) The client shall use the income remaining after allocations specified in subsection (4) of this section toward payment of the client's cost of care at the department rate.

(8) SSI-related clients.

(a) SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility when the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to former living arrangements.

(b) The department shall not consider the SSI payment when computing the client's participation amount.

(9) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the client's participation amount.

AMENDATORY SECTION (Amending WSR 96-15-029, filed 7/10/96, effective 7/10/96)

WAC 388-517-1720 Qualified Medicare beneficiaries—Income and resources. (1) The department shall provide Medicare cost sharing for a qualified medical beneficiary (QMB) client having:

(a) A total countable income, as determined under chapter 388-511 WAC, except as specified in subsection (2) of this section, not exceeding one hundred percent of the current federal poverty level (FPL). One hundred percent of the current FPL is:

Family Size	Monthly
(i) One	((\$645) <u>\$658</u>)
(ii) Two	((\$864) <u>\$885</u>)

(b) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

(2) The department shall not consider a person's Social Security cost-of-living increase until April 1 of each year.

AMENDATORY SECTION (Amending WSR 96-15-029, filed 7/10/96, effective 7/10/96)

WAC 388-517-1740 Special low-income Medicare beneficiaries (SLMB)—Income and resources. (1) The department shall provide Medicare cost sharing for a SLMB client having:

(a) A total countable income, as determined under chapter 388-511 WAC, over one hundred percent of the current federal poverty level (FPL), but not exceeding one hundred twenty percent of the FPL. One hundred twenty percent of the current FPL is:

Family Size	Monthly
(i) One	((\$774) <u>\$789</u>)
(ii) Two	((\$1,036) <u>\$1,061</u>)

(b) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

(2) The department shall not consider a person's Social Security cost-of-living increase until April 1 of each year.

AMENDATORY SECTION (Amending WSR 96-15-029, filed 7/10/96, effective 7/10/96)

WAC 388-517-1760 Qualified disabled working individuals (QDWI) income and resources. The department shall pay premiums for Medicare Part A for a person having:

(1) A total countable family income, as determined under chapter 388-511 WAC, not exceeding two hundred percent of the current FPL. Two hundred percent of the current FPL is:

Family Size	Monthly
(a) One	((\$1,290) <u>\$1,315</u>)
(b) Two	((\$1,727) <u>\$1,769</u>)

(2) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

WSR 97-13-058
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed June 16, 1997, 4:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-047.

Title of Rule: Member charge for self-directed investment expenses.

Purpose: To adopt rules governing the assessment of expenses for teachers' retirement system plan 3 members who wish to avail themselves of the self-directed investment options authorized by the Employee Retirement Benefits Board.

Statutory Authority for Adoption: RCW 41.50.088, 41.32.060.

Statute Being Implemented: RCW 41.34.060.

Summary: Details Employee Retirement Benefits Board procedure for setting expense billing rate for teachers' retirement system plan 3 members who elect to self-direct the investment of their accounts.

Reasons Supporting Proposal: Teachers' retirement system plan 3 members have expressed interest in being able to self-direct the investment of their accounts. RCW 41.34.060 requires that individual members pay the expenses associated with self-directed investment. RCW 41.34.060 also requires the board to adopt rules describing how expenses are determined and how those charges will be assessed against members. The rules proposed with this filing were adopted as emergency rules in order to allow the board to offer the self-directed options effective April 1, 1997. Adopting the rules as permanent rules will assure that the board can continue to offer self-directed options to teachers' retirement system plan 3 members after the expiration date of the emergency rules.

Name of Agency Personnel Responsible for Drafting: Paul Neal, 1025 East Union Avenue, Olympia, WA, (360) 709-4747; Implementation and Enforcement: David Ward, 1025 East Union Avenue, Olympia, WA, (360) 586-0036.

PROPOSED

Name of Proponent: Department of Retirement Systems, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule details Employee Retirement Benefits Board procedure for setting expense billing rate for teachers' retirement system plan 3 members who elect to self-direct the investment of their accounts. Teachers' retirement system plan 3 members have expressed interest in being able to self-direct the investment of their accounts. RCW 41.34.060 requires that individual members pay the expenses associated with self-directed investment. RCW 41.34.060 also requires the board to adopt rules describing how expenses are determined and how those charges will be assessed against members. The rules proposed in this filing were adopted as emergency rules in order to allow the board to offer the self-directed options effective April 1, 1997. Adopting the rules as permanent rules will assure that the board can continue to offer self-directed options to teachers' retirement system plan 3 members after the expiration date of the emergency rules.

Proposal does not change existing rules.

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

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

Hearing Location: Boardroom, 2nd Floor, 1025 East Union Avenue, Olympia, WA 98504-8380, on July 23, 1997, at 11:00 [-] noon.

Assistance for Persons with Disabilities: Contact Paul Neal by July 18, 1997, TDD (360) 586-5450, or (360) 709-4747.

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

Date of Intended Adoption: July 28, 1997.

June 16, 1997

Paul Neal

Rules Coordinator

NEW SECTION

WAC 415-200-030 Teachers' retirement system plan III external administrators. The employee retirement benefits board may obtain external investment management services to assist with the provision of self-direct investment options. External administrator and investment management services will be obtained through competitive procurement processes to ensure teachers' retirement system plan III members receive quality services and competitive pricing. The department of retirement systems may select external administrators to assist with the administration of the defined contribution portion of the teachers' retirement system plan III established under chapter 41.34 RCW.

NEW SECTION

WAC 415-200-040 Self-directed investment—Expenses paid by members. RCW 41.34.060 allows members of the teachers' retirement system plan III to elect to self-direct their investments using options approved by the employee retirement benefits board. Members electing to self-direct their investments must pay the expenses caused by the self-directed investment program.

(1) **Assessment of member expenses for self-directed investment.** Each month, the third-party administrator will allocate self-directed investment expenses to each participating member. The expenses allocated to members shall include:

(a) External third party administrator costs;

(b) External investment manager and consultant costs; and

(c) State investment board investment management operating expenses, in the case of investment options provided through the state investment board.

Each category of expense shall be expressed in terms of basis points. A basis point is equal to one-hundredth of one percent. The administrator will determine the participating member's monthly fee by multiplying the average monthly value of each participating member's self-directed account assets by the basis points for each expense category.

(2) **Adoption of expense charge.** The expense charges used to calculate self-directed investment fees for participating members shall be established in a memorandum of understanding, interagency agreement, and/or contract. Each expense charge shall be reviewed and approved at a regularly scheduled meeting of the employee retirement benefits board, with opportunity for public testimony. No expense charge may be included in a memorandum of understanding, interagency agreement, and/or contract until such charge has been approved by the employee retirement benefits board. No expense charge which has been approved may be changed unless such change has been approved by the board.

WSR 97-13-059

WITHDRAWAL OF PROPOSED RULES GAMBLING COMMISSION

(By the Code Reviser's Office)

[Filed June 17, 1997, 8:30 a.m.]

WAC 230-20-325, proposed by the Gambling Commission in WSR 96-24-004, appearing in issue 96-24 of the State Register, which was distributed on December 18, 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 97-13-062
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 17, 1997, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-24-032 and 96-24-035 on November 26, 1996.

Title of Rule: Abrasive blasting and personal protective equipment.

Purpose: **ABRASIVE BLASTING:** Chapter 296-24 WAC, General safety and health standards and chapter 296-62 WAC, General occupational health standards.

State-initiated proposed amendments are made to consolidate rules on abrasive blasting into one standard (chapter 296-24 WAC). These rules are currently located in chapters 296-24 and 296-62 WAC. The abrasive blasting language in each of these chapters is nearly identical. In addition, the equivalent federal standards do not duplicate these rules in two separate chapters. State-initiated proposed amendments are also made to correct technical errors, rewrite awkward or confusing phrasing, add clarifying language, and move nonmandatory rules into an appendix. A summary of these proposed amendments is listed below.

Amended section WAC 296-24-67501 Purpose, minor wording changes for clarity are proposed.

Amended section WAC 296-24-67503 Scope and application, minor wording changes in the title for clarity are proposed.

Amended section WAC 296-24-67505 Selection of abrasives and equipment, minor wording changes for clarity are proposed.

Amended section WAC 296-24-67507 Definitions:

- In the definition of "abrasive," the word "granular" is proposed to be added for clarity.
- In the definition of "abrasive blasting respirator," the phrase "or pressure-demand supplied air respirator" is proposed to be added to reflect new technology and the availability of an alternative type of respirator.
- In the definition of "air-line respirator," minor changes in wording are proposed for clarity.

Amended section WAC 296-24-67509 Dust hazards from abrasive blasting:

- Minor wording changes for clarity are proposed.
- A reference to "NBFU 91-1961" is proposed to be deleted because this consensus standard is no longer available.
- A note is proposed to be added to make reference to updated ANSI and NFPA consensus standards.
- Language from WAC 296-62-11015 is proposed to be added as part of the consolidation of these two nearly identical rules.

Amended section WAC 296-24-67511 Blast cleaning enclosures.

- Minor wording changes for clarity are proposed.
- Language from WAC 296-62-11015 is proposed to be added as part of the consolidation of these two nearly identical rules.

Amended section WAC 296-24-67513 Construction and maintenance of the exhaust ventilation systems:

- The wording of the title is proposed to be changed for clarity.

- Other minor wording and format changes for clarity are proposed.

Amended section WAC 296-24-67515 Personal protective equipment:

- The wording and format is proposed to be changed for clarity.

- A note is proposed to be added to provide information on the limitations of dust filters.

Amended section WAC 296-24-67517 Air supply and air compressors:

- A reference to the incorrect ANSI standard Z9.2-1960 is proposed to be corrected to Z86.1-1973.

- Minor wording and format changes are proposed for clarity.

Amended section WAC 296-24-67519 Operational procedures and general safety, minor changes in wording and format are proposed for clarity.

New section WAC 296-24-67520 Ventilation, this new section is added to include information currently in WAC 296-24-67701, which is proposed to be repealed.

New section WAC 296-24-67521 Appendix 1-recommended blast enclosure air velocities (nonmandatory), the nonmandatory language on blast enclosure air velocities currently in the proposed repealed section, WAC 296-24-67701, is included in this new section as an appendix.

Repealed section WAC 296-24-677 Ventilation, this section is proposed to be repealed. The information currently contained in this section is being incorporated into the two proposed new sections, WAC 296-24-67520 and 296-24-67521.

Repealed section WAC 296-24-67701 Scope, this section is proposed to be repealed. The information currently contained in this section is being incorporated into the two proposed new sections, WAC 296-24-67520 and 296-24-67521.

Amended section WAC 296-62-11015 Abrasive blasting, the title of this section is retained. However, the information in this section is moved and consolidated into WAC 296-24-675 Safe practices of abrasive blasting operations, as the language found in these two sections is nearly identical. A reference to WAC 296-24-675 is proposed to be added to this section for users.

PERSONAL PROTECTIVE EQUIPMENT - Shipyards, chapter 296-304 WAC, Safety standards for ship repairing, ship building, and ship breaking.

Federal-initiated proposed amendments relating to ship repairing, ship building, and ship breaking as published in Federal Register Volume 61, Number 102, dated May 24, 1996, and Federal Register Volume 61, Number 115, dated June 13, 1996, are made to be at-least-as-effective-as the federal standard. Some of these federal-initiated amendments will add additional compliance requirements.

State-initiated proposed amendments are made to rewrite portions of the standard for clarity and will not establish additional compliance requirements. The sole purpose of clear rule writing portions of the proposal is for clarity and ease of use. The standard requirements or level of compliance have not changed and no new requirements are being proposed.

Amended section WAC 296-304-01001 Definitions, federal-initiated proposed amendments in this section will

not establish additional compliance requirements and are made to:

- Add the definitions of:
 - Anchorage
 - Body belt
 - Body harness
 - Connector
 - Deceleration device
 - Deceleration distance
 - Equivalent
 - Free fall
 - Free fall distance
 - Lanyard
 - Lifeline
 - Lower levels
 - Personal fall arrest system
 - Positioning device system
 - Qualified person
 - Restraint (tether) line
 - Rope grab
- Change the definitions of "employee" and "employer" to be consistent with and at-least-as-effective-as the federal scope and application requirement which states, "Scope and application. This subpart applies to all work in shipyard employment regardless of geographic location." The proposed amendments to these definitions are as follows:

Employee: Delete the words "on the navigable waters of the United States, including dry docks, graving docks and marine railways, other than the master, ship's officers, crew of the vessel, or any person engaged by the master to repair any vessel under 18 net tons." The words "as defined in these standards" are added. The proposed definition reads: "Any person engaged in ship repairing, ship building, or ship breaking or related employment as defined in these standards."

Employer: Delete the words "on the navigable waters of the United States, including dry docks, graving docks and marine railways." The words "as defined in these standards" are added. The proposed definition reads: "An employer with employees who are employed, in whole or in part, in ship repair, ship building and ship breaking, or related employment as defined in these standards."

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Change the definition name "ship repair" to "ship repairing" to be consistent with the title of this chapter.
- Delete definition numbering as required by the state Code Reviser's Office.
- Rewrite the section for clarity.

Amended section WAC 296-304-03001 Toxic cleaning solvents, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite WAC 296-304-03001 (1)(c) for clarity.

Amended section WAC 296-304-03003 Chemical paint and preservative removers, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite WAC 296-304-03003 (1), (4), and (5) for clarity.

Amended section WAC 296-304-03005 Mechanical paint removers, state-initiated proposed amendments in this

section will not establish additional compliance requirements and are made to rewrite WAC 296-304-03005 (1)(a) and (d), (2)(a), and (3)(c)(i), (ii), (iii), (iv), and (v) for clarity.

Amended section WAC 296-304-03007 Painting, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite WAC 296-304-03007 (1)(a)(i), (ii), (iii), (b)(i), and (2)(m) and (n) for clarity.

Amended section WAC 296-304-05007 Access to vessels, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to add the following definitions:

- Barge
- River tow boat

Amended section WAC 296-304-06013 Health and sanitation, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to add the definition of "hazardous material."

Amended section WAC 296-304-08007 Abrasive wheels, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite WAC 296-304-08007(10) for clarity.

Amended section WAC 296-304-08009 Powder actuated fastening tools, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Rewrite WAC 296-304-08009 (1) and (2) for clarity.
- Reference the hearing conservation requirements of chapter 296-62 WAC, Part K for clarification. These are existing requirements.

Amended section WAC 296-304-090 Personal protective equipment—Scope and application, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Change the title from "Personal protective equipment—Scope and application" to "Personal protective equipment (PPE)—General requirements." Language relating to scope and application is deleted because WAC 296-304-010, together with the amended definitions of employee and employer, address the chapter's scope and application and is in compliance with the federal-initiated proposed scope and application amendment.
- Include the general requirement that the employer must provide and ensure the use of PPE. This is an existing requirement in WAC 296-24-07501(1).

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Identify hearing protection in the general requirements for clarification. This is an existing requirement in chapter 296-62 WAC, Part K.
- Rewrite the section for clarity.

Amended section WAC 296-304-09001 Eye protection, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Change the title from "Eye protection" to "Hazard assessment and equipment selection."
- Move information relating to eye protection to WAC 296-304-09005 for better organization of information.
- Include the requirement that the employer must assess work activities for all PPE related hazards, and inform

and properly fit affected employees. This is an existing requirement in WAC 296-24-07501(2).

- Add the requirement that all PPE must be kept sanitary and disinfected when reassigned.

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

Amended section WAC 296-304-09003 Respiratory protection, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Change the title from "Respiratory protection" to "Training."
- Move information relating to respiratory protection to WAC 296-304-09007 for better organization of information.
- Include the requirement that the employer must provide training and verify employee knowledge of PPE. This is an existing requirement in WAC 296-24-07501(4).

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

Amended section WAC 296-304-09005 Head, foot and body protection, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Change the title from "Head, foot and body protection" to "Eye and face protection."
- Move information relating to hearing protection to WAC 296-304-09009 for better organization of information.
- Move information relating to foot protection to WAC 296-304-09013 for better organization of information.
- Move information relating to hand and body protection to WAC 296-304-09015 for better organization of information.
- Add the requirement that the employer must provide and ensure the use of eye and face protection.
- Add a table (table 1) to show required lenses for radiation protection.

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

Amended section WAC 296-304-09007 Lifesaving equipment, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Change the title from "Lifesaving equipment" to "Respiratory protection."
- Move information relating to lifesaving equipment to WAC 296-304-09017 for better organization of information and to present information in approximately the same order as the federal rule.
- Include the requirement that the employer must provide and ensure the use of respiratory equipment according to chapter 296-62 WAC, Part E to be consistent with the federal rule.

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

New section WAC 296-304-09009 Hearing protection, state-initiated proposed amendments will not establish additional compliance requirements and are made to:

- Add this new section for clarification. These are existing requirements from the general occupational health standards, chapter 296-62 WAC, Part K.
- Rewrite the section for clarity.

New section WAC 296-304-09011 Head protection, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Add this new section.
- Require that the employer must provide and ensure the use of hard hats and must comply with ANSI Z89.1-1986, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements." These are existing standard requirements (see WAC 296-24-084(2)).

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

New section WAC 296-304-09013 Foot protection, federal-initiated proposed amendments in this section will establish additional compliance requirements and are made to:

- Add this new section that states the employer must provide and ensure the use of protective footwear. This is an existing requirement under WAC 296-24-088, but is more stringent than the current requirement under WAC 296-304-09005(4).

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

New section WAC 296-304-09015 Hand and body protection, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Include this new section that states the employer must provide and ensure the use of appropriate hand protection. This is an existing requirement under WAC 296-24-090 Hand protection.

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

New section WAC 296-304-09017 Lifesaving equipment, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Include this new section that states the employer must provide and ensure the use of appropriate lifesaving equipment. This is an existing requirement under WAC 296-24-086 Personal flotation devices.

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

New section WAC 296-304-09019 Fall protection—General requirement, state-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Include this new section that states the employer must provide and ensure the use of approved fall protection equipment, such as, but not limited to personal fall

arrest systems and positioning device systems when a worker is exposed to a fall greater than five feet. This is an existing requirement under WAC 296-304-05013(2).

- Rewrite the section for clarity.

New section WAC 296-304-09021 Personal fall arrest systems (PFAS), federal-initiated proposed amendments in this section will establish additional compliance requirements and are made to:

- Clarify the more stringent requirement that body belts are no longer approved as part of a fall arrest system. Only approved full body harnesses are allowed.
- Describe criteria for hardware in detail.
- Describe criteria for strength performance of PFAS.
- Describe criteria for the selection, use and care of systems and components.
- Mandate the training requirements for affected employees.

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

New section WAC 296-304-09023 Positioning device systems, federal-initiated proposed amendments in this section will establish additional compliance requirements and are made to:

- Describe criteria for hardware in detail.
- Describe criteria for strength performance of positioning device systems.
- Describe criteria for the selection, use and care of positioning device systems.
- Mandate the training requirements for affected employees.

State-initiated proposed amendments in this section will not establish additional compliance requirements and are made to rewrite the section for clarity.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, 7273 Linderson Way, Tumwater, WA (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, Federal Register Volume 61, Number 102, dated May 24, 1996; and Federal Register Volume 61, Number 115, dated June 13, 1996.

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. Small business economic impact statements are not required because the rules are being proposed solely to comply with federal regulations (RCW 19.85.061) or to correct information that is housekeeping in nature (RCW 34.05.320 (1)(k)).

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

not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (5)(b)(iii) and (iv). Significant rule-making criteria does not apply when adopting federal statutes or regulations without material change, when amending interpretive rules, or when adopting rules to correct information that is housekeeping in nature (typographical errors, address/name changes, or clarification of rule language without changing its effect).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on July 22, 1997, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Linda Dausener by July 10, 1997, (360) 902-5516.

Submit Written Comments to: Tracy Spencer, Standards Manager, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by 5:00 p.m., July 29, 1997. In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: October 21, 1997.

June 17, 1997

Gary Moore
Director

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-67501 Purpose. The safety and health standards of this section are intended to protect health and to prevent injury to personnel engaged in abrasive blasting operations and to others working in the vicinity by:

(1) (~~Control of~~) Controlling dusts which are dispersed during abrasive blasting.

(2) (~~Provision of~~) Providing an adequate amount of clean air to personnel.

(3) (~~Protection of~~) Protecting personnel from injury from flying particles or from moving equipment.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-67505 Selection of abrasives and equipment. Each type of abrasive and each type of equipment has its particular advantages in producing the quality of work desired, and the selection will depend on the specific requirements of the user. Therefore, no rule or suggestion (~~can be~~) is given in this standard for the selection of a particular abrasive or of particular equipment. With properly designed equipment and proper operation and maintenance all types of abrasives and equipment can be used safely. However, abrasives which create the minimum hazard should be used wherever feasible.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-67507 Definitions. (1) Abrasive. A solid granular substance used in an abrasive blasting operation.

(2) Abrasive blasting. The forcible application of an abrasive to a surface by pneumatic pressure, hydraulic pressure, or centrifugal force.

(3) Abrasive-blasting respirator. A continuous flow airline respirator (~~(constructed)~~) or pressure-demand supplied-air respirator made so that it will cover the wearer's head, neck, and shoulders and provide protection from rebounding abrasive.

(4) Air-line respirator. A device consisting of a face-piece, helmet, or hood to which clean air is supplied to the wearer through a small-diameter hose from (~~a source not on the wearer's body~~) a compressed air source.

(5) Blast cleaning barrel. A complete enclosure which rotates on an axis, or which has an internal moving tread to tumble the parts, in order to expose various surfaces of the parts to the action of an automatic blast spray.

(6) Blast cleaning room. A complete enclosure in which blasting operations are performed and where the operator works inside of the room to operate the blasting nozzle and direct the flow of the abrasive material.

(7) Blasting cabinet. An enclosure where the operator stands outside and operates the blasting nozzle through an opening or openings in the enclosure.

(8) Clean air. Air of such purity that it will not cause harm or discomfort to an individual if it is inhaled for extended periods of time.

(9) Dust collector. A device or combination of devices for separating dust from the air handled by an exhaust ventilation system.

(10) Exhaust ventilation system. A system for removing contaminated air from a space, comprising two or more of the following elements; (a) enclosure or hood, (b) duct work, (c) dust collecting equipment, (d) exhauster, and (e) discharge stack.

(11) Particulate-filter respirator. An air purifying respirator, commonly referred to as a dust or a fume respirator, which removes most of the dust or fume from the air passing through the device.

(12) Respirable dust. Airborne dust in sizes capable of passing through the upper respiratory system to reach the lower lung passages.

(13) Rotary blast cleaning table. An enclosure where the pieces to be cleaned are positioned on a rotating table and are passed automatically through a series of blast sprays.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-24-67509 Dust hazards from abrasive blasting. (1) Dust sources. Abrasives and the surface coatings on the materials blasted are shattered and pulverized during blasting operations and the dust formed will contain particles of respirable size. The composition and toxicity of the dust from these sources (~~(shall)~~) must be considered in making an evaluation of the potential health hazards.

(2) Types of abrasives. A large variety of solid materials may be used as abrasives, with qualities varying from hard deep-cutting to soft polishing. These include; (a) mineral grains, either synthetic or natural such as silica or garnet, (b) metallic shot or grit, generally of steel or chilled cast iron, and (c) organic abrasives, such as ground corncobs or walnut shells.

Silica sand is the most hazardous mineral abrasive commonly used and its use should be limited wherever possible.

The potential hazard from steel or iron dust is considered to be minimal.

Readily combustible organic abrasives may be pulverized fine enough to be capable of forming explosive mixtures with air.

(3) Types of coatings. A surface coating formed during the fabrication of a part, or a protective coating applied after fabrication, will be removed and dispersed as a dust by abrasive blasting. The type of coating should be known to make a proper evaluation of the potential hazard.

(a) Silica sand is frequently imbedded in the surface of castings and may be pulverized by blast cleaning.

(b) Coatings containing toxic metals will add to the potential seriousness of the dust exposures. Examples of such coatings are anti-fouling paints containing mercury, lead paints on structural steel, cadmium plating, and lead deposits on pistons of internal combustion engines.

(c) Plastic or resin coatings may be decomposed by (~~the action of the abrasives to~~) abrasive blasting and form irritating by-products.

(4) Wet abrasive blasting. Wet methods will tend to keep dust exposures minimal, but dispersed droplets (~~(dispersed)~~) and dried residues (~~(which)~~) may become airborne (~~(may)~~) and create potential exposures.

(5) Concentrations of contaminants. The concentration of respirable dust or fumes in the breathing zone of the abrasive-blasting operator or any other worker (~~(shall)~~) must be kept below the levels (~~(recommended by chapter 296-62 WAC)~~) specified in WAC 296-62-075 through 296-62-07515.

(6) Use of combustible abrasives. Organic abrasives which are combustible (~~(shall)~~) must be used only in automatic systems because the fine dust produced presents a potential fire and explosion hazard.

(a) Where flammable or explosive dust mixtures may be present, the construction of the equipment, including the exhaust system and all electric wiring (~~(shall)~~) must conform to the requirements of American National Standard Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, Z 33.1-1961 (NFPA 91-1961(~~(NBFU 91-1961)~~)), and chapter 296-24 WAC Part L, Electrical. The blast nozzle (~~(shall)~~) must be bonded and grounded to prevent the buildup of static charges.

(b) Where flammable or explosive dust mixtures may be present, the abrasive blasting enclosure, the ducts, and the dust collector (~~(shall)~~) must be constructed with loose panels or explosion venting areas, located on sides away from any occupied area, to provide for pressure relief in case of explosion, following the principles set forth in the National Fire Protection Association Explosion Venting Guide, NFPA 68-1954.

Note: See the latest versions of NFPA-91, NFPA-68 and ANSI Z33.1 for current information on the construction of abrasive blasting equipment and enclosures.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-67511 Blast cleaning enclosures. (1) Blast cleaning enclosures(~~(—These)~~) include rotary blast cleaning tables, blast cleaning barrels and drums, abrasive

blasting cabinets, blast cleaning rooms, abrasive separators, and similar enclosures.

(2) ~~((Ventilation:))~~ Blast cleaning enclosures ~~((shall))~~ must be exhaust ventilated in such a way that a continuous inward flow of air will be maintained at all openings in the enclosure, during the blasting operation. (See WAC ~~((296-24-677))~~ 296-24-67520 and Appendix 1.)

(3) All air inlets and access openings ~~((shall))~~ must be baffled or so arranged that by the combination of inward air flow and baffling the escape of abrasive or dust particles into an adjacent work area will be minimized, ~~((not to exceed the allowable threshold limits as specified in occupational health standards, chapter 296-62 WAC))~~ and visible spurts of dust will not be observed.

(4) The rate of exhaust ~~((shall))~~ must be sufficient to provide prompt clearance of the dust-laden air within the enclosure after ~~((the cessation of))~~ blasting stops.

(5) Before the enclosure is opened, the blast ~~((shall))~~ must be turned off and the exhaust system ~~((shall))~~ must be run for a sufficient period of time to remove the airborne dust particles within the enclosure.

(6) ~~((Observation window:))~~ Safety glass protected by screening ~~((shall))~~ must be used in observation windows, where hard deep-cutting abrasives are used.

(7) ~~((Access openings:))~~ Slit abrasive-resistant baffles ~~((shall))~~ must be installed in multiple sets at all small access openings where dust might escape, and ~~((shall))~~ must be inspected regularly and replaced when needed.

(8) Doors ~~((shall))~~ must be flanged and tight when closed.

(9) Doors on blast-cleaning rooms must be operable from both inside and outside, except where there is a small operator access door, the large work access door may be closed or opened from the outside only.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-67513 Construction and maintenance of the exhaust ventilation systems. (1) ~~((Exhaust systems:))~~ The construction, installation, inspection, and maintenance of exhaust systems ~~((shall))~~ must conform to the principles and requirements set forth in ~~((chapter 296-62 WAC))~~ American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, 29.2-1960 and ANSI Z33.1-1961.

Note: See the latest versions of ANSI Z9.2 and ANSI Z33.1 for current information on the installation, inspection and maintenance of exhaust systems.

(2) When dust leaks are noted, repairs ~~((shall))~~ must be made.

(3) The static pressure drop at the exhaust ducts leading from the equipment ~~((shall))~~ must be checked when the installation is completed and periodically thereafter to assure continued satisfactory operation.

(4) Whenever an appreciable change in the pressure drop indicates a partial blockage, the system ~~((shall))~~ must be cleaned and returned to normal operating conditions.

~~((4))~~ Abrasive separator. In installations where the abrasive is recirculated, the exhaust ventilation system for the blasting enclosure shall not be relied upon for the removal of fines from the spent abrasive instead of an

abrasive separator. An abrasive separator shall be provided for the purpose:))

(5) ~~((Dust collecting equipment:))~~ In installations where the abrasive is recirculated, an abrasive separator must be provided to remove fines from the spent abrasives.

(6) The air exhausted from blast cleaning equipment ~~((shall))~~ must be discharged through dust collecting equipment.

~~((6))~~ (7) Dust collectors ~~((shall))~~ must be set up so that the accumulated dust can be emptied and removed without contaminating other working areas.

Note: Disposal of waste. The fine dust from dry collectors should be emptied into and transported in enclosed containers to prevent dispersal of the fines, or discharged into a sluice with some method to assure wetting of the dust.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-67515 Personal protective equipment.

(1) Respiratory protective equipment approved by the National Institute for Occupational Safety and Health (NIOSH) must be used for protection of personnel against dusts produced during abrasive-blasting operations.

(2) Abrasive-blasting respirators. Abrasive-blasting respirators ((shall)) must be worn by all abrasive-blasting operators in the following situations: (a) When working inside of blast cleaning rooms, or (b) when using silica sand in manual blasting operations except where the nozzle and blast are ((not)) physically separated from the operator in an exhaust ventilated enclosure, or (c) where concentrations of toxic dusts dispersed by the abrasive blasting may exceed the limits set in ((chapter 296-62)) WAC 296-62-075 through 296-62-07515 except where the nozzle and blast are physically separated from the operator in an exhaust-ventilated enclosure.

~~((2))~~ (3) Particulate-filter respirators.

(a) ~~((Particulate filter respirators, commonly referred to as dust filter respirators, properly fitted, may be used for short, intermittent, or occasional dust exposures such as clean-up, dumping of dust collectors, or unloading shipments of sand at a receiving point, when it is not feasible to control the dust by enclosure, exhaust ventilation, or other means. Respirators used shall be approved for protection against the specific type of dust encountered.~~

~~((b) Dust filter respirators shall not be used for continuous protection where silica sand is used as the blasting abrasive, or toxic materials are blasted.~~

(3) ~~Personal protective clothing. Operators shall be equipped with heavy canvas or leather gloves and aprons or equivalent protection to protect them from the impact of abrasives. Safety shoes shall be worn where there is a hazard of foot injury.~~

~~((4) Personal protective clothing, equipment and their use shall comply with the provisions of chapter 296-24 WAC, Part A2:))~~ Particulate or dust-filter respirators may be used for short, intermittent, or occasional dust exposures such as clean-up, dumping of dust collectors, or unloading shipments of sand at a receiving point, when it is not feasible to control the dust by enclosure, exhaust ventilation, or other means.

(b) Dust-filter respirators may also be used to protect the operator of outside (outdoor) abrasive-blasting operations

where nonsilica abrasives are used on materials having low toxicity.

Note: The selection of a dust-filter respirator depends on the amount of dust in the breathing zone of the user. See WAC 296-62-07113 - Table 5.

(c) Dust-filter respirators used must be NIOSH-approved for protection against the specific type of dust encountered.

(d) Dust-filter respirators must be properly fitted as required in WAC 296-62-071.

(e) Dust-filter respirators must not be used for continuous protection where silica sand is used as the blasting abrasive, or when toxic materials are blasted.

(4) A respiratory protection program as required in WAC 296-62-071 must be established wherever it is necessary to use respirators.

(5) Personal protective clothing.

(a) Operators must be equipped with heavy canvas or leather gloves and aprons or equivalent protection to protect them from the impact of abrasives.

(b) Safety shoes must be worn where there is a hazard of foot injury.

(c) Equipment for protection of the eyes and face must be supplied to the operator and to other personnel working near abrasive blasting operations when the respirator design does not provide such protection.

(6) Personal protective clothing, equipment and their use must comply with WAC 296-24-075 (Part A2).

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-67517 Air supply and air compressors.

(1) Clean air supply. The air for abrasive-blasting respirators ~~((shall))~~ must be free of harmful quantities of dusts, mists, or noxious gases, and shall meet the requirements for air purity set forth in American National Standard ~~((Z 9.2-1960))~~ Z 86.1-1973.

~~((Note: It is preferable to provide air for an abrasive-blasting respirator by means of low pressure blowers or compressors, which do not require internal organic lubricants and which are used solely for that purpose.~~

~~((a) When air from the regular compressed air line of the plant is used for the abrasive blasting respirator the following shall be complied with: A trap and carbon filter will be installed and regularly maintained, to remove oil, water, scale, and odor; a pressure reducing diaphragm or valve will be installed to reduce the pressure down to requirements of the particular type of abrasive blasting respirator; and an automatic control will be provided to either sound an alarm or shut down the compressor in case of over heating.))~~

Note: It is preferable to provide air for an abrasive-blasting respirator with low pressure blowers or compressors which need no internal organic lubricants and are used solely for that purpose, as long as they provide sufficient air flow to each user as specified in Table 3 of the respirator standard, WAC 296-62-071.

(2) When air from the regular compressed air line of the plant is used for the abrasive-blasting respirator the following are required:

(a) A trap and carbon filter must be installed and regularly maintained, to remove oil, water, scale, and odor;

(b) A pressure reducing diaphragm or valve must be installed to reduce the pressure down to requirements of the particular type of abrasive-blasting respirator;

(c) An automatic control must be provided to either sound an alarm or shut down the compressor in case of overheating.

Note: See also WAC 296-62-07111.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-67519 Operational procedures and general safety. ~~((Housekeeping.))~~ Dusts ~~((shall))~~ must not be permitted to accumulate on the floor or on ledges outside of an abrasive blasting enclosure, and dust spills ~~((shall))~~ must be cleaned up promptly, preferable by vacuum cleaning.

Note: Removal of dust accumulations from ledges and other dust catching surfaces should be done with a vacuum cleaner during a time when the plant is not in operation. The cleaning operator should wear a respirator approved for the existing conditions.

~~((a))~~ (2) Aisles and walkways ~~((shall))~~ must be kept clear of steel shot or similar abrasive which may create a slipping hazard.

Note: Pressurized tanks for abrasive supply. If a pressurized tank is used for an abrasive supply, it should be tied in with the manual control of the nozzle mentioned in WAC 296-24-65719(2) and the relief valve or opening on the tank should be located so as to be safely vented.

~~((2) Nozzles.))~~ (3) Blast cleaning nozzle ~~((shall))~~ must be equipped with an operating valve which must be held open manually.

(4) A support ~~((shall))~~ must be provided on which the nozzle may be mounted when it is not in use.

~~((3) Tempered air.))~~

Note: If taken directly from the outside of the building, the air entering a blast cleaning room through the air supply inlets should be tempered during cold weather.

NEW SECTION

WAC 296-24-67520 Ventilation. (1) The applicable minimum requirements as specified in WAC 296-62-11003 through 296-62-11013 relating to ventilation must be followed.

(2) Blast cleaning enclosures. Blast cleaning enclosures must be exhaust-ventilated so that a continuous inward flow of air is maintained at all openings in the enclosure during blasting.

(3) Air velocities. Although the performance of the equipment will be the final criterion, the exhaust ventilation must:

(a) Keep the escape of dust from the enclosure to a minimum;

(b) Maintain a reasonable visibility in blast cleaning rooms and cabinets; and

(c) Provide for rapid clearance of the dust laden air within the enclosure to permit the enclosure to be opened.

See Appendix 1 for recommendation air velocities at blast enclosure openings.

NEW SECTION**WAC 296-24-67521 Appendix 1.**

Appendix 1 (Non-Mandatory)

Recommended Blast Enclosure Air Velocities

Because of the wide variety of conditions, it is not possible to set rigid standards for rates of exhaust or for control velocities that will be suited to all types of enclosures and all types of work. In general, the use of free silica abrasives and the generation of toxic dusts in abrasive blasting require higher control velocities. With well designed equipment and excellent labyrinth baffling at openings it is possible to prevent the escape of abrasives and dust with lower control velocities.

Experience has indicated that optimum air velocities into blasting enclosures are needed to minimize the escape of dust from these enclosures. These recommended air velocities are as follows:

(1) Blast cleaning cabinet. The recommended inward air velocity at the hand openings is a minimum of 500 feet per minute (fpm) calculated on the free opening without the curtains. This high control velocity is needed because the operator's working position is close to the openings.

(2) Rotary blast cleaning tables. The access openings should be baffled with multiple slit-baffle curtains. The recommended inward air velocity at the access opening is 200 to 250 fpm calculated on the free opening without the curtains.

(3) Blast cleaning rooms. In blast cleaning rooms, the air inlets should be well baffled to prevent the escape of abrasive and the recommended inward air velocity at the air inlets is a minimum of 300 fpm.

(4) Abrasive separators, bucket elevators, and other accessory abrasive handling systems. The recommended inward air velocity at all openings is 200 to 250 fpm.

Note: For further information see the following references: *Recommended Industrial Ventilation Guidelines* - NIOSH 1976
Industrial Ventilation A Manual of Recommendation Practices - ACGIH latest edition.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-677 Ventilation.
WAC 296-24-67701 Scope.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-62-11015 Abrasive blasting. ((+) Definitions-

(a) "~~Abrasive~~" means a solid substance used in an abrasive blasting operation.

(b) "~~Abrasive blasting respirator~~" means a continuous flow air line respirator constructed so that it will cover the wearer's head, neck, and shoulders to protect him from rebounding abrasive.

(c) "~~Blast cleaning barrel~~" means a complete enclosure which rotates on an axis, or which has an internal moving tread to tumble the parts, in order to expose various surfaces of the parts to the action of an automatic blast spray.

(d) "~~Blast cleaning room~~" means a complete enclosure in which blasting operations are performed and where the operator works inside of the room to operate the blasting nozzle and direct the flow of the abrasive material.

(e) "~~Blasting cabinet~~" means an enclosure where the operator stands outside and operates the blasting nozzle through an opening or openings in the enclosure.

(f) "~~Clean air~~" means air of such purity that it will not cause harm or discomfort to an individual if it is inhaled for extended periods of time.

(g) "~~Dust collector~~" means a device or combination of devices for separating dust from the air handled by an exhaust ventilation system.

(h) "~~Exhaust ventilation system~~" means a system for removing contaminated air from a space, comprising two or more of the following elements (i) enclosure or hood, (ii) duct work, (iii) dust collecting equipment, (iv) exhauster, and (v) discharge stack.

(i) "~~Particulate filter respirator~~" means an air purifying respirator, commonly referred to as a dust or a fume respirator, which removes most of the dust or fume from the air passing through the device.

(j) "~~Respirable dust~~" means airborne dust in sizes capable of passing through the upper respiratory system to reach the lower lung passages.

(k) "~~Rotary blast cleaning table~~" means an enclosure where the pieces to be cleaned are positioned on a rotating table and are passed automatically through a series of blast sprays.

(l) "~~Abrasive blasting~~" means the forcible application of an abrasive to a surface by pneumatic pressure, hydraulic pressure, or centrifugal force.

(2) ~~Dust hazards from abrasive blasting.~~

(a) ~~Abrasives and the surface coatings on the materials blasted are shattered and pulverized during blasting operations and the dust formed will contain particles of respirable size. The composition and toxicity of the dust from these sources shall be considered in making an evaluation of the potential health hazards.~~

(b) ~~The concentration of respirable dust or fume in the breathing zone of the abrasive blasting operator or any other worker shall be kept below the levels specified in WAC 296-62-075 through 296-62-07515.~~

(e) ~~Organic abrasives which are combustible shall be used only in automatic systems. Where flammable or explosive dust mixtures may be present, the construction of the equipment, including the exhaust system and all electric wiring shall conform to the requirements of American National Standard Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, Z33.1 1961 (NFPA 91 1961), and chapter 296-24 WAC Part L. The blast nozzle shall be bonded and grounded to prevent the build-up of static charges. Where flammable or explosive dust mixtures may be present, the abrasive blasting enclosure, the ducts, and the dust collector shall be constructed with loose panels or explosion venting areas, located on sides away from any occupied area, to provide for pressure relief in case of explosion, following the principles set forth in the National Fire Protection Association Explosion Venting Guide, NFPA 68-1954.~~

(3) ~~Blast cleaning enclosures.~~

~~(a) Blast cleaning enclosures shall be exhaust ventilated in such a way that a continuous inward flow of air will be maintained at all openings in the enclosure, during the blasting operation.~~

~~(i) All air inlets and access openings shall be baffled or so arranged that by the combination of inward air flow and baffling the escape of abrasive or dust particles into an adjacent work area will be minimized and visible spurts of dust will not be observed.~~

~~(ii) The rate of exhaust shall be sufficient to provide prompt clearance of the dust laden air within the enclosure after the cessation of blasting.~~

~~(iii) Before the enclosure is opened, the blast shall be turned off and the exhaust system shall be run for a sufficient period of time to remove the dusty air within the enclosure.~~

~~(iv) Safety glass protected by screening shall be used in observation windows, where hard deep cutting abrasives are used.~~

~~(v) Slit abrasive resistant baffles shall be installed in multiple sets at all small access openings where dust might escape, and shall be inspected regularly and replaced when needed.~~

~~(A) Doors shall be flanged and tight when closed.~~

~~(B) Doors on blast cleaning rooms shall be operable from both inside and outside, except that where there is a small operator access door, the large work access door may be closed or opened from the outside only.~~

~~(4) Exhaust ventilation systems:~~

~~(a) The construction, installation, inspection, and maintenance of exhaust systems shall conform to the principles and requirements set forth in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2-1960, and ANSI Z33.1-1961.~~

~~(i) When dust leaks are noted, repairs shall be made as soon as possible.~~

~~(ii) The static pressure drop at the exhaust ducts leading from the equipment shall be checked when the installation is completed and periodically thereafter to assure continued satisfactory operation. Whenever an appreciable change in the pressure drop indicates a partial blockage, the system shall be cleaned and returned to normal operating condition.~~

~~(b) In installations where the abrasive is recirculated, the exhaust ventilation system for the blasting enclosure shall not be relied upon for the removal of fines from the spent abrasive instead of an abrasive separator. An abrasive separator shall be provided for the purpose.~~

~~(c) The air exhausted from blast cleaning equipment shall be discharged through dust collecting equipment. Dust collectors shall be set up so that the accumulated dust can be emptied and removed without contaminating other working areas.~~

~~(5) Personal protective equipment. See applicable provisions of chapters 296-24 and 296-62 WAC.~~

~~(a) Abrasive blasting respirators shall be worn by all abrasive blasting operators:~~

~~(i) When working inside of blast cleaning rooms, or~~

~~(ii) When using silica sand in manual blasting operations where the nozzle and blast are not physically separated from the operator in an exhaust ventilated enclosure, or~~

~~(iii) Where concentrations of toxic dust dispersed by the abrasive blasting may exceed the limits set in WAC 296-62-075 through 296-62-07515 and the nozzle and blast are not physically separated from the operator in an exhaust ventilated enclosure.~~

~~(b) Particulate filter respirators, commonly referred to as dust filter respirators, properly fitted, may be used for short, intermittent, or occasional dust exposures such as cleanup, dumping of dust collectors, or unloading shipments of sand at a receiving point, when it is not feasible to control the dust by enclosure, exhaust ventilation, or other means. Respirators used shall be approved for protection against the specific type of dust encountered.~~

~~(i) Dust filter respirators may be used to protect the operator of outside abrasive blasting operations where nonsilica abrasives are used on materials having low toxicities.~~

~~(ii) Dust filter respirators shall not be used for continuous protection where silica sand is used as the blasting abrasive, or toxic materials are blasted.~~

~~(c) A respiratory protection program as defined and described in applicable provisions of chapters 296-24 and 296-62 WAC, shall be established wherever it is necessary to use respiratory protective equipment.~~

~~(d) Refer to applicable provisions of chapter 296-24 WAC for operators personal protective equipment.~~

~~(6) Operational procedures and general safety. Dust shall not be permitted to accumulate on the floor or on ledges outside of an abrasive blasting enclosure, and dust spills shall be cleaned up promptly. Aisles and walkways shall be kept clear of steel shot or similar abrasive which may create a slipping hazard.~~

~~(7) Scope. This paragraph applies to all operations where an abrasive is forcibly applied to a surface by pneumatic or hydraulic pressure, or by centrifugal force. It does not apply to steam blasting, or steam cleaning, or hydraulic cleaning methods where work is done without the aid of abrasives.) Abrasive blasting is covered in the General safety and health standards WAC 296-24-675, Safe Practices of Abrasive Blasting Operations (Part H-2).~~

AMENDATORY SECTION (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

WAC 296-304-010 Scope and application. (1) The provisions and standards of the general safety and health standards, chapters 296-24 and 296-62 WAC, and such other codes and standards as are promulgated by the department of labor and industries which are applicable to all industries, shall be applicable in the ship repairing, shipbuilding, or shipbreaking industries whenever the employees are covered under the Washington State Industrial Safety and Health Act, chapter 49.17 RCW. The rules of this chapter and the rules of the aforementioned chapters 296-24 and 296-62 WAC are applicable to all ship repairing, shipbuilding, and shipbreaking industries and operations, provided that such rules shall not be applicable to those operations under the exclusive safety jurisdiction of the federal government.

(2) The responsibility for compliance with these regulations is placed upon "employers" as defined in WAC 296-304-01001(((3))).

PROPOSED

(3) It is not the intent of these regulations to place additional responsibilities or duties on owners, operators, agents or masters of vessels unless such persons are acting as employers, nor is it the intent of these regulations to relieve such owners, operators, agents or masters of vessels from responsibilities or duties now placed upon them by law, regulation or custom.

(4) The responsibilities placed upon the competent person herein shall be deemed to be the responsibilities of the employer.

AMENDATORY SECTION (Amending WSR 95-04-006, filed 1/18/95, effective 3/10/95)

WAC 296-304-01001 Definitions. ((1) "Shall" indicates provisions which are mandatory.

(2) "Director" means the director of the department of labor and industries or his/her designated representative.

(3) "Employer" means an employer any of whose employees are employed, in whole or in part, in ship repair or related employments as defined in these standards on the navigable waters of the United States, including dry docks, graving docks and marine railways.

(4) "Employee" means any person engaged in ship repairing, shipbuilding, or shipbreaking or related employments on the navigable waters of the United States, including dry docks, graving docks and marine railways, other than the master, ship's officers, crew of the vessel, or any person engaged by the master to repair any vessel under 18 net tons.

(5) "Gangway" means any ramp like or stair like means of access provided to enable personnel to board or leave a vessel including accommodation ladders, gangplanks and brows.

(6) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.

(7) For purposes of WAC 296-304-05007, the term "barge" means an unpowered, flat bottom, shallow draft vessel including scows, earfloats and lighters. For purposes of these standards, the term does not include ship shaped or deep draft barges.

(8) For purposes of WAC 296-304-05007, the term "river tow boat" means a shallow draft, low free board, self-propelled vessel designed to tow river barges by pushing ahead. For purposes of these standards, the term does not include other towing vessels.

(9) "Shipbreaking" means any breaking down of a vessel's structure for the purpose of scrapping the vessel, including the removal of gear, equipment or any component part of a vessel.

(10) "Shipbuilding" means the construction of a vessel, including the installation of machinery and equipment.

(11) "Ship repair" means any repair of a vessel including, but not restricted to, alterations, conversions, installations, cleaning, painting, and maintenance work.

(12) "Related employment" means any employment performed as an incident to or in conjunction with ship repairing, shipbuilding or shipbreaking work, including, but

not restricted to, inspection, testing and employment as a watchman.

(13) "Hazardous substance" means a substance which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritant, or otherwise harmful is likely to cause injury.

(14) "Competent person" means a person who is capable of recognizing and evaluating employee exposure to hazardous substances or to other unsafe conditions and is capable of specifying the necessary protection and precautions to be taken to ensure the safety of employees as required by the particular regulation under the condition to which it applies. For the purposes of WAC 296-304-020, explosives and other dangerous atmospheres, WAC 296-304-030, surface preparation and preservation, and WAC 296-304-040, welding, cutting and heating, except for WAC 296-304-03007 (2)(h) and 296-304-03009 (1)(e), to which the above definition applies, the competent person must also meet the additional requirements of WAC 296-304-01005, Competent person.

(15) "Confined space" means a compartment of small size and limited access such as a double bottom tank, cofferdam, or other space which by its small size and confined nature can readily create or aggravate a hazardous exposure.

(16) "Enclosed space" means any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

(17) "Hot work" means riveting, welding, burning or other fire or spark producing operations.

(18) "Cold work" means any work which does not involve riveting, welding, burning or other fire or spark producing operations.

(19) "Portable unfired pressure vessel" means any pressure container or vessel used aboard ship, other than the ship's equipment, containing liquids or gases under pressure, excepting pressure vessels built to ICC regulations under 49 CFR Part 78, Subparts C and H.

(20) "Powder actuated fastening tool" means a tool or machine which drives a stud, pin, or fastener by means of an explosive charge.

(21) For purposes of WAC 296-304-06013, the term "hazardous material" means a material which has one or more of the following characteristics: (a) Has a flash point below 140°F., closed cup, or is subject to spontaneous heating; (b) has a threshold limit value below 500 p.p.m. in the case of a gas or vapor, below 500 mg./m.³ for fumes, and below 25 m.p.p.e.f. in case of a dust; (c) has a single dose oral LD₅₀ below 500 mg./kg.; (d) is subject to polymerization with the release of large amounts of energy; (e) is a strong oxidizing or reducing agent; (f) causes first degree burns to skin in short time exposure, or is systemically toxic by skin contact; or (g) in the course of normal operations, may produce dusts, gases, fumes, vapors, mists, or smokes which have one or more of the above characteristics.) "Anchorage" - A secure point to attach lifelines, lanyards, or deceleration devices.

"Body belt" - A strap with means to both secure it around the waist and to attach it to a lanyard, lifeline, or deceleration device.

"Body harness" - Straps to secure around an employee so that fall arrest forces are distributed over at least the

thighs, shoulders, chest and pelvis with means to attach it to other components of a personal fall arrest system.

"Cold-work" - Work that does not involve riveting, welding, burning, or other fire-producing or spark-producing operations.

"Competent person" - A person who can recognize and evaluate employee exposure to hazardous substances or to other unsafe conditions and can specify the necessary protection and precautions necessary to ensure the safety of employees as required by these standards.

"Confined space" - A small compartment with limited access such as a double bottom tank, cofferdam, or other small, confined space that can readily create or aggravate a hazardous exposure.

"Connector" - A device used to connect parts of a personal fall arrest system or parts of a positioning device system together. It may be:

- An independent component of the system (such as a carabiner); or

- An integral component of part of the system (such as a buckle or D-ring sewn into a body belt or body harness or a snaphook spliced or sewn to a lanyard or self-retracting lanyard).

"Deceleration device" - A mechanism, such as a rope grab, rip stitch lanyard, specially woven lanyard, tearing or deforming lanyard, or automatic self-retracting lifeline/lanyard, that serves to dissipate a substantial amount of energy during a fall arrest, or to limit the energy imposed on an employee during fall arrest.

"Deceleration distance" - The additional vertical distance a falling employee travels, excluding lifeline elongation and free fall distance, before stopping, from the point at which the deceleration device begins to operate. It is measured from the location of an employee's body belt or body harness attachment point at the moment of activation (at the onset of fall arrest forces) of the deceleration device during a fall, to the location of that attachment point after the employee comes to a full stop.

"Director" - The director of the department of labor and industries or a designated representative.

"Employee" - Any person engaged in ship repairing, ship building, or ship breaking or related employment as defined in these standards.

"Employer" - An employer with employees who are employed, in whole or in part, in ship repair, ship building and ship breaking, or related employment as defined in these standards.

"Enclosed space" - A space, other than a confined space, that is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

"Free fall" - To fall before a personal fall arrest system begins to apply force to arrest the fall.

"Free fall distance" - The vertical displacement of the fall arrest attachment point on the employee's body belt or body harness between onset of the fall and just before the system begins to apply force to arrest the fall. This distance excludes deceleration distance, and lifeline/lanyard elongation, but includes any deceleration device slide distance or self-retracting lifeline/lanyard extension before the device operates and fall arrest forces occur.

"Gangway" - A ramp-like or stair-like means to board or leave a vessel including accommodation ladders, gang-planks and brows.

"Hazardous substance" - A substance likely to cause injury because it is explosive, flammable, poisonous, corrosive, oxidizing, irritant, or otherwise harmful.

"Hot-work" - Riveting, welding, burning or other fire or spark producing operations.

"Lanyard" - A flexible line of rope, wire rope, or strap with a connector at each end to connect the body belt or body harness to a deceleration device, lifeline, or anchorage.

"Lifeline" - A component consisting of a flexible line to connect to an anchorage at one end to hang vertically (vertical lifeline), or to connect to anchorages at both ends to stretch horizontally (horizontal lifeline), and which serves as a means for connecting other components of a personal fall arrest system to the anchorage.

"Personal fall arrest system" - A system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, body harness and may include a lanyard, a deceleration device, a lifeline, or a suitable combination.

"Portable unfired pressure vessel" - A pressure container or vessel used aboard ship, other than the ship's equipment, containing liquids or gases under pressure. This does not include pressure vessels built to ICC regulations under 49 CFR Part 78, Subparts C and H.

"Positioning device system" - A body belt or body harness system rigged to allow an employee to be supported at an elevated vertical surface, such as a wall or window, and to be able to work with both hands free while leaning.

"Powder actuated fastening tool" - A tool or machine that drives a stud, pin, or fastener by means of an explosive charge.

"Qualified person" - A person with a recognized degree, certificate, professional standing, or extensive knowledge, training, and experience, who has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project.

"Related employment" - Any employment related to or performed in conjunction with ship repairing, ship building or ship breaking work, including, but not limited to, inspecting, testing, and serving as a watchman.

"Restraint (tether) line" - A line from an anchorage, or between anchorages, to which the employee is secured so as to prevent the employee from walking or falling off an elevated work surface.

Note: A restraint line is not necessarily designed to withstand forces resulting from a fall.

"Rope grab" - A deceleration device that travels on a lifeline and automatically, by friction, engages the lifeline and locks to arrest the fall of an employee. A rope grab usually uses the principle of inertial locking, cam/level locking or both.

"Shall" or "must" - Mandatory.

"Ship breaking" - Breaking down a vessel's structure to scrap the vessel, including the removal of gear, equipment or any component part of a vessel.

"Ship building" - Construction of a vessel, including the installation of machinery and equipment.

"Ship repairing" - Repair of a vessel including, but not limited to, alterations, conversions, installations, cleaning, painting, and maintenance.

"Vessel" - Every watercraft for use as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.

AMENDATORY SECTION (Amending WSR 95-04-006, filed 1/18/95, effective 3/10/95)

WAC 296-304-03001 Toxic cleaning solvents. (1) When toxic solvents are used, the employer shall employ one or more of the following measures to safeguard the health of employees exposed to these solvents.

(a) The cleaning operation shall be completely enclosed to prevent the escape of vapor into the working space.

(b) Either natural ventilation or mechanical exhaust ventilation shall be used to remove the vapor at the source and to dilute the concentration of vapors in the working space to a concentration which is safe for the entire work period.

(c) ~~((Employees shall be protected against toxic vapors by suitable respiratory protective equipment in accordance with the requirements of chapter 296-62 WAC, Part E and, where necessary, against exposure of skin and eyes to contact with toxic solvents and their vapors by suitable clothing and equipment.))~~ The employer must ensure that employees are protected against:

• Toxic vapors by suitable respiratory protective equipment that meets the requirements of chapter 296-62 WAC, Part E; and

• Exposure of skin and eyes to contact with toxic solvents and their vapors by suitable clothing and equipment.

(2) The principles in the threshold limit values to which attention is directed in WAC 296-304-02005 and applicable sections in chapter 296-62 WAC will be used by the department of labor and industries in enforcement proceedings in defining a safe concentration of air contaminants.

(3) When flammable solvents are used, precautions shall be taken in accordance with the requirements of WAC 296-304-03009.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-03003 Chemical paint and preservative removers. (1) ~~((Employees shall be protected against skin contact during the handling and application of chemical paint and preservative removers and shall be protected against eye injury by goggles or face shields in accordance with the requirements of WAC 296-304-09001 (1) and (2).))~~ The employer must ensure that employees are protected against:

• Skin contact during the handling and application of chemical paint and preservative removers; and

• Eye injury by goggles or face shields that meet the requirements of WAC 296-304-09005 (1) and (2).

(2) When using flammable paint and preservative removers precautions shall be taken in accordance with the requirements of WAC 296-304-03009.

(3) When using chemical paint and preservative removers which contain volatile and toxic solvents, such as benzol,

acetone and amyl acetate, the provisions of WAC 296-304-03001 shall be applicable.

~~(4) ((When using paint and rust removers containing strong acids or alkalies, employees shall be protected by suitable face shields to prevent chemical burns on the face and neck.~~

~~(5) When steam guns are used, all employees working within range of the blast shall be protected by suitable face shields. Metal parts of the steam gun itself shall be insulated to protect the operator against heat burns.))~~ The employer must ensure that employees using paint and rust removers containing strong acids or alkalies are protected by suitable face shields to prevent chemical burns on the face and neck according to the requirements of WAC 296-304-09005 (1) and (2).

(5) The employer must ensure that all employees working within range of a steam gun blast are protected by suitable face shields according to the requirements of WAC 296-304-09005 (1) and (2). Metal parts of the steam gun itself must be insulated to protect the operator against heat burns.

AMENDATORY SECTION (Amending WSR 95-04-006, filed 1/18/95, effective 3/10/95)

WAC 296-304-03005 Mechanical paint removers.

(1) Power tools.

~~(a) ((Employees engaged in the removal of paints, preservatives, rusts or other coatings by means of power tools shall be protected against eye injury by goggles or face shields in accordance with the requirements of WAC 296-304-09001(1).))~~ The employer must ensure that employees engaged in the removal of paints, preservatives, rusts or other coatings by means of power tools are protected against eye injury by goggles or face shields that meet the requirements of WAC 296-304-09005 (1) and (2).

(b) All portable rotating tools used for the removal of paints, preservatives, rusts or other coatings shall be adequately guarded to protect both the operator and nearby workers from flying missiles.

(c) Portable electric tools shall be grounded in accordance with the requirements of WAC 296-304-08003 (1) and (2).

~~(d) ((In a confined space, mechanical exhaust ventilation sufficient to keep the dust concentration to a minimum shall be used, or employees shall be protected by respiratory protective equipment in accordance with the requirements of chapter 296-62 WAC, Part E.))~~ In a confined space, the employer must provide mechanical exhaust ventilation sufficient to keep the dust concentration to a minimum, or must protect employees by respiratory protective equipment that meets the requirements of chapter 296-62 WAC, Part E.

(2) Flame removal.

~~(a) ((Hardened preservative coatings shall not be removed by flame in enclosed spaces unless the employees exposed to fumes are protected by air line respirators in accordance with the requirements of chapter 296-62 WAC, Part E. Employees performing such an operation in the open air, and those exposed to the resulting fumes, shall be protected by a fume filter type respirator in accordance with requirements of chapter 296-62 WAC, Part E.))~~ The employer must ensure that when hardened preservative coatings are

removed by flame in enclosed spaces, the employees exposed to fumes are protected by air line respirators that meet the requirements of chapter 296-62 WAC, Part E. Employees performing this operation in the open air, and those exposed to the resulting fumes, must be protected by a fume filter respirator that meets the requirements of WAC 296-62-071.

(b) Flame or heat shall not be used to remove soft and greasy preservative coatings.

(3) Abrasive blasting.

(a) Equipment. Hoses and fittings used for abrasive blasting shall meet the following requirements:

(i) Hoses. Hose of a type to prevent shocks from static electricity shall be used.

(ii) Hose couplings. Hose lengths shall be joined by metal couplings secured to the outside of the hose to avoid erosion and weakening of the couplings.

(iii) Nozzles. Nozzles shall be attached to the hose by fittings that will prevent the nozzle from unintentionally becoming disengaged. Nozzle attachments shall be of metal and shall fit onto the hose externally.

(iv) Dead man control. A dead man control device shall be provided at the nozzle end of the blasting hose either to provide direct cutoff or to signal the pot tender by means of a visual and audible signal to cut off the flow, in the event the blaster loses control of the hose. The pot tender shall be available at all times to respond immediately to the signal.

(b) Replacement. Hoses and all fittings used for abrasive blasting shall be inspected frequently to insure timely replacement before an unsafe amount of wear has occurred.

(c) Personal protective equipment.

~~(i) ((Abrasive blasters working in enclosed spaces shall be protected by hoods and air fed respirators or by air helmets of a positive pressure type in accordance with the requirements of chapter 296-62 WAC, Part E.~~

~~(ii) Abrasive blasters working in the open shall be protected as indicated in (1) except that when synthetic abrasives containing less than one percent free silica are used filter type respirators approved by the Bureau of Mines for exposure to lead dusts may be used in accordance with chapter 296-62 WAC, Part E.~~

~~(iii) Employees, other than blasters, including machine tenders and abrasive recovery men, working in areas where unsafe concentrations of abrasive materials and dusts are present shall be protected by eye and respiratory protective equipment in accordance with the requirements of WAC 296-304-09001 (1) and (2) and chapter 296-62, Part E, respectively.~~

~~(iv) The blaster shall be protected against injury from exposure to the blast by appropriate protective clothing, including gloves.~~

~~(v) Since surges from drops in pressure in the hose line can be of sufficient proportions to throw the blaster off the staging, the blaster shall be protected by a safety belt and life line tied off to the ship or other structure when blasting is being done from elevations where adequate protection against falling cannot be provided by railings-)) The employer must ensure that abrasive blasters working in enclosed spaces are protected by abrasive blasting respirators that meet the requirements of WAC 296-24-675 and 296-62-071.~~

(ii) The employer must ensure that abrasive blasters working in the open are protected as required in subsection (1) of this section.

Exception: When synthetic abrasives containing less than one percent free silica are used, the employer may substitute particulate or dust filter respirators that are approved by the National Institute of Safety and Health (NIOSH) and used according to WAC 296-62-071.

(iii) The employer must ensure that employees, including machine tenders and abrasive recovery workers, working in areas where unsafe concentrations of abrasive materials and dusts are present are protected by eye and respiratory protective equipment that meets the requirements of WAC 296-304-09005 (1) and (2) and chapter 296-62 WAC, Part E.

Exception: This requirement does not apply to blasters.

(iv) The employer must ensure that a blaster is protected against injury from exposure to the blast by appropriate protective clothing, including gloves that meet the requirements of WAC 296-304-09015(1).

(v) A surge from a drop in pressure in the hose line can throw a blaster off the staging. To protect against this hazard, the employer must ensure that a blaster is protected by a safety belt and lifeline, that meets the requirements of WAC 296-304-09021. The safety belt and lifeline must be tied off to the ship or other structure during blasting from elevations where adequate fall protection cannot be provided by railings.

AMENDATORY SECTION (Amending WSR 95-04-006, filed 1/18/95, effective 3/10/95)

WAC 296-304-03007 Painting. (1) ((Paints mixed with toxic vehicles or solvents:

~~(a) When paints mixed with toxic vehicles or solvents are sprayed, the following conditions shall apply:~~

~~(i) In confined spaces, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of chapter 296-62 WAC, Part E.~~

~~(ii) In tanks or compartments, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of chapter 296-62 WAC, Part E. Where mechanical ventilation is provided, employees shall be protected by respirators in accordance with the requirements of chapter 296-62 WAC, Part E.~~

~~(iii) In large and well ventilated areas, employees exposed to such spraying shall be protected by respirators in accordance with the requirements of chapter 296-62 WAC, Part E.~~

~~(b) Where brush application of paints with toxic solvents is done in confined spaces, or other areas where lack of ventilation creates a hazard, employees shall be protected by filter respirators in accordance with the requirements of chapter 296-62 WAC, Part E.)) Paints mixed with toxic vehicles or solvents. All respirators required by this section must meet the requirements of chapter 296-62 WAC, Part E.~~

(a) When employees spray paints mixed with toxic vehicles or solvents, the employer must ensure that the following conditions are met:

(i) In confined spaces, employees continuously exposed to spraying are protected by air line respirators.

(ii) In tanks or compartments, employees continuously exposed to spraying are protected by air line respirators. Where mechanical ventilation is provided, employees are protected by respirators.

(iii) In large and well ventilated areas, employees exposed to spraying are protected by respirators.

(b) The employer must ensure that where employees apply by brush paints with toxic solvents in confined spaces or other areas where lack of ventilation creates a hazard, the employees are protected by filter respirators.

(c) When flammable paints or vehicles are used, precautions shall be taken in accordance with the requirements of WAC 296-304-03009.

(d) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(2) Paints and tank coatings dissolved in highly volatile, toxic and flammable solvents. Several organic coatings, adhesives and resins are dissolved in highly toxic, flammable and explosive solvents with flash points below 80°F. Work involving such materials shall be done only when all of the following special precautions have been taken:

(a) Sufficient exhaust ventilation shall be provided to keep the concentration of solvent vapors below ten percent of the lower explosive limit. Frequent tests shall be made by a competent person to ascertain the concentration.

(b) If the ventilation fails or if the concentration of solvent vapors rises above ten percent of the lower explosive limit, painting shall be stopped and the compartment shall be evacuated until the concentration again falls below ten percent of the lower explosive limit. If the concentration does not fall when painting is stopped, additional ventilation to bring the concentration down to ten percent of the lower explosive limit shall be provided.

(c) Ventilation shall be continued after the completion of painting until the space or compartment is gas free. The final determination as to whether the space or compartment is gas free shall be made after the ventilating equipment has been shut off for a least ten minutes.

(d) Exhaust ducts shall discharge clear of working areas and away from sources of possible ignition. Periodic tests shall be made to ensure that the exhausted vapors are not accumulating in other areas within or around the vessel or dry dock.

(e) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(f) Only nonsparking paint buckets, spray guns and tools shall be used. Metal parts of paint brushes and rollers shall be insulated. Staging shall be erected in a manner which ensures that it is nonsparking.

(g) Only explosion proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used.

(h) A competent person shall inspect all power and lighting cables to ensure that the insulation is in excellent condition, free of all cracks and worn spots, that there are no connections within fifty feet of the operation, that lines are not overloaded, and that they are suspended with sufficient slack to prevent undue stress or chafing.

(i) ~~((The face, eyes, head, hands and all other exposed parts of the bodies of employees handling such highly volatile paints shall be protected. All footwear shall be nonsparking, such as rubbers, rubber boots or rubber soled shoes without nails. Coveralls or other outer clothing shall be of cotton. Rubber, rather than plastic gloves shall be used because of the danger of static sparks.))~~ The face, eyes, head, hands and all other exposed parts of the bodies of employees handling highly volatile paints must be protected according to WAC 296-304-090. All footwear must be nonsparking, such as rubbers, rubber boots or rubber soled shoes without nail. Coveralls or other outer clothing must be made of cotton. Rubber gloves, instead of plastic gloves, must be used to protect against the danger of static sparks.

(j) No matches, lighted cigarettes, cigars, or pipes, and no cigarette lighters or ferrous articles shall be taken into the area where work is being done.

(k) All solvent drums taken into the compartment shall be placed on nonferrous surfaces and shall be grounded to the vessel. Metallic contact shall be maintained between containers and drums when materials are being transferred from one to another.

(l) Spray guns, paint pots, and metallic parts of connecting tubing shall be electrically bonded, and the bonded assembly shall be grounded to the vessel.

(m) ~~((All employees continuously in a compartment in which such painting is being performed, shall be protected by air line respirators in accordance with the requirements of chapter 296-62 WAC, Part E and by suitable protective clothing. Employees entering such compartments for a limited time shall be protected by filter cartridge type respirators in accordance with the requirements of chapter 296-62 WAC, Part E.~~

(n) ~~All employees doing exterior paint spraying with such paints shall be protected by suitable filter cartridge type respirators in accordance with the requirements of chapter 296-62 WAC, Part E and by suitable protective clothing.~~ The employer must ensure that all employees continuously in a compartment in which such painting is performed, are protected by air line respirators and by suitable protective clothing. Employees entering such compartments for a limited time must be protected by filter cartridge type respirators.

(n) The employer must ensure that all employees doing exterior paint spraying with such paints are protected by suitable filter cartridge type respirators and by suitable protective clothing.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-05007 Access to vessels. "Barge" - An unpowered, flat bottom, shallow draft vessel including scows, carfloats and lighters, but not ship-shaped or deep-draft barges.

PROPOSED

"River towboat" - A shallow draft, low free board, self-propelled vessel designed to tow river barges by pushing ahead.

(1) Access to vessels afloat. The employer shall not permit employees to board or leave any vessel, except a barge or river towboat, until the following requirements have been met:

(a) Whenever practicable, a gangway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and safely secured shall be used. If a gangway is not practicable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping shall be provided. When conditions are such that neither a gangway nor a straight ladder can be used, a Jacob's ladder meeting the requirements of (4)(a) and (b) of this section may be used.

(b) Each side of such gangway, and the turntable if used, shall have a railing with a minimum height of approximately 33 inches measured perpendicularly from rail to walking surface at the stanchion, with a midrail. Rails shall be of wood, pipe, chain, wire or rope and shall be kept taut at all times.

(c) Gangways on vessels inspected and certificated by the U.S. Coast Guard are deemed to meet the foregoing requirements, except in cases where the vessel's regular gangway is not being used.

(d) The gangway shall be kept properly trimmed at all times.

(e) When a fixed tread accommodation ladder is used, and the angle is low enough to require employees to walk on the edge of the treads, cleated duckboards shall be laid over and secured to the ladder.

(f) When the lower end of a gangway overhangs the water between the ship and the dock in such a manner that there is danger of employees falling between the ship and the dock, a net or other suitable protection shall be rigged at the foot of the gangway in such a manner as to prevent employees from falling from the end of the gangway.

(g) If the foot of the gangway is more than one foot away from the edge of the apron, the space between them shall be bridged by a firm walkway equipped with railings, with a minimum height of approximately 33 inches with midrails on both sides.

(h) Supporting bridles shall be kept clear so as to permit unobstructed passage for employees using the gangway.

(i) When the upper end of the means of access rests on or flush with the top of the bulwark, substantial steps properly secured and equipped with at least one substantial handrail approximately 33 inches in height shall be provided between the top of the bulwark and the deck.

(j) Obstructions shall not be laid on or across the gangway.

(k) The means of access shall be adequately illuminated for its full length.

(1) Unless the construction of the vessel makes it impossible, the means of access shall be so located that drafts of cargo do not pass over it. In any event loads shall not be passed over the means of access while employees are on it.

(2) Access to vessels in drydock or between vessels. Gangways meeting the requirements of (1)(a), (b), (i), (j) and (l) of this section shall be provided for access from wing

wall to vessel or, when two or more vessels, other than barges or river towboats, are lying abreast, from one vessel to another.

(3) Access to barges and river towboats.

(a) Ramps for access of vehicles to or between barges shall be of adequate strength, provided with side boards, well maintained and properly secured.

(b) Unless employees can step safely to or from the wharf, float, barge, or river towboat, either a ramp in accordance with the requirements of (a) of this section or a safe walkway in accordance with the requirements of (1)(g) of this section shall be provided. When a walkway is impracticable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping shall be provided. When conditions are such that neither a walkway nor a straight ladder can be used, a Jacob's ladder in accordance with the requirements of (4) of this section may be used.

(c) The means of access shall be in accordance with the requirements of (1)(i), (j) and (k) of this section.

(4) Jacob's ladders.

(a) Jacob's ladders shall be of the double rung or flat tread type. They shall be well maintained and properly secured.

(b) A Jacob's ladder shall either hang without slack from its lashings or be pulled up entirely.

AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

WAC 296-304-05013 Working surfaces. (1) When firebox floors present tripping hazards of exposed tubing or of missing or removed refractory, sufficient planking to afford safe footing shall be laid while work is being carried on within the boiler.

(2) ~~((When employees are working aloft, or elsewhere at elevations more than 5 feet above a solid surface, either scaffolds or a sloping ladder, meeting the requirements of this section, shall be used to afford safe footing, or the employees shall be protected by safety belts and lifelines meeting the requirements of WAC 296-304-09007(2). Employees visually restricted by blasting hoods, welding helmets, and burning goggles shall work from scaffolds, not from ladders, except for the initial and final welding or burning operation to start or complete a job such as the erection and dismantling of hung scaffolding, or other similar, nonrepetitive jobs of brief duration.))~~ The employer must provide and ensure the use of fall protection when employees work aloft or elsewhere at elevations more than 5 feet above a solid surface.

(a) Employees must be protected by the use of scaffolds, ladders, or personal protection equipment according to WAC 296-304-09021, or 296-304-09023.

(b) Employees must work from scaffolds when visually restricted by:

- Blasting hoods;
- Welding helmets; and
- Burning goggles; except

• For the initial and final welding or burning operation to start or complete a job such as the erection and dismantling of hung scaffolding; or

- Other similar, nonrepetitive jobs of brief duration.

(3) For work performed in restricted quarters, such as behind boilers and in between congested machinery units and piping, work platforms at least 20 inches wide meeting the requirements of WAC 296-304-05001 (8)(b) shall be used. Backrails may be omitted if bulkheading, boilers, machinery units, or piping afford proper protection against falling.

(4) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by personal flotation devices meeting the requirements of WAC 296-304-09007(1).

AMENDATORY SECTION (Amending WSR 95-04-006, filed 1/18/95, effective 3/10/95)

WAC 296-304-06013 Health and sanitation. ~~((1) No chemical product, such as a solvent or preservative; no structural material, such as cadmium or zinc coated steel, or plastic material; and no process material, such as welding filler metal; which is a hazardous material within the meaning of WAC 296-304-01001(21), shall be used until the employer has ascertained the potential fire, toxic, or reactivity hazards which are likely to be encountered in the handling, application, or utilization of such a material.))~~ **"Hazardous material"** - A material with one or more of the following characteristics:

- Has a flash point below 140°F, closed cup, or is subject to spontaneous heating;

- Has a threshold limit value below 500 p.p.m. in the case of a gas or vapor, below 500 mg./m.3 for fumes, and below 25 m.p.p.c.f. in case of a dust;

- Has a single dose oral LD50 below 500 mg./kg.;
- Is subject to polymerization with the release of large amounts of energy;

- Is a strong oxidizing or reducing agent;
- Causes first degree burns to skin in short time exposure, or is systematically toxic by skin contact; or

- In the course of normal operations, may produce dusts, gases, fumes, vapors, mists, or smokes that have one or more of the above characteristics.

(1) No chemical product, such as a solvent or preservative; no structural material, such as cadmium or zinc coated steel, or plastic material; and no process material, such as welding filler metal; which is a hazardous material may be used until the employer has ascertained the potential fire, toxic, or reactivity hazards which are likely to be encountered in the handling, application, or utilization of such a material.

(2) In order to ascertain the hazards, as required by subsection (1) of this section, the employer shall obtain the following items of information which are applicable to a specific product or material to be used:

(a) The name, address, and telephone number of the source of the information specified in this section preferably those of the manufacturer of the product or material.

(b) The trade name and synonyms for a mixture of chemicals, a basic structural material, or for a process material; and the chemical name and synonyms, chemical family, and formula for a single chemical.

(c) Chemical names of hazardous ingredients, including, but not limited to, those in mixtures, such as those in: (i) Paints, preservatives, and solvents; (ii) alloys, metallic

coatings, filler metals and their coatings or core fluxes; and (iii) other liquids, solids, or gases (e.g., abrasive materials).

(d) An indication of the percentage, by weight or volume, which each ingredient of a mixture bears to the whole mixture, and of the threshold limit value of each ingredient, in appropriate units.

(e) Physical data about a single chemical or a mixture of chemicals, including boiling point, in degrees Fahrenheit; vapor pressure, in millimeters of mercury; vapor density of gas or vapor (air=1); solubility in water, in percent by weight; specific gravity of material (water=1); percentage volatile, by volume, at 70°F.; evaporation rate for liquids (either butyl acetate or ether may be taken as 1); and appearance and odor.

(f) Fire and explosion hazard data about a single chemical or a mixture of chemicals, including flashpoint, in degrees Fahrenheit; flammable limits, in percent by volume in air; suitable extinguishing media or agents; special fire fighting procedures; and unusual fire and explosion hazard information.

(g) Health hazard data, including threshold limit value, in appropriate units, for a single hazardous chemical or for the individual hazardous ingredients of a mixture as appropriate, effects of overexposure; and emergency and first aid procedures.

(h) Reactivity data, including stability, incompatibility, hazardous decomposition products, and hazardous polymerization.

(i) Procedures to be followed and precautions to be taken in cleaning up and disposing of materials leaked or spilled.

(j) Special protection information, including use of personal protective equipment, such as respirators, eye protection, and protective clothing, and of ventilation, such as local exhaust, general, special, or other types.

(k) Special precautionary information about handling and storing.

(l) Any other general precautionary information.

(3) The pertinent information required by subsection (2) of this section shall be recorded either on United States Department of Labor Form LSB 00S-4, Material Safety Data Sheet, or on an essentially similar form which has been approved by the department of labor and industries. Copies of Form LSB 00S-4 may be obtained at any of the following regional offices of the occupational safety and health administration:

(a) Pacific region. (Arizona, California, Hawaii, and Nevada.)

10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102.

(b) Region X, OSHA, (Alaska, Washington, Idaho, and Oregon), Federal Office Building, 909 First Avenue, Seattle, Washington 98174.

A completed MSDS form shall be preserved and available for inspection for each hazardous chemical on the worksite.

(4) The employer shall instruct employees who will be exposed to the hazardous materials as to the nature of the hazards and the means of avoiding them.

(5) The employer shall provide all necessary controls, and the employees shall be protected by suitable personal protective equipment against the hazards identified under

subsection (1) of this section and those hazards for which specific precautions are required in WAC 296-304-020 through 296-304-04013.

(6) The employer shall provide adequate washing facilities for employees engaged in the application of paints or coatings or in other operations where contaminants can, by ingestion or absorption, be detrimental to the health of the employees. The employer shall encourage good personal hygiene practices by informing the employees of the need for removing surface contaminants by thorough washing of hands and face prior to eating or smoking.

(7) The employer shall not permit eating or smoking in areas undergoing surface preparation or preservation or where shiprepairing, shipbuilding, or shipbreaking operations produce atmospheric contamination.

(8) The employer shall not permit employees to work in the immediate vicinity of uncovered garbage and shall ensure that employees working beneath or on the outboard side of a vessel are not subject to contamination by drainage or waste from overboard discharges.

(9) Requirements of chapter 296-62 WAC, Part C, hazard communication, will apply to shiprepairing, shipbuilding, and shipbreaking when potential hazards of chemicals and communicating information concerning hazards and appropriate protective equipment is applicable to an operation.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-07013 Qualifications of operators. (1) When ship's gear is used to hoist materials aboard, a competent person shall determine that the gear is properly rigged, that it is in safe condition, and that it will not be overloaded by the size and weight of the lift.

(2) Only those employees who understand the signs, notices, and operating instructions, and are familiar with the signal code in use, shall be permitted to operate a crane, winch, or other power operated hoisting apparatus.

(3) No employee known to have defective uncorrected eyesight or hearing, or to be suffering from heart disease, epilepsy, or similar ailments which may suddenly incapacitate him, shall be permitted to operate a crane, winch or other power operated hoisting apparatus.

(4) No minor under eighteen years of age shall be employed in occupations involving the operation of any power-driven hoisting apparatus or assisting in such operations by work such as hooking on, loading slings, rigging gear, etc.

PROPOSED

TABLE E-1
DIMENSIONS AND SPACING OF WOOD
INDEPENDENT-POLE SCAFFOLD MEMBERS

Structural Members	Light duty (Up to 25 pounds per square foot)			Heavy duty (25 to 75 pounds per square foot)		
	Height in feet			Height in feet		
	24 or less	24-40	40-60	24 or less	24-40	40-60
Poles or uprights (in inches)	2x4	3x4 or 2x6	4x4	3x4	4x4	4x6
Bearers (in inches)	2x4	2x6	2x6	2x8	2x8	2x10
Ledgers (in inches)	2x6	2x6	2x6	2x8	2x8	2x8
Stringer (not supporting bearers) (in inches)	1x6	1x6	1x6	1x6	1x6	1x6
Braces (in inches)	1x4	1x6	1x6	1x6	1x6	1x6
Pole spacing—longitudinally (in feet)	7 1/2	7 1/2	7 1/2	7	7	7
Pole spacing—transversely (in feet)	6 1/2 min	7 1/2 min	8 1/2 min	6 1/2	10	10
Ledger spacing—vertically (in feet)	7	7	7	4 1/2	4 1/2	4 1/2

TABLE E-2
SPECIFICATIONS FOR SIDE RAILS OF LADDERS

Length (in feet)	Cross section (in inches)	
	At ends	At center
15	1 7/8 x 2 3/4	1 7/8 x 3 3/4
16	1 7/8 x 2 3/4	1 7/8 x 3 3/4
17	1 7/8 x 3	1 7/8 x 4
18	1 7/8 x 3	1 7/8 x 4
20	1 7/8 x 3	1 7/8 x 4 1/2
24	1 7/8 x 3	1 7/8 x 4 1/2

TABLE E-3
SPECIFICATIONS FOR THE CONSTRUCTION OF HORSES

Structural Members	Height in feet		
	Up to 10	10 to 16	16 to 20
	Inches	Inches	Inches
Legs	2x4	3x4	4x6
Bearers or headers	2x6	2x8	4x6
Crossbraces	2x4	2x4	2x6
	or 1x8		
Longitudinal braces	2x4	2x6	2x6

TABLE E-4
SAFE CENTER LOADS FOR SCAFFOLD PLANK
OF 1,100 POUNDS FIBRE STRESS

[Codification note: The graphic presentation of this table has been varied in order that it would fall within the printing specifications for the Washington Administrative Code. The following table had lumber dimensions in the table heading

typed in vertically across the page while the remainder of the table was typed horizontally on the page. The "Span in Feet" materials (6 through 16) which ran top to bottom has been switched to run left to right on the page. The "Lumber dimensions in inches" which ran left to right on the page has been switched to run top to bottom on the page.]

Lumber dimensions in inches	Span in Feet					
	6	8	10	12	14	16
A-2 x 10						
B-1 5/8 x 9 1/2	256	192	153	128	110	—
A-2 x 12						
B-1 5/8 x 11 1/2	309	232	186	155	133	116
A-3 x 8						
B-2 5/8 x 7 1/2	526	395	316	263	225	197
A-3 x 10						
B-2 5/8 x 9 1/2	667	600	400	333	286	250
A-3 x 12						
B-2 5/8 x 11 1/2	807	605	484	404	346	303

(A)—Rough lumber.
(B)—Dressed lumber.

TABLE G-1
MANILA ROPE
(in pounds or tons of 2000 pounds)

Circumference	Dia-meter in Inches	Single Leg	60°	45°	30°
		(illus.)	(illus.)	(illus.)	(illus.)
3/4	1/4	120 lbs.	204 lbs.	170 lbs.	120 lbs.
1	5/16	200	346	282	200
1-1/8	3/8	270	467	380	270
1-1/4	7/16	350	605	493	350
1-3/8	15/32	450	775	635	450
1-1/2	1/2	530	915	798	530
1-3/4	9/16	690	1190	973	690
2	5/8	880	1520	1240	880
2-1/4	3/4	1080	1870	1520	1080
2-1/2	13/16	1300	2250	1830	1300
2-3/4	7/8	1540	2660	2170	1540
3	1	1800	3120	2540	1800
3-1/4	1-1/16	1.0 tons	1.7 tons	1.4 tons	1.0 tons
3-1/2	1-1/8	1.2	2.1	1.7	1.2
3-3/4	1-1/4	1.35	2.3	1.9	1.35
4	1-5/16	1.5	2.6	2.1	1.5
4-1/2	1-1/2	1.8	3.1	2.5	1.8
5	1-5/8	2.25	3.9	3.2	2.25
5-1/2	1-3/4	2.6	4.5	3.7	2.6
6	2	3.1	5.4	4.4	3.1
6-1/2	2-1/8	3.6	6.2	5.1	3.6

TABLE G-2

RATED CAPACITIES FOR IMPROVED FLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE AND WIRE ROPE SLINGS
(in tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6X19 CLASSIFICATION						
1/4"	.59	.56	.53	.44	.42	.40
3/8"	1.3	1.2	1.1	.98	.93	.86
1/2"	2.3	2.2	2.0	1.7	1.6	1.5
5/8"	3.6	3.4	3.0	2.7	2.5	2.2
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1- 1/8"	11.0	10.0	9.0	8.5	7.8	6.8
6X37 CLASSIFICATION						
1- 1/4"	13.	12.	10.	9.9	9.2	7.9
1- 3/8"	16.	15.	13.	12.	11.	9.6
1- 1/2"	19.	17.	15.	14.	13.	11.
1- 3/4"	26.	24.	20.	19.	18.	15.
2"	33.	30.	26.	25.	23.	20.
2- 1/4"	41.	38.	33.	31.	29.	25.

(A) - Socket or swaged terminal attachment.
(B) - Mechanical sleeve attachment.
(C) - Hand tucked splice attachment.

TABLE G-3

RATED CAPACITIES FOR IMPROVED FLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE SLINGS
(in tons of 2000 pounds)

[Codification note: The graphic presentation of this table has been varied slightly in order that it would fall within the printing specifications for the Washington Administrative Code. The following table was too wide to be accommodated in the width of the WAC column. The table as codified has been divided into two tables covering the "TWO—LEG BRIDLE OR BASKET HITCH" for 6x19 Classification and for 6x37 Classification. Part One has Rope Diameter in Inches for Vertical and 60° within the two classifications. Part Two has Rope Diameter in Inches for 45° and 30° within the two classifications.]

TWO - LEG BRIDLE OR BASKET HITCH
(TABLE G-3: Part 1—Vertical and 60° Positions)

Rope Dia. Inches	Vertical			60° (illus.)		
	A	B	C	A	B	C
6X19 CLASSIFICATION						
1/4"	1.2	1.1	1.0	1.0	.97	.92
3/8"	2.6	2.5	2.3	2.3	2.1	2.0
1/2"	4.6	4.4	3.9	4.0	3.8	3.4
5/8"	7.2	6.8	6.0	6.2	5.9	5.2

PROPOSED

3/4"	10.	9.7	8.4	8.9	8.4	7.3
7/8"	14.	13.	11.	12.	11.	9.6
1"	18.	17.	14.	15.	15.	12.
1- 1/8"	23.	21.	18.	19.	18.	16.

6X37 CLASSIFICATION

1- 1/4"	26.	24.	21.	23.	21.	18.
1- 3/8"	32.	29.	25.	28.	25.	22.
1- 1/2"	38.	35.	30.	33.	30.	26.
1- 3/4"	51.	47.	41.	44.	41.	35.
2"	66.	61.	53.	57.	53.	46.
2- 1/4"	83.	76.	66.	72.	66.	57.

TWO - LEG BRIDLE OR BASKET HITCH
(TABLE G-3: Part 2—45° and 30° Positions)

Rope Dia. Inches	45° (Illus.)			30° (illus.)		
	A	B	C	A	B	C
6X19 CLASSIFICATION						
1/4"	.83	.79	.75	.59	.56	.53
3/8"	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	3.2	3.1	2.8	2.3	2.2	2.0
5/8"	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	7.2	6.9	5.9	5.1	4.9	4.2
7/8"	9.8	9.3	7.8	6.9	6.6	5.5
1"	13.	12.	10.	9.0	8.5	7.2
1- 1/8"	16.	15.	13.	11.	10.	9.0

6X37 CLASSIFICATION

1- 1/4"	19.	17.	15.	13.	12.	10.
1- 3/8"	22.	21.	18.	16.	15.	13.
1- 1/2"	27.	25.	21.	19.	17.	15.
1- 3/4"	36.	33.	29.	26.	24.	20.
2"	47.	43.	37.	33.	30.	26.
2- 1/4"	58.	54.	47.	41.	38.	33.

- (A) - Socket or swaged terminal attachment.
- (B) - Mechanical sleeve attachment.
- (C) - Hand tucked splice attachment.

TABLE G-4

RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS
(in tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6X19 CLASSIFICATION						
1/4	.55	.51	.49	.41	.38	.37
3/8	1.2	1.1	1.1	.91	.85	.80
1/2	2.1	2.0	1.8	1.6	1.5	1.4
5/8	3.3	3.1	2.8	2.5	2.3	2.1
3/4	4.8	4.4	3.9	3.6	3.3	2.9
7/8	6.4	5.9	5.1	4.8	4.5	3.9
1	8.4	7.7	6.7	6.3	5.8	5.0
1- 1/8	10.	9.5	8.4	7.9	7.1	6.3

6X37 CLASSIFICATION

1- 1/4	12.	11.	9.8	9.2	8.3	7.4
1- 3/8	15.	13.	12.	11.	10.	8.9
1- 1/2	17.	16.	14.	13.	12.	10.
1- 3/4	24.	21.	19.	18.	16.	14.
2	31.	28.	25.	23.	21.	18.

- (A) - Socket or swaged terminal attachment.
- (B) - Mechanical sleeve attachment.
- (C) - Hand tucked splice attachment.

TABLE G-5

RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE SLINGS
(in tons of 2000 pounds)

[Codification note: The graphic presentation of this table has been varied slightly in order that it would fall within the printing specifications for the Washington Administrative Code. The following table was too wide to be accommodated in the width of the WAC column. The table as codified has been divided into two tables covering the "TWO - LEG BRIDLE OR BASKET HITCH" for 6x19 Classification and for 6x37 Classification. Part One has Rope Diameter in Inches for Vertical and 60° within the two classifications. Part Two has Rope Diameter in Inches for 45° and 30° within the two classifications.]

TWO - LEG BRIDLE OR BASKET HITCH
(TABLE G-5: Part 1—Vertical and 60° Positions)

Rope Dia. Inches	Vertical			60° (Illus.)		
	A	B	C	A	B	C
6X19 CLASSIFICATION/EC						
1/4	1.1	1.0	.99	.95	.88	.85
3/8	2.4	2.2	1.9	2.1	1.9	1.8
1/2	4.3	3.9	3.7	3.7	3.4	3.2
5/8	6.7	6.2	5.6	5.8	5.3	4.8
3/4	9.5	8.8	7.8	8.2	7.6	6.8
7/8	13.	12.	10.	11.	10.	8.9
1	17.	15.	13.	14.	13.	11.
1- 1/8	21.	19.	17.	18.	16.	14.

6X37 CLASSIFICATION

1- 1/4	25.	22.	20.	21.	19.	17.
1- 3/8	30.	27.	24.	26.	23.	20.
1- 1/2	35.	23.	28.	30.	27.	24.
1- 3/4	48.	43.	38.	41.	37.	33.
2	62.	55.	49.	53.	48.	43.

TWO - LEG BRIDLE OR BASKET HITCH
(TABLE G-5: Part 2—45° and 30° Positions)

Rope Dia. Inches	45° (Illus.)			30° (Illus.)		
	A	B	C	A	B	C
6X19 CLASSIFICATION						
1/4	.77	.72	.70	.55	.51	.49
3/8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	3.0	2.8	2.6	2.1	2.0	1.8

PROPOSED

5/8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	6.7	6.2	5.5	4.8	4.4	3.9
7/8	9.1	8.4	7.3	6.4	5.9	5.1
1	12.	11.	9.4	8.4	7.7	6.7
1- 1/8	15.	13.	12.	10.	9.5	8.4

6X37 CLASSIFICATION

1-1/4	17.	16.	14.	12.	11.	9.8
1-3/8	21.	19.	17.	15.	13.	12.
1-1/2	25.	22.	20.	17.	16.	14.
1-3/4	34.	30.	27.	24.	21.	19.
2	43.	39.	35.	31.	28.	25.

- (A) - Socket or swaged terminal attachment.
- (B) - Mechanical sleeve attachment.
- (C) - Hand tucked splice attachment.

TABLE G-6

NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel rope diameter inches	Number of Clips		
	Drop forged	Other material	Minimum spacing (inches)
*
1/2	3	4	3
5/8	3	4	3 3/4
3/4	4	5	4 1/2
7/8	4	5	5 1/4
1	4	6	6
1 1/8	5	6	6 3/4
1 1/4	5	7	7 1/2
1 3/8	6	7	8 1/4
1 1/2	6	8	9

*Three clips shall be used on wire size less than 1/2-inch diameter.

TABLE G-7

WROUGHT IRON CHAIN
(in pounds or tons of 2000 pounds)

Nominal Size Chain Stock Inch	Single Leg (illus.)	60° (illus.)	45° (illus.)	30° (illus.)
-------------------------------------------	---------------------------	-----------------	-----------------	-----------------

* 1/4	1060	1835	1500	1060
* 5/16	1655	2865	2340	1655
3/8	2385	2.1	3370	2385
* 7/16	3250	2.8	2.3	3250
1/2	12.1	13.7	13.0	12.1
* 9/16	12.7	14.6	13.8	12.7
5/8	13.3	15.7	14.7	13.3
3/4	14.8	18.3	16.7	14.8
7/8	16.5	11.2	19.2	16.5
1	18.5	14.7	12.0	18.5
1- 1/8	10.0	17.3	14.2	10.0
1- 1/4	12.4	21.4	17.5	12.4
1- 3/8	15.0	25.9	21.1	15.0
1- 1/2	17.8	30.8	25.2	17.8
1- 5/8	20.9	36.2	29.5	20.9
1- 3/4	24.2	42.0	34.3	24.2

1- 7/8	27.6	47.9	39.1	27.6
2	31.6	54.8	44.8	31.6

*These sizes of wrought iron chain are no longer manufactured in the United States.

TABLE G-8

ALLOY STEEL CHAIN
(in tons of 2000 pounds)

Nominal Size Chain Stock Inch	Single Leg (illus.)	60° (illus.)	45° (illus.)	30° (illus.)
1/4	1.62	2.82	2.27	1.62
3/8	3.30	5.70	4.65	3.30
1/2	5.62	9.75	7.90	5.62
5/8	8.25	14.25	11.65	8.25
3/4	11.5	19.9	16.2	11.5
7/8	14.3	24.9	20.3	14.3
1	19.3	33.4	27.3	19.8
1- 1/8	22.2	38.5	31.5	22.2
1- 1/4	28.7	49.7	40.5	28.7
1- 3/8	33.5	58.0	47.0	33.5
1- 1/2	39.7	68.5	56.0	39.7
1- 5/8	42.5	73.5	59.5	42.5
1- 3/4	47.0	81.5	62.0	47.0

TABLE G-9

MAXIMUM ALLOWABLE WEAR AT
ANY POINT OF LINK

Chain size in inches	Maximum allowable wear in fraction of inches
1/4 (9/32)	3/64
3/8	5/64
1/2	7/64
5/8	9/64
3/4	5/32
7/8	1 1/64
1	3/16
1 1/8	7/32
1 1/4	1/4
1 3/8	9/32
1 1/2	5/16
1 3/4	1 1/32

TABLE G-10

SAFE WORKING LOADS FOR SHACKLES
(in tons of 2,000 pounds)

Material size (inches)	Pin diameter (inches)	Safe working load
1/2	5/8	1.4
5/8	3/4	2.2
3/4	7/8	3.2
7/8	1	4.3
1	1 1/8	5.6
1 1/8	1 1/4	6.7
1 1/4	1 3/8	8.2
1 3/8	1 1/2	10.0
1 1/2	1 5/8	11.9

PROPOSED

1 3/4	2	16.2
2	2 1/4	21.2

(TABLE I-1)

FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

Operation	Shade No.
Soldering	2
Torch brazing	3 or 4
Light cutting, up to 1 inch	3 or 4
Medium cutting, 1-6 inches	4 or 5
Light gas welding, up to 1/8 inch	4 or 5
Medium gas welding 1/8-1/2 inch	5 or 6
Heavy gas welding, over 1/2 inch	6 or 8
Shielded metal arc welding 1/16 to 5/32 inch electrodes	10
Inert gas metal arc welding (nonferrous) 1/16 to 5/32 inch electrodes	11
Inert gas metal arc welding (ferrous) 1/16 to 5/32 inch electrodes	12
Shielded metal arc welding: 3/16 to 1/4 inch electrodes	12
5/16 and 3/8 inch electrodes	14
Atomic hydrogen welding	10 to 14
Carbon arc welding	14

Table I-1A

FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

OPERATIONS	ELECTRODE SIZE 1/32 IN	ARC CURRENT	MINIMUM PROTECTIVE 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
		250-550	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

** These values apply where the actual arc is clearly seen. Lighter filters may be used when the arc is hidden by the workplace.

Table I-1B

FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

OPERATIONS	PLATE THICKNESS... INCHES	PLATE THICKNESS... MM	MINIMUM* PROTECTIVE SHADE
Gas welding	Light	Under 1/8	4
	Medium	1/8 - 1/2	5
	Heavy	Over 1/2	6
Oxygen cutting	Light	Under 1	3
	Medium	1 - 6	4
	Heavy	Over 6	5

*As 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 viable light of the (spectrum) operation.

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

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-08007 Abrasive wheels. (1) Floor stand and bench mounted abrasive wheels used for external grinding shall be provided with safety guards (protection hoods). The maximum angular exposure of the grinding wheel periphery and sides shall be not more than 90 degrees, except that when work requires contact with the wheel below the horizontal plane of the spindle, the angular exposure shall not exceed 125 degrees. In either case the exposure shall begin not more than 65 degrees above the horizontal plane of the spindle. Safety guards shall be strong enough to withstand the effect of a bursting wheel.

(2) Floor and bench mounted grinders shall be provided with work rests which are rigidly supported and readily adjustable. Such work rests shall be kept a distance not to exceed 1/8 inch from the surface of the wheel.

(3) Cup type wheels use for external grinding shall be protected by either a revolving cup guard or a band type guard in accordance with the provisions of the United States of American Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1.1970. All other portable abrasive wheels used for external grinding shall be provided with safety guards (protection hoods) meeting the requirements of (5) of this section, except as follows:

(a) When the work location makes it impossible, in which case a wheel equipped with safety flanges as described in (6) of this section shall be used.

(b) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(4) Portable abrasive wheels used for internal grinding shall be provided with safety flanges (protection flanges)

PROPOSED

meeting the requirements of (6) of this section, except as follows:

(a) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(b) If the wheel is entirely within the work being ground while in use.

(5) When safety guards are required, they shall be so mounted as to maintain proper alignment with the wheel, and the guard and its fastenings shall be of sufficient strength to retain fragments of the wheel in case of accidental breakage. The maximum angular exposure of the grinding wheel periphery and sides shall not exceed 180 degrees.

(6) When safety flanges are required, they shall be used only with wheels designed to fit the flanges. Only safety flanges of a type and design and properly assembled so as to insure that the pieces of the wheel will be retained in case of accidental breakage shall be used.

(7) All abrasive wheels shall be closely inspected and ring tested before mounting to ensure that they are free from cracks or defects.

(8) Grinding wheels shall fit freely on the spindle and shall not be forced on. The spindle nut shall be tightened only enough to hold the wheel in place.

(9) The power supply shall be sufficient to maintain the rated spindle speed under all conditions of normal grinding. The rated maximum speed of the wheel shall not be exceeded.

(10) ~~((All employees using abrasive wheels shall be protected by eye protection equipment in accordance with requirements of WAC 296-304-09001 (1) and (2), except when adequate eye protection is afforded by eye shields which are permanently attached to the bench or floor stand.))~~ The employer must ensure that all employees using abrasive wheels are protected by eye protection equipment that meets the requirements of WAC 296-304-09005 (1) and (2), except when adequate eye protection is provided by eye shields permanently attached to the bench or floor stand.

AMENDATORY SECTION (Amending WSR 95-04-006, filed 1/18/95, effective 3/10/95)

WAC 296-304-08009 Powder-actuated fastening tools. ~~((Powder actuated fastening tool operators shall comply with; and tools shall be designed, constructed, maintained and used in accordance with the requirements specified in chapter 296-24 WAC, Part H 1, general safety and health standards.))~~ (1) The employer must ensure powder-actuated fastening tools are used, designed, constructed, and maintained according to the requirements of WAC 296-24-663, Safety requirements for powder-actuated fastening systems.

(2) The employer must ensure that employees using powder-actuated fastening tools are protected by personal protective equipment that meets the requirements of WAC 296-304-09005 (1) and (2). The employer must also meet the hearing conservation requirements of the general occupational health standards, chapter 296-62 WAC, Part K.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-090 Personal protective equipment ~~((—Scope and application))~~ (PPE)—General requirements. ~~((All sections of this chapter which include WAC 296-304-090 in the section number apply to personal protective equipment.))~~ The employer must provide and ensure that an affected employee uses the appropriate personal protective equipment (PPE) for the eyes, face, head, extremities, torso, and respiratory system, including protective clothing, protective shields, hearing protection, protective barriers, personal fall protection equipment, and life saving equipment, wherever the employee is exposed to hazards that require the use of PPE.

AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

WAC 296-304-09001 ((Eye protection-)) Hazard assessment and equipment selection. ~~((1) General precautions:~~

~~(a) All eye protection equipment required by these regulations shall meet the specifications prescribed by the American Standard Safety Code for Head, Eye and Respiratory Protection, Z2.1.~~

~~(b) Eye protection equipment shall be maintained in good condition:~~

~~(c) Eye protection equipment which has previously been used shall be cleaned and disinfected before it is issued by the employer to another employee.~~

~~(d) Employees who wear corrective spectacles while engaged in eye hazardous work shall be protected by eye protection equipment of a type which can be worn over personal spectacles, except that glasses with prescription ground safety lenses may be worn in lieu of cover goggles when such glasses provide suitable protection against the hazard involved:~~

~~(2) Protection against impact:~~

~~(i) In any operations such as chipping, caulking, drilling, riveting, grinding, and pouring babbitt metal, in which the eye hazard of flying particles, molten metal, or liquid chemical exists, employees shall be protected by suitable face shields or goggles meeting the requirements of (1) of this section:~~

~~(3) Protection against radiant energy:~~

~~(a) In any operation in which the eye hazard of injurious light rays or other radiant energy exists, depending upon the intensity of the radiation to which employees are exposed, they shall be protected by spectacles, cup goggles, helmets, hand shields, or face shields equipped with filter lenses meeting the requirements of (1) and (3)(b) of this section:~~

~~(b) Filter lenses shall be of a shade number appropriate to the type of work to be performed as indicated in Table I-1 in WAC 296-304-07011, except that variations of one or two shade numbers are permissible to suit individual preferences:~~

~~(c) If filter lenses are used in the goggles worn under the helmet, the shade number of the lens in the helmet may be reduced so that the sum of the shade numbers of the two lenses will equal the value shown in Table I-1 in WAC 296-304-07011.))~~ (1) The employer must assess its work activity to determine if hazards that require the use of personal

protective equipment (PPE) are present, or are likely to be present.

(a) If such hazards are present, or likely to be present, the employer must:

(i) Select, and require an affected employee to use, PPE that will protect the employee from the hazards identified in the hazard assessment;

(ii) Inform the affected employee what types of PPE to use;

(iii) Select PPE that properly fits the affected employee; and

(iv) Verify that the hazard assessment has been performed through a document that contains the following information:

- Work activity evaluated;
- Occupation;
- Date(s) of the hazard assessment; and
- The name of the person performing the hazard assessment.

(b) The employer must conduct a hazard assessment according to the trade or occupation of affected employees, and the assessment must address all PPE-related hazards to which employees are exposed in the course of their work activities.

(2) The employer must ensure that employees do not use defective or damaged PPE.

(3) The employer must ensure that all unsanitary PPE, including all previously used PPE, is cleaned and disinfected before it is reissued.

AMENDATORY SECTION (Amending Order 93-04, filed 9/22/93, effective 11/1/93)

WAC 296-304-09003 ((Respiratory protection.) Training. ((The respiratory protection requirements of the general occupational health standards, chapter 296-62 WAC Part E, shall apply.)) The employer must provide training to each employee for whom PPE is required by this section.

(1) Each employee whose work activities require the use of PPE must be trained to know at least the following:

- (a) When PPE is necessary;
- (b) What PPE is necessary;
- (c) How to properly put on, take off, adjust, and wear PPE;
- (d) The limitations of the PPE; and
- (e) The proper care, maintenance, useful life and disposal of the PPE.

(2) The employer must ensure that each affected employee demonstrates the ability to use PPE properly before being allowed to perform work where its use is required.

(3) The employer must retrain any employee who does not understand or display the skills required by subsection (1) of this section. Circumstances where retraining is required include, but are not limited to, situations where:

- (a) Changes in occupation or work make previous training obsolete; or
- (b) Changes in the types of PPE to be used make previous training obsolete; or
- (c) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the understanding or skill.

(4) The employer must verify that each affected employee has received the required training through a document that contains the following information:

(a) Name of each employee trained;

(b) Date(s) of training; and

(c) Type of training the employee received.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

WAC 296-304-09005 ((Head, foot and body) Eye and face protection. (1) ((When employees are working in areas where there is danger of falling objects they shall be protected by protective hats.

(2) Protective hats shall meet the specifications contained in the United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z89.1-1969. Hats without dielectric strength shall not be used where there is the possibility of contact with electric conductors.

(3) Protective hats which have been previously worn shall be cleaned and disinfected before they are issued by the employer to another employee.

(4) The employer shall arrange through means, such as vendors or local stores, or otherwise, to make safety shoes readily available to all employees, and shall encourage their use. Metal toe caps from which the covering has been worn shall be insulated when employees are working on exposed energized circuits of the vessel's electrical systems.

(5) Employees shall not be permitted to wear excessive greasy clothing when performing hot work operations.

(6) Employees shall be protected by suitable gloves when engaged in operations hazardous to their hands.)) The employer must provide an affected employee with eye and face protection according to the following requirements:

(a) An affected employee uses appropriate eye or face protection when exposed to eye or face hazards caused by flying particles, molten metal, liquid chemicals, acid or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) An affected employee uses eye or face protection that provides side protection when there is a hazard from flying objects. A detachable side protector (e.g., a clip-on or slide-on side shield) that meets the requirements of this section is acceptable.

(c) An affected employee who wears prescription lenses:

- Uses eye protection that incorporates the prescription in its design; or
- Is protected by eye protection that can be worn over prescription lenses without disturbing the proper position of either the PPE or the prescription lenses.

(d) An affected employee uses equipment with filter lenses of a shade that provides appropriate protection from injurious light radiation. Tables I-1A and I-1B lists the appropriate shade numbers for various operations. If filter lenses are used in goggles worn under a helmet with a lens, the shade number of the lens in the helmet may be reduced so that the shade numbers of the two lenses will equal the value shown in the Tables I-1A and I-1B.

(2) The employer must ensure that all protective eye and face devices meet the following criteria:

(a) Protective eye and face devices purchased after February 20, 1995, comply with the American National

Standards Institute, ANSI Z87.1-1989, "Practice for Occupational and Educational Eye and Face Protection," or the employer demonstrates that the devices are equally effective.

(b) Eye and face protective devices purchased before February 20, 1995, comply with "American National Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1-1979," or the employer demonstrates that the devices are equally effective.

AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

WAC 296-304-09007 ((Lifesaving equipment.))
Respiratory protection. (((1) Personal flotation devices:

(a) Any personal flotation device shall be approved by the U.S. Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Table of Devices Equivalent to Personal Flotation Devices.)

(b) Prior to each use, personal flotation devices shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective personal flotation devices shall not be used.

(2) Safety belts and lifelines:

(a) Safety belts shall be equipped with lifelines which in use are secured with a minimum of slack to a fixed structure.

(b) Prior to each use, belts and lifelines shall be inspected for dry rot, chemical damage, or other defects which may affect their strength. Defective belts and lifelines shall not be used.

(c) When employees are working in any location requiring a safety belt and a lifeline, care shall be exercised to ensure that the lifeline is not cut, pinched, or led over a sharp edge. In hot work operations or those involving the use of acids, solvents, or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the lifeline continuously attached with a minimum of slack to a fixed structure the attachment point of the lifeline shall be appropriately changed as the work progresses.

(3) Life rings and ladders:

(a) At least three 30 inch Coast Guard approved life rings with lines attached shall be kept in easily visible and readily accessible places aboard each vessel afloat on which work is being performed. Life rings shall be located, one forward, one aft, and one on the gangway, except on vessels under 200 feet in length, in which case one at the gangway will be sufficient.

(b) At least one life ring with a line attached shall be located on each staging float alongside a vessel on which work is being performed.

(c) At least 90 feet of line shall be attached to each life ring. Life rings and lines shall be maintained in good condition.

(d) In the vicinity of each vessel afloat on which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event that they fall into the water.)) The employer must provide respiratory protection that meets the requirements of the general occupational health standards, chapter 296-62 WAC, Part E.

NEW SECTION

WAC 296-304-09009 Hearing protection. The employer must meet the hearing conservation requirements of the general occupational health standards, chapter 296-62 WAC, Part K.

NEW SECTION

WAC 296-304-09011 Head protection. (1) The employer must provide an affected employee with head protection according to the following requirements:

(a) An affected employee wears a protective helmet when working in areas where there is a potential for injury to the head.

(b) An affected employee wears a protective helmet designed to reduce electrical shock hazards where there is potential for electric shock or burns from contact with exposed electrical conductors that could contact the head.

(2) The employer must ensure that all protective helmets meet the following criteria:

(a) Protective helmets purchased before February 20, 1995, comply with the "American National Standard Safety Requirements for Industrial Head Protection, Z89.1-1969," or the employer demonstrates that they are equally effective.

(b) Protective helmets purchased after February 20, 1995, comply with ANSI Z89.1-1986, "Personnel Protection—Protective Headwear for Industrial Workers—Requirements," or the employer demonstrates that they are equally effective.

NEW SECTION

WAC 296-304-09013 Foot protection. (1) The employer must ensure that an affected employee wears protective footwear when working in areas where:

- There is a danger of foot injuries from falling or rolling objects;
- There is a danger of foot injuries from objects piercing the sole; or
- Where an employee's feet are exposed to electrical hazards.

(2) The employer must ensure that all protective footwear meets the following criteria:

(a) Protective footwear purchased before February 20, 1995, complies with the ANSI standard "USA Standard for Men's Safety-Toe Footwear," ANSI Z41-1983, or the employer demonstrates that footwear is equally effective.

(b) Protective footwear purchased after February 20, 1995, complies with ANSI Z41-1991, "American National Standard for Personal Protection—Protective Footwear," or the employer demonstrates that footwear is equally effective.

NEW SECTION

WAC 296-304-09015 Hand and body protection. The employer must ensure that an affected employee uses appropriate hand protection and other protective clothing where there is exposure to hazards such as:

- Skin absorption of harmful substances;
- Severe cuts or lacerations;
- Severe abrasions;
- Punctures;
- Chemical burns;

PROPOSED

- Thermal burns;
- Harmful temperature extremes; and
- Sharp objects.

(1) Hot work operations. The employer must ensure that an employee's clothing is free from flammable or combustible materials (such as grease or oil) while engaged in hot work operations or working near an ignition or oxygen source.

(2) Electrical protective devices. The employer must ensure that each affected employee wears protective electrical insulating gloves and sleeves or other electrical protective equipment, if that employee is exposed to electrical shock hazards while working on electrical equipment.

NEW SECTION

WAC 296-304-09017 Lifesaving equipment. (1) Personal flotation devices (PFD).

(a) The employer must ensure that each personal flotation device (life preservers, life jackets and work vests) worn by an affected employee is:

- United States Coast Guard (USCG) approved and marked Type I PFD, Type II PFD, or Type III PFD; or
- USCG approved Type V PFD, marked for use as a work vest, for commercial use, or for use on vessels.

Note: The requirements for USCG approval are in 46 CFR Part 160, Subpart Q, Coast Guard Lifesaving Equipment Specifications.

(b) The employer must ensure that each personal flotation device is inspected before use for dry rot, chemical damage, or other defects that may affect its strength and buoyancy. Defective personal flotation devices shall not be used.

(2) Ring life buoys and ladders.

(a) The employer must ensure that when work is performed on a floating vessel 200 feet (61 m) or more in length, at least three 30-inch (0.76 m) U.S. Coast Guard approved ring life buoys with lines attached are located in readily visible and accessible places. Ring life buoys must be located one forward, one aft, and one at the access to the gangway.

(b) On floating vessels under 200 feet (61 m) in length, at least one 30-inch (0.76 m) U.S. Coast Guard approved ring life buoy with line attached must be located at the gangway.

(c) At least one 30-inch (0.76 m) U.S. Coast Guard approved ring life buoy with a line attached must be located on each staging alongside of a floating vessel on which work is performed.

(d) At least 90 feet (27 m) of line must be attached to each ring life buoy.

(e) There must be at least one portable or permanent ladder near each floating vessel on which work is performed. The ladder must be long enough to help an employee reach safety in the event of a fall into the water.

NEW SECTION

WAC 296-304-09019 Fall protection—General requirement. The employer must provide and ensure the use of fall protection when employees work aloft or elsewhere at elevations more than 5 feet above a solid surface.

NEW SECTION

WAC 296-304-09021 Personal fall arrest systems (PFAS). Personal fall arrest systems must meet the requirements of this section.

(1) The employer must ensure that connectors and anchorages meet the following criteria:

(a) Connectors are made of drop forged, pressed, or formed steel or of materials with equivalent strength.

(b) Connectors have a corrosion-resistant finish, and all surfaces and edges are smooth to prevent damage to the interfacing parts of the system.

(c) D-rings and snaphooks can sustain a minimum tensile load of 5,000 pounds (22.2 Kn).

(d) D-rings and snaphooks are proof-tested to a minimum tensile load of 3,600 pounds (16 Kn) without cracking, breaking, or being permanently deformed.

(e) Snaphooks lock and are designed and used to prevent disengagement of the snaphook by contact of the snaphook keeper with the connected part.

(f) On suspended scaffolds or similar work platforms with horizontal lifelines that may become vertical lifelines, the devices used for connection to the horizontal lifeline can lock in any direction on the lifeline.

(g) Anchorages used for attachment of personal fall arrest equipment are independent of any anchorage used to support or suspend platforms.

(h) Anchorages can support at least 5,000 pounds (22.2 Kn) per employee attached, or are designed, installed, and used as follows:

(i) As part of a complete personal fall arrest system that maintains a safety factor of at least two; and

(ii) Under the direction and supervision of a qualified person.

(2) The employer must ensure that lifelines, lanyards, and personal fall arrest systems meet the following criteria:

(a) When vertical lifelines are used, each employee has a separate lifeline.

(b) Vertical lifelines and lanyards have a minimum tensile strength of 5,000 pounds (22.2 Kn).

(c) Self-retracting lifelines and lanyards that automatically limit free fall distances to 2 feet (0.61 m) or less can sustain a minimum tensile load of 3000 pounds (13.3 Kn) applied to a self-retracting lifeline or lanyard with the lifeline or lanyard in the fully extended position.

(d) Self-retracting lifelines and lanyards which do not limit free fall distance to 2 feet (0.61 m) or less, ripstitch lanyards and tearing and deforming lanyards can sustain a minimum static tensile load of 5,000 pounds (22.2 Kn) applied to the device when they are in the fully extended position.

(e) Horizontal lifelines are designed, installed, and used under the supervision of a qualified person, and only used as part of a complete personal fall arrest system that maintains a safety factor of at least two.

Note: The system strength needs below are based on a maximum combined weight of employee and tools of 310 pounds. If combined weight is more than 310 pounds, appropriate allowances must be made or the system will not be in compliance.

(f) Effective April 20, 1998, the employer must ensure that personal fall arrest systems:

(i) Limit the maximum arresting force on a falling employee to 1,800 pounds (8 Kn) when used with a body harness;

(ii) Bring a falling employee to a complete stop and limit the maximum deceleration distance an employee travels to 3.5 feet (1.07 m); and

(iii) Are strong enough to withstand twice the potential impact energy of an employee free falling a distance of 6 feet (1.8 m), or the free fall distance permitted by the system, whichever is less.

(g) The employer must ensure that personal fall arrest systems are rigged so that an employee can neither free fall more than 6 feet (1.8 m) nor contact any lower level.

(3) The employer must select, use, and care for systems and system components according to the following requirements:

(a) Lanyards are attached to employees using personal fall arrest systems, as follows:

(i) The attachment point of a body harness is in the center of the wearer's back near the shoulder level, or above the wearer's head. If the maximum free fall distance is 20 inches, the attachment point may be located in the chest position; and

(ii) The attachment point of a body belt is in the center of the wearer's back.

(b) Ropes and straps (webbing) used in lanyards, lifelines and strength components of body belts and body harnesses are made from synthetic fibers or wire rope.

(c) Ropes, belts, harnesses, and lanyards are compatible with their hardware.

(d) Lifelines and lanyards are protected against cuts, abrasions, burns from hot work operations and deterioration by acids, solvents, and other chemicals.

(e) Personal fall arrest systems are inspected before each use for mildew, wear, damage, and other deterioration. Defective components are removed from service.

(f) Personal fall arrest systems and components subjected to impact loading are immediately removed from service and not used again for employee protection until inspected and determined by a qualified persons to be undamaged and suitable for reuse.

(g) The employer must provide for prompt rescue of employees in the event of a fall or must ensure that employees are able to rescue themselves.

(h) Body belts are at least one and five eights inches (4.1 cm) wide.

(i) Personal fall arrest systems and components are used only for employee fall protection and not to hoist materials.

(4) Training. Before using personal fall arrest equipment, the employer must ensure that each affected employee is trained to understand the application limits of the equipment and proper hook-up, anchoring, and tie-off techniques. Affected employees must also be trained to demonstrate the proper use, inspection, and storage of their equipment.

NEW SECTION

WAC 296-304-09023 Positioning device systems.

The employer must ensure that positioning device systems and their use meet the requirements of this section.

(1) The employer must ensure that connectors and anchorages meet the following criteria:

(a) Connectors have a corrosion-resistant finish, and all surfaces and edges are smooth to prevent damage to interfacing parts of this system.

(b) Connecting assemblies have a minimum tensile strength of 5,000 pounds (22.2 Kn).

(c) Positioning device systems are secured to an anchorage that can support at least twice the potential impact load of an employee's fall.

(d) Only locking type snaphooks are used in positioning device systems.

(2) The employer must ensure that positioning device systems meet the following criteria:

(a) Restraint (tether) lines have a minimum breaking strength of 3,000 pounds (13.3 Kn).

(b) Beginning April 20, 1998, the following system performance criteria for positioning device systems are met:

(i) A window cleaner's positioning system can withstand without failure, a drop test consisting of a 6-foot (1.83 m) drop of a 250-pound (113 kg) weight. The system limits the initial arresting force to a maximum of 2,000 pounds (8.89 Kn), with a maximum duration of 2 milliseconds. The system limits any subsequent arresting forces imposed on the falling employee to a maximum of 1,000 pounds (4.45 Kn);

(ii) All other positioning device systems can withstand without failure a drop test consisting of a 4-foot (1.2 m) drop of a 250-pound (113 kg) weight.

(3) The employer must ensure that a positioning device system is used and cared for according to the following requirements:

(a) Positioning device systems are inspected before each use for mildew, wear, damage, and other deterioration. Defective components are removed from service.

(b) A positioning device system or component subjected to impact loading is immediately removed from service and not used again for employee protection, unless inspected and determined by a qualified person to be undamaged and suitable for reuse.

(4) Training. Before using a positioning device system, the employer must ensure that employees are trained in the application limits, proper hook-up, anchoring and tie-off techniques, methods of use, inspection, and storage of positioning device systems.

WSR 97-13-063
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed June 17, 1997, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-078 on April 22, 1997.

Title of Rule: Methylene chloride.

Purpose: METHYLENE CHLORIDE: Chapter 296-62 WAC, General occupational health standards.

The Occupational Safety and Health Administration (OSHA) adopted a new methylene chloride standard on January 10, 1997. Methylene chloride is a highly volatile solvent used in a variety of industries including furniture refinishing, some labs in extraction procedures, in dip tanks, foam manufacturing, the printing industry, and others. This

federal-final rule was published in the Federal Register Volume 62, Number 7, on January 10, 1997. The department is required by the OSHA/WISHA state plan agreement to adopt rules identical to or at-least-as-effective-as OSHA rules. The department is proposing to adopt a federal-identical standard. This standard (WAC 296-62-07470) will add additional compliance requirements since a standard did not exist previously. A summary of the rule follows:

- The 8-hour permissible exposure limit will be lowered from the current WISHA PEL of 100 ppm to 25 ppm.
- The short term exposure limit (STEL) will be lowered from 500 ppm to 125 ppm.
- In addition, the new standard will require the following:

Exposure Monitoring. Initial and periodic air monitoring is required to determine employee exposure levels (unless already done in past year) if methylene chloride is used at workplace. Frequency of periodic monitoring depends on levels, but at least every six months if the "action limit" of 12.5 ppm is exceeded.

Methods of Compliance. Employers must use feasible engineering controls or work practices to lower or limit employee exposure to methylene chloride. Worker rotation is prohibited. Respirators are allowed, but can only be supplied-air type respirators.

Medical Surveillance. Medical surveillance is required for all employees exposed to levels of methylene chloride above the action limit (12.5 ppm) for more than thirty days a year or above the PEL for more than ten days a year.

Employee Information and Training. Employers must provide information and training to all employees who have the potential of being exposed to methylene chloride.

Statutory Authority for Adoption: Chapter 49.17 RCW.
Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, 7273 Linderson Way, Tumwater, WA, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, Federal Register Volume 62, Number 7, dated January 10, 1997.

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

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small business economic impact statements are not required because the rules are being proposed solely to comply with federal regulations (RCW 19.85.061). (Note: The federal standard, and therefore the state standard, gives small firms up to three times as long to meet some of the requirements of the standard compared to larger firms.)

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (5)(b)(iii). Significant rule-making criteria does not apply when adopting federal statutes or regulations without material change.

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on July 22, 1997, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Linda Dausener by July 10, 1997, (360) 902-5516.

Submit Written Comments to: Tracy Spencer, Standards Manager, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by 5:00 p.m., July 29, 1997.

In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: September 1, 1997.

June 17, 1997

Gary Moore
Director

NEW SECTION

WAC 296-62-07470 Methylene chloride. This occupational health standard establishes requirements for employers to control occupational exposure to methylene chloride (MC). Employees exposed to MC are at increased risk of developing cancer, adverse effects on the heart, central nervous system and liver, and skin or eye irritation. Exposure may occur through inhalation, by absorption through the skin, or through contact with the skin. MC is a solvent which is used in many different types of work activities, such as paint stripping, polyurethane foam manufacturing, and cleaning and degreasing. Under the requirements of subsection (4) of this section, each covered employer must make an initial determination of each employee's exposure to MC. If the employer determines that employees are exposed below the action level, the only other provisions of this section that apply are that a record must be made of the determination, the employees must receive information and training under subsection (12) of this section and, where appropriate, employees must be protected from contact with liquid MC under subsection (8) of this section.

The provisions of the MC standard are as follows:

(1) Scope and application. This section applies to all occupational exposures to methylene chloride (MC), Chemical Abstracts Service Registry Number 75-09-2, in general industry, construction and shipyard application.

(2) Definitions. For the purposes of this section, the following definitions shall apply:

"Action level" means a concentration of airborne MC of 12.5 parts per million (ppm) calculated as an eight (8)-hour time-weighted average (TWA).

"Authorized person" means any person specifically authorized by the employer and required by work duties to be present in regulated areas, or any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring and measuring procedures under subsection (4) of this section, or any other person authorized by the WISH Act or regulations issued under the act.

"Director" means the director of the department of labor and industries, or designee.

"Emergency" means any occurrence, such as, but not limited to, equipment failure, rupture of containers, or failure

of control equipment, which results, or is likely to result in an uncontrolled release of MC. If an incidental release of MC can be controlled by employees such as maintenance personnel at the time of release and in accordance with the leak/spill provisions required by subsection (6) of this section, it is not considered an emergency as defined by this standard.

"Employee exposure" means exposure to airborne MC which occurs or would occur if the employee were not using respiratory protection.

"Methylene chloride (MC)" means an organic compound with chemical formula, CH₂Cl₂. Its Chemical Abstracts Service Registry Number is 75-09-2. Its molecular weight is 84.9 g/mole.

"Physician or other licensed health care professional" is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the health care services required by subsection (10) of this section.

"Regulated area" means an area, demarcated by the employer, where an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed either the 8-hour TWA PEL or the STEL.

"Symptom" means central nervous system effects such as headaches, disorientation, dizziness, fatigue, and decreased attention span; skin effects such as chapping, erythema, cracked skin, or skin burns; and cardiac effects such as chest pain or shortness of breath.

"This section" means this methylene chloride standard.

(3) Permissible exposure limits (PELs).

(a) Eight-hour time-weighted average (TWA) PEL. The employer shall ensure that no employee is exposed to an airborne concentration of MC in excess of twenty-five parts of MC per million parts of air (25 ppm) as an 8-hour TWA.

(b) Short-term exposure limit (STEL). The employer shall ensure that no employee is exposed to an airborne concentration of MC in excess of one hundred and twenty-five parts of MC per million parts of air (125 ppm) as determined over a sampling period of fifteen minutes.

(4) Exposure monitoring.

(a) Characterization of employee exposure.

(i) Where MC is present in the workplace, the employer shall determine each employee's exposure by either:

(A) Taking a personal breathing zone air sample of each employee's exposure; or

(B) Taking personal breathing zone air samples that are representative of each employee's exposure.

(ii) Representative samples. The employer may consider personal breathing zone air samples to be representative of employee exposures when they are taken as follows:

(A) 8-hour TWA PEL. The employer has taken one or more personal breathing zone air samples for at least one employee in each job classification in a work area during every work shift, and the employee sampled is expected to have the highest MC exposure.

(B) Short-term exposure limits. The employer has taken one or more personal breathing zone air samples which indicate the highest likely 15-minute exposures during such operations for at least one employee in each job classification in the work area during every work shift, and the

employee sampled is expected to have the highest MC exposure.

(C) Exception. Personal breathing zone air samples taken during one work shift may be used to represent employee exposures on other work shifts where the employer can document that the tasks performed and conditions in the workplace are similar across shifts.

(iii) Accuracy of monitoring. The employer shall ensure that the methods used to perform exposure monitoring produce results that are accurate to a confidence level of 95 percent, and are:

(A) Within plus or minus 25 percent for airborne concentrations of MC above the 8-hour TWA PEL or the STEL; or

(B) Within plus or minus 35 percent for airborne concentrations of MC at or above the action level but at or below the 8-hour TWA PEL.

(b) Initial determination. Each employer whose employees are exposed to MC shall perform initial exposure monitoring to determine each affected employee's exposure, except under the following conditions:

(i) Where objective data demonstrate that MC cannot be released in the workplace in airborne concentrations at or above the action level or above the STEL. The objective data shall represent the highest MC exposures likely to occur under reasonably foreseeable conditions of processing, use, or handling. The employer shall document the objective data exemption as specified in subsection (13) of this section;

(ii) Where the employer has performed exposure monitoring within 12 months prior to December 1, and that exposure monitoring meets all other requirements of this section, and was conducted under conditions substantially equivalent to existing conditions; or

(iii) Where employees are exposed to MC on fewer than 30 days per year (e.g., on a construction site), and the employer has measurements by direct reading instruments which give immediate results (such as a detector tube) and which provide sufficient information regarding employee exposures to determine what control measures are necessary to reduce exposures to acceptable levels.

(c) Periodic monitoring. Where the initial determination shows employee exposures at or above the action level or above the STEL, the employer shall establish an exposure monitoring program for periodic monitoring of employee exposure to MC in accordance with Table 1:

Table 1
Six Initial Determination Exposure Scenarios and Their Associated Monitoring Frequencies

Exposure scenario	Required monitoring activity
Below the action level and at or below the STEL.	No 8-hour TWA or STEL monitoring required.
Below the action level and above the STEL.	No 8-hour TWA monitoring required; monitor STEL exposures every three months.
At or above the action level, at or below the TWA, and at or below the STEL.	Monitor 8-hour TWA exposures every six months.
At or above the action level, at or below the TWA, and above the STEL.	Monitor 8-hour TWA exposures every six months and monitor STEL exposures every three months.
Above the TWA and at or below the STEL.	Monitor 8-hour TWA exposures every three months.
Above the TWA and above the STEL.	Monitor both 8-hour TWA exposures and STEL exposures every three months.

PROPOSED

(Note to subsection (3)(c) of this section: The employer may decrease the frequency of exposure monitoring to every six months when at least 2 consecutive measurements taken at least 7 days apart show exposures to be at or below the 8-hour TWA PEL. The employer may discontinue the periodic 8-hour TWA monitoring for employees where at least two consecutive measurements taken at least 7 days apart are below the action level. The employer may discontinue the periodic STEL monitoring for employees where at least two consecutive measurements taken at least 7 days apart are at or below the STEL.)

- (d) Additional monitoring.
 - (i) The employer shall perform exposure monitoring when a change in workplace conditions indicates that employee exposure may have increased. Examples of situations that may require additional monitoring include changes in production, process, control equipment, or work practices, or a leak, rupture, or other breakdown.
 - (ii) Where exposure monitoring is performed due to a spill, leak, rupture or equipment breakdown, the employer shall clean up the MC and perform the appropriate repairs before monitoring.
- (e) Employee notification of monitoring results.
 - (i) The employer shall, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results in writing, either individually or by posting of results in an appropriate location that is accessible to affected employees.
 - (ii) Whenever monitoring results indicate that employee exposure is above the 8-hour TWA PEL or the STEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the 8-hour TWA PEL or STEL and the schedule for completion of this action.
- (f) Observation of monitoring.
 - (i) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to MC conducted in accordance with this section.

- (ii) Observation procedures. When observation of the monitoring of employee exposure to MC requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide, at no cost to the observer(s), and the observer(s) shall be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

- (5) Regulated areas.
 - (a) The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed either the 8-hour TWA PEL or the STEL.
 - (b) The employer shall limit access to regulated areas to authorized persons.
 - (c) The employer shall supply a respirator, selected in accordance with subsection (7)(c) of this section, to each person who enters a regulated area and shall require each affected employee to use that respirator whenever MC exposures are likely to exceed the 8-hour TWA PEL or STEL.

(Note to subsection (5)(c) of this section: An employer who has implemented all feasible engineering, work practice and administrative controls (as required in subsection (6) of this section), and who has established a regulated area (as required by subsection (5)(a) of this section) where MC exposure can be reliably predicted to exceed the 8-hour TWA PEL or the STEL only on certain days (for example, because of work or process schedule) would need to have affected employees use respirators in that regulated area only on those days.)

- (d) The employer shall ensure that, within a regulated area, employees do not engage in nonwork activities which may increase dermal or oral MC exposure.
- (e) The employer shall ensure that while employees are wearing respirators, they do not engage in activities (such as taking medication or chewing gum or tobacco) which interfere with respirator seal or performance.
- (f) The employer shall demarcate regulated areas from the rest of the workplace in any manner that adequately establishes and alerts employees to the boundaries of the

area and minimizes the number of authorized employees exposed to MC within the regulated area.

(g) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to all other employees with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering and work practice controls. The employer shall institute and maintain the effectiveness of engineering controls and work practices to reduce employee exposure to or below the PELs except to the extent that the employer can demonstrate that such controls are not feasible.

(b) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-TWA PEL or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of subsection (7) of this section.

(c) Prohibition of rotation. The employer shall not implement a schedule of employee rotation as a means of compliance with the PELs.

(d) Leak and spill detection.

(i) The employer shall implement procedures to detect leaks of MC in the workplace. In work areas where spills may occur, the employer shall make provisions to contain any spills and to safely dispose of any MC-contaminated waste materials.

(ii) The employer shall ensure that all incidental leaks are repaired and that incidental spills are cleaned promptly by employees who use the appropriate personal protective equipment and are trained in proper methods of cleanup.

(Note to subsection (6)(d)(ii) of this section: See Appendix A of this section for examples of procedures that satisfy this requirement. Employers covered by this standard may also be subject to the hazardous waste and emergency response provisions contained in WAC 296-62-3112.)

(7) Respiratory protection.

(a) General requirements. The employer shall provide a respirator which complies with the requirement of this subsection, at no cost to each affected employee, and ensure that each affected employee uses such respirator where appropriate. Respirators shall be used in the following circumstances:

(i) Whenever an employee's exposure to MC exceeds or can reasonably be expected to exceed the 8-hour TWA PEL or the STEL (such as where an employee is using MC in a regulated area);

(ii) During the time interval necessary to install or implement feasible engineering and work practice controls;

(iii) In a few work operations, such as some maintenance operations and repair activities, for which the employer demonstrates that engineering and work practice controls are infeasible;

(iv) Where feasible engineering and work practice controls are not sufficient to reduce exposures to or below the PELs; or

(v) In emergencies.

(b) Medical evaluation. Before having any employee use a supplied-air respirator in the negative pressure mode, or a gas mask with organic vapor canister for emergency escape, the employer shall have a physician or other licensed health care professional ascertain each affected employee's ability to use such respiratory protection. The physician or other licensed health care professional shall provide his or her findings to the affected employee and the employer in a written opinion.

(Note to subsection (7)(b) of this section: See also WAC 296-62-07109(3) - Respiratory Protection for medical evaluation requirements for employees using respirators for purposes other than emergency escape.)

(c) Respirator selection. The appropriate atmosphere-supplying respirators, as specified in Table 2, shall be selected from those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR Part 84, "Respiratory Protective Devices." When employers elect to provide gas masks with organic vapor canisters for use in emergency escape, the organic vapor canisters shall bear the approval of NIOSH.

Table 2.—Minimum Requirements for Respiratory Protection for Airborne Methylene Chloride

Methylene chloride airborne concentration (ppm) or condition of use	Minimum respirator required ¹
Up to 625 ppm (25 X PEL)	(1) Continuous flow supplied-air respirator, hood or helmet.
Up to 1250 ppm (50 X 8 hr TWA PEL)	(1) Full facepiece supplied-air respirator operated in negative pressure (demand) mode. (2) Full facepiece self-contained breathing apparatus (SCBA) operated in negative pressure (demand) mode.
Up to 5000 ppm (200 X 8-TWA PEL)	(1) Continuous flow supplied-air respirator, full facepiece. (2) Pressure demand supplied-air respirator, full facepiece. (3) Positive pressure full facepiece SCBA.

Unknown concentration, or above 5000 ppm
(Greater than 200 X 8-TWA PEL)

Fire fighting

Emergency escape

(1) Positive pressure full facepiece SCBA.
(2) Full facepiece pressure demand supplied-air respirator with an auxiliary self-contained air supply.

Positive pressure full facepiece SCBA.

(1) Any continuous flow or pressure demand SCBA.
(2) Gas mask with organic vapor canister.

¹ Respirators assigned for higher airborne concentrations may be used at lower concentrations.

(d) Respirator program. Where respiratory protection is required by this section, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(e) Permission to leave area. The employer shall permit employees who wear respirators to leave the regulated area to readjust the facepieces to their faces to achieve a proper fit, and to wash their faces and respirator facepieces as necessary in order to prevent skin irritation associated with respirator use.

(f) Filter respirators. Employers who provide gas masks with organic vapor canisters for the purpose of emergency escape shall replace those canisters after any emergency use before those gas masks are returned to service.

(g) Respirator fit testing.

(i) The employer shall ensure that each respirator issued to the employee is properly fitted and exhibits the least possible facepiece leakage from among the facepieces tested.

(ii) The employer shall perform qualitative or quantitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative pressure respirator, including those employees for whom emergency escape respirators are provided.

(Note to subsection (7)(g)(ii) of this section: The only supplied-air respirators to which this provision would apply are SCBA in negative pressure mode and full facepiece supplied-air respirators operated in negative pressure mode. The small business compliance guides will contain examples of protocols for qualitative and quantitative fit testing.)

(8) Protective work clothing and equipment.

(a) Where needed to prevent MC-induced skin or eye irritation, the employer shall provide clean protective clothing and equipment which is resistant to MC, at no cost to the employee, and shall ensure that each affected employee uses it. Eye and face protection shall meet the requirements of WAC 296-24-078, as applicable.

(b) The employer shall clean, launder, repair and replace all protective clothing and equipment required by this subsection as needed to maintain their effectiveness.

(c) The employer shall be responsible for the safe disposal of such clothing and equipment.

(Note to subsection (8)(c) of this section: See Appendix A for examples of disposal procedures that will satisfy this requirement.)

(9) Hygiene facilities.

(a) If it is reasonably foreseeable that employees' skin may contact solutions containing 0.1 percent or greater MC (for example, through splashes, spills or improper work

practices), the employer shall provide conveniently located washing facilities capable of removing the MC, and shall ensure that affected employees use these facilities as needed.

(b) If it is reasonably foreseeable that an employee's eyes may contact solutions containing 0.1 percent or greater MC (for example through splashes, spills or improper work practices), the employer shall provide appropriate eyewash facilities within the immediate work area for emergency use, and shall ensure that affected employees use those facilities when necessary.

(10) Medical surveillance.

(a) Affected employees. The employer shall make medical surveillance available for employees who are or may be exposed to MC as follows:

(i) At or above the action level on 30 or more days per year, or above the 8-hour TWA PEL or the STEL on 10 or more days per year;

(ii) Above the 8-TWA PEL or STEL for any time period where an employee has been identified by a physician or other licensed health care professional as being at risk from cardiac disease or from some other serious MC-related health condition and such employee requests inclusion in the medical surveillance program;

(iii) During an emergency.

(b) Costs. The employer shall provide all required medical surveillance at no cost to affected employees, without loss of pay and at a reasonable time and place.

(c) Medical personnel. The employer shall ensure that all medical surveillance procedures are performed by a physician or other licensed health care professional, as defined in subsection (2) of this section.

(d) Frequency of medical surveillance. The employer shall make medical surveillance available to each affected employee as follows:

(i) Initial surveillance. The employer shall provide initial medical surveillance under the schedule provided by subsection (14)(b)(iii) of this section, or before the time of initial assignment of the employee, whichever is later. The employer need not provide the initial surveillance if medical records show that an affected employee has been provided with medical surveillance that complies with this section within 12 months before December 1.

(ii) Periodic medical surveillance. The employer shall update the medical and work history for each affected employee annually. The employer shall provide periodic physical examinations, including appropriate laboratory surveillance, as follows:

(A) For employees 45 years of age or older, within 12 months of the initial surveillance or any subsequent medical surveillance; and

(B) For employees younger than 45 years of age, within 36 months of the initial surveillance or any subsequent medical surveillance.

(iii) Termination of employment or reassignment. When an employee leaves the employer's workplace, or is reassigned to an area where exposure to MC is consistently at or below the action level and STEL, medical surveillance shall be made available if six months or more have elapsed since the last medical surveillance.

(iv) Additional surveillance. The employer shall provide additional medical surveillance at frequencies other than those listed above when recommended in the written medical opinion. (For example, the physician or other licensed health care professional may determine an examination is warranted in less than 36 months for employees younger than 45 years of age based upon evaluation of the results of the annual medical and work history.)

(e) Content of medical surveillance.

(i) Medical and work history. The comprehensive medical and work history shall emphasize neurological symptoms, skin conditions, history of hematologic or liver disease, signs or symptoms suggestive of heart disease (angina, coronary artery disease), risk factors for cardiac disease, MC exposures, and work practices and personal protective equipment used during such exposures.

(Note to subsection (10)(e)(i) of this section: See Appendix B of this section for an example of a medical and work history format that would satisfy this requirement.)

(ii) Physical examination. Where physical examinations are provided as required above, the physician or other licensed health care professional shall accord particular attention to the lungs, cardiovascular system (including blood pressure and pulse), liver, nervous system, and skin. The physician or other licensed health care professional shall determine the extent and nature of the physical examination based on the health status of the employee and analysis of the medical and work history.

(iii) Laboratory surveillance. The physician or other licensed health care professional shall determine the extent of any required laboratory surveillance based on the employee's observed health status and the medical and work history.

(Note to subsection (10)(e)(iii) of this section: See Appendix B of this section for information regarding medical tests. Laboratory surveillance may include before-and-after-shift carboxyhemoglobin determinations, resting ECG, hematocrit, liver function tests and cholesterol levels.)

(iv) Other information or reports. The medical surveillance shall also include any other information or reports the physician or other licensed health care professional determines are necessary to assess the employee's health in relation to MC exposure.

(f) Content of emergency medical surveillance. The employer shall ensure that medical surveillance made available when an employee has been exposed to MC in emergency situations includes, at a minimum:

(i) Appropriate emergency treatment and decontamination of the exposed employee;

(ii) Comprehensive physical examination with special emphasis on the nervous system, cardiovascular system, lungs, liver and skin, including blood pressure and pulse;

(iii) Updated medical and work history, as appropriate for the medical condition of the employee; and

(iv) Laboratory surveillance, as indicated by the employee's health status.

(Note to subsection (10)(f)(iv) of this section: See Appendix B for examples of tests which may be appropriate.)

(g) Additional examinations and referrals. Where the physician or other licensed health care professional determines it is necessary, the scope of the medical examination shall be expanded and the appropriate additional medical surveillance, such as referrals for consultation or examination, shall be provided.

(h) Information provided to the physician or other licensed health care professional. The employer shall provide the following information to a physician or other licensed health care professional who is involved in the diagnosis of MC-induced health effects:

(i) A copy of this section including its applicable appendices;

(ii) A description of the affected employee's past, current and anticipated future duties as they relate to the employee's MC exposure;

(iii) The employee's former or current exposure levels or, for employees not yet occupationally exposed to MC, the employee's anticipated exposure levels and the frequency and exposure levels anticipated to be associated with emergencies;

(iv) A description of any personal protective equipment, such as respirators, used or to be used; and

(v) Information from previous employment-related medical surveillance of the affected employee which is not otherwise available to the physician or other licensed health care professional.

(i) Written medical opinions.

(i) For each physical examination required by this section, the employer shall ensure that the physician or other licensed health care professional provides to the employer and to the affected employee a written opinion regarding the results of that examination within 15 days of completion of the evaluation of medical and laboratory findings, but not more than 30 days after the examination. The written medical opinion shall be limited to the following information:

(A) The physician's or other licensed health care professional's opinion concerning whether the employee has any detected medical condition(s) which would place the employee's health at increased risk of material impairment from exposure to MC;

(B) Any recommended limitations upon the employee's exposure to MC or upon the employee's use of protective clothing or equipment and respirators;

(C) A statement that the employee has been informed by the physician or other licensed health care professional that MC is a potential occupational carcinogen, of risk factors for heart disease, and the potential for exacerbation of underlying heart disease by exposure to MC through its metabolism to carbon monoxide; and

(D) A statement that the employee has been informed by the physician or other licensed health care professional of the results of the medical examination and any medical conditions resulting from MC exposure which require further explanation or treatment.

(ii) The employer shall instruct the physician or other licensed health care professional not to reveal to the employer, orally or in the written opinion, any specific records, findings, and diagnoses that have no bearing on occupational exposure to MC.

(Note to subsection (10)(h)(ii) of this section: The written medical opinion may also include information and opinions generated to comply with other OSHA health standards.)

(11) Hazard communication. The employer shall communicate the following hazards associated with MC on labels and in material safety data sheets in accordance with the requirements of the hazard communication standard, WAC 296-62-054: cancer, cardiac effects (including elevation of carboxyhemoglobin), central nervous system effects, liver effects, and skin and eye irritation.

(12) Employee information and training.

(a) The employer shall provide information and training for each affected employee prior to or at the time of initial assignment to a job involving potential exposure to MC.

(b) The employer shall ensure that information and training is presented in a manner that is understandable to the employees.

(c) In addition to the information required under the hazard communication standard at WAC 296-62-054:

(i) The employer shall inform each affected employee of the requirements of this section and information available in its appendices, as well as how to access or obtain a copy of it in the workplace;

(ii) Wherever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed the action level, the employer shall inform each affected employee of the quantity, location, manner of use, release, and storage of MC and the specific operations in the workplace that could result in exposure to MC, particularly noting where exposures may be above the 8-hour TWA PEL or STEL;

(d) The employer shall train each affected employee as required under the hazard communication standard at WAC 296-62-054, as appropriate.

(e) The employer shall re-train each affected employee as necessary to ensure that each employee exposed above the action level or the STEL maintains the requisite understanding of the principles of safe use and handling of MC in the workplace.

(f) Whenever there are workplace changes, such as modifications of tasks or procedures or the institution of new tasks or procedures, which increase employee exposure, and where those exposures exceed or can reasonably be expected to exceed the action level, the employer shall update the training as necessary to ensure that each affected employee has the requisite proficiency.

(g) An employer whose employees are exposed to MC at a multi-employer worksite shall notify the other employers with work operations at that site in accordance with the requirements of the hazard communication standard, WAC 296-62-054, as appropriate.

(h) The employer shall provide to the director, upon request, all available materials relating to employee information and training.

(13) Recordkeeping.

(a) Objective data.

(i) Where an employer seeks to demonstrate that initial monitoring is unnecessary through reasonable reliance on objective data showing that any materials in the workplace containing MC will not release MC at levels which exceed the action level or the STEL under foreseeable conditions of exposure, the employer shall establish and maintain an accurate record of the objective data relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The MC-containing material in question;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of MC;

(D) A description of the operation exempted under subsection (4)(b)(i) of this section and how the data support the exemption; and

(E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure measurements.

(i) The employer shall establish and keep an accurate record of all measurements taken to monitor employee exposure to MC as prescribed in subsection (4) of this section.

(ii) Where the employer has 20 or more employees, this record shall include at least the following information:

(A) The date of measurement for each sample taken;

(B) The operation involving exposure to MC which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Type of personal protective equipment, such as respiratory protective devices, worn, if any; and

(F) Name, Social Security number, job classification and exposure of all of the employees represented by monitoring, indicating which employees were actually monitored.

(iii) Where the employer has fewer than 20 employees, the record shall include at least the following information:

(A) The date of measurement for each sample taken;

(B) Number, duration, and results of samples taken; and

(C) Name, Social Security number, job classification and exposure of all of the employees represented by monitoring, indicating which employees were actually monitored.

(iv) The employer shall maintain this record for at least thirty (30) years, in accordance with WAC 296-62-052.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under subsection (10) of this section.

(ii) The record shall include at least the following information:

(A) The name, Social Security number and description of the duties of the employee;

(B) Written medical opinions; and

(C) Any employee medical conditions related to exposure to MC.

(iii) The employer shall ensure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with WAC 296-62-052.

(d) Availability.

(i) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying in accordance with WAC 296-62-052.

(Note to subsection (13)(d)(i) of this section: All records required to be maintained by this section may be kept in the most administratively convenient form (for example, electronic or computer records would satisfy this requirement).)

(ii) The employer, upon request, shall make any employee exposure and objective data records required by this section available for examination and copying by affected employees, former employees, and designated representatives in accordance with WAC 296-62-052.

(iii) The employer, upon request, shall make employee medical records required to be kept by this section available for examination and copying by the subject employee and by anyone having the specific written consent of the subject employee in accordance with WAC 296-62-052.

(e) Transfer of records. The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(14) Dates.

(a) Effective date. This section shall become effective December 1, 1997.

(b) Start-up dates.

(i) Initial monitoring required by subsection (4)(b) of this section shall be completed according to the following schedule:

(A) For employers with fewer than 20 employees, no later than February 4, 1998.

(B) Immediately for all other employers.

(ii) Engineering controls required under subsection (6)(a) of this section shall be implemented according to the following schedule:

(A) For employers with fewer than 20 employees, no later than April 10, 2000.

(B) For polyurethane foam manufacturers with 20 to 99 employees, no later than April 10, 1999.

(C) For all other employers, no later than April 10, 1998.

(iii) All other requirements of this section shall be complied with according to the following schedule:

(A) For employers with fewer than 20 employees, no later than April 10, 1998.

(B) For polyurethane foam manufacturers with 20 to 99 employees, no later than January 5, 1998.

(C) For all other employers, on the effective date.

(c) Transitional dates. The exposure limits for MC specified in WAC 296-62-07515 Table 1, shall remain in effect until the start-up dates for the exposure limits specified in subsection (14) of this section, or if the exposure limits in this section are stayed or vacated.

(15) Appendices. The information contained in the appendices does not, by itself, create any additional obliga-

tions not otherwise imposed or detract from any existing obligation.

NEW SECTION

WAC 296-62-07473 Appendix A. Substance Safety Data Sheet and Technical Guidelines for Methylene Chloride

I. Substance Identification

A. Substance: Methylene chloride (CH₂Cl₂).

B. Synonyms: MC, Dichloromethane (DCM); Methylene dichloride; Methylene bichloride; Methane dichloride; CAS: 75-09-2; NCI-C50102.

C. Physical data:

1. Molecular weight: 84.9.

2. Boiling point (760 mm Hg): 39.8 deg.C (104 deg.F).

3. Specific gravity (water=1): 1.3.

4. Vapor density (air=1 at boiling point): 2.9.

5. Vapor pressure at 20 deg. C (68 deg. F): 350 mm Hg.

6. Solubility in water, g/100 g water at 20 deg. C (68 deg. F)=1.32.

7. Appearance and odor: colorless liquid with a chloroform-like odor.

D. Uses: MC is used as a solvent, especially where high volatility is required. It is a good solvent for oils, fats, waxes, resins, bitumen, rubber and cellulose acetate and is a useful paint stripper and degreaser. It is used in paint removers, in propellant mixtures for aerosol containers, as a solvent for plastics, as a degreasing agent, as an extracting agent in the pharmaceutical industry and as a blowing agent in polyurethane foams. Its solvent property is sometimes increased by mixing with methanol, petroleum naphtha or tetrachloroethylene.

E. Appearance and odor: MC is a clear colorless liquid with a chloroform-like odor. It is slightly soluble in water and completely miscible with most organic solvents.

F. Permissible exposure: Exposure may not exceed 25 parts MC per million parts of air (25 ppm) as an eight-hour time-weighted average (8-hour TWA PEL) or 125 parts of MC per million parts of air (125 ppm) averaged over a 15-minute period (STEL).

II. Health Hazard Data

A. MC can affect the body if it is inhaled or if the liquid comes in contact with the eyes or skin. It can also affect the body if it is swallowed.

B. Effects of overexposure:

1. Short-term Exposure: MC is an anesthetic. Inhaling the vapor may cause mental confusion, light-headedness, nausea, vomiting, and headache. Continued exposure may cause increased light-headedness, staggering, unconsciousness, and even death. High vapor concentrations may also cause irritation of the eyes and respiratory tract. Exposure to MC may make the symptoms of angina (chest pains) worse. Skin exposure to liquid MC may cause irritation. If liquid MC remains on the skin, it may cause skin burns. Splashes of the liquid into the eyes may cause irritation.

2. Long-term (chronic) exposure: The best evidence that MC causes cancer is from laboratory studies in which rats, mice and hamsters inhaled MC 6 hours per day, 5 days per week for 2 years. MC exposure produced lung and liver tumors in mice and mammary tumors in rats. No carcinogenic effects of MC were found in hamsters. There are also

some human epidemiological studies which show an association between occupational exposure to MC and increases in biliary (bile duct) cancer and a type of brain cancer. Other epidemiological studies have not observed a relationship between MC exposure and cancer. WISHA interprets these results to mean that there is suggestive (but not absolute) evidence that MC is a human carcinogen.

C. Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms and suspect that they are caused by exposure to MC.

D. Warning Properties:

1. Odor Threshold: Different authors have reported varying odor thresholds for MC. Kirk-Othmer and Sax both reported 25 to 50 ppm; Summer and May both reported 150 ppm; Spector reports 320 ppm. Patty, however, states that since one can become adapted to the odor, MC should not be considered to have adequate warning properties.

2. Eye Irritation Level: Kirk-Othmer reports that "MC vapor is seriously damaging to the eyes." Sax agrees with Kirk-Othmer's statement. The ACGIH Documentation of TLVs states that irritation of the eyes has been observed in workers exposed to concentrations up to 5000 ppm.

3. Evaluation of Warning Properties: Since a wide range of MC odor thresholds are reported (25-320 ppm), and human adaptation to the odor occurs, MC is considered to be a material with poor warning properties.

III. Emergency First Aid Procedures

In the event of emergency, institute first aid procedures and send for first aid or medical assistance.

A. Eye and Skin Exposures: If there is a potential for liquid MC to come in contact with eye or skin, face shields and skin protective equipment must be provided and used. If liquid MC comes in contact with the eye, get medical attention. Contact lenses should not be worn when working with this chemical.

B. Breathing: If a person breathes in large amounts of MC, move the exposed person to fresh air at once. If breathing has stopped, perform cardiopulmonary resuscitation. Keep the affected person warm and at rest. Get medical attention as soon as possible.

C. Rescue: Move the affected person from the hazardous exposure immediately. If the exposed person has been overcome, notify someone else and put into effect the established emergency rescue procedures. Understand the facility's emergency rescue procedures and know the locations of rescue equipment before the need arises. Do not become a casualty yourself.

IV. Respirators, Protective Clothing, and Eye Protection

A. Respirators: Good industrial hygiene practices recommend that engineering controls be used to reduce environmental concentrations to the permissible exposure level. However, there are some exceptions where respirators may be used to control exposure. Respirators may be used when engineering and work practice controls are not feasible, when such controls are in the process of being installed, or when these controls fail and need to be supplemented. Respirators may also be used for operations which require entry into tanks or closed vessels, and in emergency situations. If the use of respirators is necessary, the only respirators permitted are those that have been approved by the National Institute for Occupational Safety and Health (NIOSH). Supplied-air respirators are required because air-

purifying respirators do not provide adequate respiratory protection against MC. In addition to respirator selection, a complete written respiratory protection program should be instituted which includes regular training, maintenance, inspection, cleaning, and evaluation. If you can smell MC while wearing a respirator, proceed immediately to fresh air. If you experience difficulty in breathing while wearing a respirator, tell your employer.

B. Protective Clothing: Employees must be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent repeated or prolonged skin contact with liquid MC or contact with vessels containing liquid MC. Any clothing which becomes wet with liquid MC should be removed immediately and not reworn until the employer has ensured that the protective clothing is fit for reuse. Contaminated protective clothing should be placed in a regulated area designated by the employer for removal of MC before the clothing is laundered or disposed of. Clothing and equipment should remain in the regulated area until all of the MC contamination has evaporated; clothing and equipment should then be laundered or disposed of as appropriate.

C. Eye Protection: Employees should be provided with and required to use splash-proof safety goggles where liquid MC may contact the eyes.

V. Housekeeping and Hygiene Facilities

For purposes of complying with WAC 296-24-120, the following items should be emphasized:

A. The workplace should be kept clean, orderly, and in a sanitary condition. The employer should institute a leak and spill detection program for operations involving liquid MC in order to detect sources of fugitive MC emissions.

B. Emergency drench showers and eyewash facilities are recommended. These should be maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of MC from the skin.

C. Because of the hazardous nature of MC, contaminated protective clothing should be placed in a regulated area designated by the employer for removal of MC before the clothing is laundered or disposed of.

VI. Precautions for Safe Use, Handling, and Storage

A. Fire and Explosion Hazards: MC has no flash point in a conventional closed tester, but it forms flammable vapor-air mixtures at approximately 100 deg.C (212 deg.F), or higher. It has a lower explosion limit of 12%, and an upper explosion limit of 19% in air. It has an autoignition temperature of 556.1 deg.C (1033 deg.F), and a boiling point of 39.8 deg.C (104 deg.F). It is heavier than water with a specific gravity of 1.3. It is slightly soluble in water.

B. Reactivity Hazards: Conditions contributing to the instability of MC are heat and moisture. Contact with strong oxidizers, caustics, and chemically active metals such as aluminum or magnesium powder, sodium and potassium may cause fires and explosions. Special precautions: Liquid MC will attack some forms of plastics, rubber, and coatings.

C. Toxicity: Liquid MC is painful and irritating if splashed in the eyes or if confined on the skin by gloves, clothing, or shoes. Vapors in high concentrations may cause narcosis and death. Prolonged exposure to vapors may cause cancer or exacerbate cardiac disease.

D. Storage: Protect against physical damage. Because of its corrosive properties, and its high vapor pressure, MC should be stored in plain, galvanized or lead lined, mild steel containers in a cool, dry, well ventilated area away from direct sunlight, heat source and acute fire hazards.

E. Piping Material: All piping and valves at the loading or unloading station should be of material that is resistant to MC and should be carefully inspected prior to connection to the transport vehicle and periodically during the operation.

F. Usual Shipping Containers: Glass bottles, 5- and 55-gallon steel drums, tank cars, and tank trucks.

Note: This section addresses MC exposure in marine terminal and longshore employment only where leaking or broken packages allow MC exposure that is not addressed through compliance with WAC 296-56.

G. Electrical Equipment: Electrical installations in Class I hazardous locations as defined in Article 500 of the National Electrical Code, should be installed according to Article 501 of the code; and electrical equipment should be suitable for use in atmospheres containing MC vapors. See Flammable and Combustible Liquids Code (NFPA No. 325M), Chemical Safety Data Sheet SD-86 (Manufacturing Chemists' Association, Inc.).

H. Fire Fighting: When involved in fire, MC emits highly toxic and irritating fumes such as phosgene, hydrogen chloride and carbon monoxide. Wear breathing apparatus and use water spray to keep fire-exposed containers cool. Water spray may be used to flush spills away from exposures. Extinguishing media are dry chemical, carbon dioxide, foam. For purposes of compliance with WAC 296-24-956, locations classified as hazardous due to the presence of MC shall be Class I.

I. Spills and Leaks: Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until cleanup has been completed. If MC has spilled or leaked, the following steps should be taken:

1. Remove all ignition sources.
2. Ventilate area of spill or leak.
3. Collect for reclamation or absorb in vermiculite, dry sand, earth, or a similar material.

J. Methods of Waste Disposal: Small spills should be absorbed onto sand and taken to a safe area for atmospheric evaporation. Incineration is the preferred method for disposal of large quantities by mixing with a combustible solvent and spraying into an incinerator equipped with acid scrubbers to remove hydrogen chloride gases formed. Complete combustion will convert carbon monoxide to carbon dioxide. Care should be taken for the presence of phosgene.

K. You should not keep food, beverage, or smoking materials, or eat or smoke in regulated areas where MC concentrations are above the permissible exposure limits.

L. Portable heating units should not be used in confined areas where MC is used.

M. Ask your supervisor where MC is used in your work area and for any additional plant safety and health rules.

VII. Medical Requirements

Your employer is required to offer you the opportunity to participate in a medical surveillance program if you are exposed to MC at concentrations at or above the action level (12.5 ppm 8-hour TWA) for more than 30 days a year or at concentrations exceeding the PELs (25 ppm 8-hour TWA or

125 ppm 15-minute STEL) for more than 10 days a year. If you are exposed to MC at concentrations over either of the PELs, your employer will also be required to have a physician or other licensed health care professional ensure that you are able to wear the respirator that you are assigned. Your employer must provide all medical examinations relating to your MC exposure at a reasonable time and place and at no cost to you.

VIII. Monitoring and Measurement Procedures

A. Exposure above the Permissible Exposure Limit:

1. Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken with consecutive samples covering the full shift. Air samples must be taken in the employee's breathing zone.

2. Monitoring techniques: The sampling and analysis under this section may be performed by collection of the MC vapor on two charcoal adsorption tubes in series or other composition adsorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as real-time continuous monitoring systems, portable direct reading instruments, or passive dosimeters as long as measurements taken using these methods accurately evaluate the concentration of MC in employees' breathing zones. OSHA method 80 is an example of a validated method of sampling and analysis of MC. Copies of this method are available from OSHA or can be downloaded from the Internet at <http://www.osha.gov>. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his or her unique field conditions. The standard requires that the method of monitoring must be accurate, to a 95 percent confidence level, to plus or minus 25 percent for concentrations of MC at or above 25 ppm, and to plus or minus 35 percent for concentrations at or below 25 ppm. In addition to OSHA method 80, there are numerous other methods available for monitoring for MC in the workplace.

B. Since many of the duties relating to employee exposure are dependent on the results of measurement procedures, employers must assure that the evaluation of employee exposure is performed by a technically qualified person.

IX. Observation of Monitoring

Your employer is required to perform measurements that are representative of your exposure to MC and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you or your representative must also be provided with, and must wear, protective clothing and equipment.

Access To Information

A. Your employer is required to inform you of the information contained in this Appendix. In addition, your employer must instruct you in the proper work practices for using MC, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to MC. You or your representative has the right to observe employee measurements and to record

the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being over exposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

C. Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least thirty (30) years.

D. Your employer is required to release your exposure and medical records to you or your representative upon your request.

E. Your employer is required to provide labels and material safety data sheets (MSDS) for all materials, mixtures or solutions composed of greater than 0.1 percent MC. An example of a label that would satisfy these requirements would be:

Danger Contains Methylene Chloride

Potential Cancer Hazard

May worsen heart disease because methylene chloride is converted to carbon monoxide in the body.

May cause dizziness, headache, irritation of the throat and lungs, loss of consciousness and death at high concentrations (for example, if used in a poorly ventilated room).

Avoid Skin Contact. Contact with liquid causes skin and eye irritation.

X. Common Operations and Controls

The following list includes some common operations in which exposure to MC may occur and control methods which may be effective in each case:

Operations

Controls

Use as solvent in paint and varnish removers cold cleaning and ultrasonic cleaning, and as a solvent in furniture stripping.

Use as solvent in vapor degreasing.

Use as a secondary refrigerant in air scientific testing.

General dilution ventilation; local; manufacture of aerosols; cold cleaning exhaust ventilation; personal protective equipment; substitution.

Process enclosure; local exhaust ventilation; chilling coils; substitution.

General dilution ventilation; local conditioning and exhaust ventilation; personal protective equipment.

NEW SECTION

WAC 296-62-07475 Appendix B. Medical Surveillance for Methylene Chloride

I. Primary Route of Entry Inhalation.

II. Toxicology.

Methylene Chloride (MC) is primarily an inhalation hazard. The principal acute hazardous effects are the depressant action on the central nervous system, possible cardiac toxicity and possible liver toxicity. The range of CNS effects are from decreased eye/hand coordination and decreased performance in vigilance tasks to narcosis and even death of individuals exposed at very high doses. Cardiac toxicity is due to the metabolism of MC to carbon monoxide, and the effects of carbon monoxide on heart tissue. Carbon monoxide displaces oxygen in the blood, decreases the oxygen available to heart tissue, increasing the risk of damage to the heart, which may result in heart attacks in susceptible individuals. Susceptible individuals include persons with heart disease and those with risk factors for heart disease. Elevated liver enzymes and irritation to the respiratory passages and eyes have also been reported for both humans and experimental animals exposed to MC vapors.

MC is metabolized to carbon monoxide and carbon dioxide via two separate pathways. Through the first pathway, MC is metabolized to carbon monoxide as an end-product via the P-450 mixed function oxidase pathway located in the microsomal fraction of the cell. This biotransformation of MC to carbon monoxide occurs through the process of microsomal oxidative dechlorination which

takes place primarily in the liver. The amount of conversion to carbon monoxide is significant as measured by the concentration of carboxyhemoglobin, up to 12% measured in the blood following occupational exposure of up to 610 ppm. Through the second pathway, MC is metabolized to carbon dioxide as an end product (with formaldehyde and formic acid as metabolic intermediates) via the glutathione dependent enzyme found in the cytosolic fraction of the liver cell. Metabolites along this pathway are believed to be associated with the carcinogenic activity of MC.

MC has been tested for carcinogenicity in several laboratory rodents. These rodent studies indicate that there is clear evidence that MC is carcinogenic to male and female mice and female rats. Based on epidemiologic studies, OSHA has concluded that there is suggestive evidence of increased cancer risk in MC-related worker populations. The epidemiological evidence is consistent with the finding of excess cancer in the experimental animal studies. NIOSH regards MC as a potential occupational carcinogen and the International Agency for Research Cancer (IARC) classifies MC as an animal carcinogen. OSHA considers MC as a suspected human carcinogen.

III. Medical Signs and Symptoms of Acute Exposure

Skin exposure to liquid MC may cause irritation or skin burns. Liquid MC can also be irritating to the eyes. MC is also absorbed through the skin and may contribute to the MC exposure by inhalation. At high concentrations in air, MC may cause nausea, vomiting, light-headedness, numbness of the extremities, changes in blood enzyme levels, and

PROPOSED

breathing problems, leading to bronchitis and pulmonary edema, unconsciousness and even death.

At lower concentrations in air, MC may cause irritation to the skin, eye, and respiratory tract and occasionally headache and nausea. Perhaps the greatest problem from exposure to low concentrations of MC is the CNS effects on coordination and alertness that may cause unsafe operations of machinery and equipment, leading to self-injury or accidents. Low levels and short duration exposures do not seem to produce permanent disability, but chronic exposures to MC have been demonstrated to produce liver toxicity in animals, and therefore, the evidence is suggestive for liver toxicity in humans after chronic exposure. Chronic exposure to MC may also cause cancer.

IV. Surveillance and Preventive Considerations

As discussed above, MC is classified as a suspect or potential human carcinogen. It is a central nervous system (CNS) depressant and a skin, eye and respiratory tract irritant. At extremely high concentrations, MC has caused liver damage in animals. MC principally affects the CNS, where it acts as a narcotic. The observation of the symptoms characteristic of CNS depression, along with a physical examination, provides the best detection of early neurological disorders. Since exposure to MC also increases the carboxyhemoglobin level in the blood, ambient carbon monoxide levels would have an additive effect on that carboxyhemoglobin level. Based on such information, a periodic post-shift carboxyhemoglobin test as an index of the presence of carbon monoxide in the blood is recommended, but not required, for medical surveillance.

Based on the animal evidence and three epidemiologic studies previously mentioned, OSHA concludes that MC is a suspect human carcinogen. The medical surveillance program is designed to observe exposed workers on a regular basis. While the medical surveillance program cannot detect MC-induced cancer at a preneoplastic stage, OSHA anticipates that, as in the past, early detection and treatments of cancers leading to enhanced survival rates will continue to evolve.

A. Medical and Occupational History:

The medical and occupational work history plays an important role in the initial evaluation of workers exposed to MC. It is therefore extremely important for the examining physician or other licensed health care professional to evaluate the MC-exposed worker carefully and completely and to focus the examination on MC's potentially associated health hazards. The medical evaluation must include an annual detailed work and medical history with special emphasis on cardiac history and neurological symptoms.

An important goal of the medical history is to elicit information from the worker regarding potential signs or symptoms associated with increased levels of carboxyhemoglobin due to the presence of carbon monoxide in the blood. Physicians or other licensed health care professionals should ensure that the smoking history of all MC exposed employees is known. Exposure to MC may cause a significant increase in carboxyhemoglobin level in all exposed persons. However, smokers as well as workers with anemia or heart disease and those concurrently exposed to carbon monoxide are at especially high risk of toxic effects because of an already reduced oxygen carrying capacity of the blood.

A comprehensive or interim medical and work history should also include occurrence of headache, dizziness, fatigue, chest pain, shortness of breath, pain in the limbs, and irritation of the skin and eyes. In addition, it is important for the physician or other licensed health care professional to become familiar with the operating conditions in which exposure to MC is likely to occur. The physician or other licensed health care professional also must become familiar with the signs and symptoms that may indicate that a worker is receiving otherwise unrecognized and exceptionally high exposure levels of MC.

An example of a medical and work history that would satisfy the requirement for a comprehensive or interim work history is represented by the following:

The following is a list of recommended questions and issues for the self-administered questionnaire for methylene chloride exposure.

Questionnaire For Methylene Chloride Exposure

I. Demographic Information

1. Name _____
2. Social Security Number _____
3. Date _____
4. Date of Birth _____
5. Age _____
6. Present occupation _____
7. Sex _____
8. Race _____

II. Occupational History

1. Have you ever worked with methylene chloride, dichloromethane, methylene dichloride, or CH₂Cl₂ (all are different names for the same chemical)? Please list which on the occupational history form if you have not already.

2. If you have worked in any of the following industries and have not listed them on the occupational history form, please do so.

- Furniture stripping _____
- Polyurethane foam manufacturing _____
- Chemical manufacturing or formulation _____
- Pharmaceutical manufacturing _____

Any industry in which you used solvents to clean and degrease equipment or parts _____

Construction, especially painting and refinishing _____

Aerosol manufacturing _____

Any industry in which you used aerosol adhesives _____

3. If you have not listed hobbies or household projects on the occupational history form, especially furniture refinishing, spray painting, or paint stripping, please do so.

III. Medical History

A. General

1. Do you consider yourself to be in good health? If no, state reason(s).

2. Do you or have you ever had:

- a. Persistent thirst
- b. Frequent urination (three times or more at night)
- c. Dermatitis or irritated skin
- d. Nonhealing wounds

3. What prescription or nonprescription medications do you take, and for what reasons?

4. Are you allergic to any medications, and what type of reaction do you have?

B. Respiratory

1. Do you have or have you ever had any chest illnesses or diseases? Explain.

2. Do you have or have you ever had any of the following:

- a. Asthma
- b. Wheezing
- c. Shortness of breath

3. Have you ever had an abnormal chest X-ray? If so, when, where, and what were the findings?

4. Have you ever had difficulty using a respirator or breathing apparatus? Explain.

5. Do any chest or lung diseases run in your family? Explain.

6. Have you ever smoked cigarettes, cigars, or a pipe? Age started:

7. Do you now smoke?

8. If you have stopped smoking completely, how old were you when you stopped?

9. On the average of the entire time you smoked, how many packs of cigarettes, cigars, or bowls of tobacco did you smoke per day?

C. Cardiovascular

1. Have you ever been diagnosed with any of the following:

Which of the following apply to you now or did apply to you at some time in the past, even if the problem is controlled by medication? Please explain any yes answers (i.e., when problem was diagnosed, length of time on medication).

- a. High cholesterol or triglyceride level
- b. Hypertension (high blood pressure)
- c. Diabetes
- d. Family history of heart attack, stroke, or blocked arteries

2. Have you ever had chest pain? If so, answer the next five questions.

a. What was the quality of the pain (i.e., crushing, stabbing, squeezing)?

b. Did the pain go anywhere (i.e., into jaw, left arm)?

c. What brought the pain out?

d. How long did it last?

e. What made the pain go away?

3. Have you ever had heart disease, a heart attack, stroke, aneurysm, or blocked arteries anywhere in your body? Explain (when, treatment).

4. Have you ever had bypass surgery for blocked arteries in your heart or anywhere else? Explain.

5. Have you ever had any other procedures done to open up a blocked artery (balloon angioplasty, carotid endarterectomy, clot-dissolving drug)?

6. Do you have or have you ever had (explain each):

- a. Heart murmur
- b. Irregular heartbeat
- c. Shortness of breath while lying flat
- d. Congestive heart failure
- e. Ankle swelling
- f. Recurrent pain anywhere below the waist while walking

7. Have you ever had an electrocardiogram (EKG)? When?

8. Have you ever had an abnormal EKG? If so, when, where, and what were the findings?

9. Do any heart diseases, high blood pressure, diabetes, high cholesterol, or high triglycerides run in your family? Explain.

D. Hepatobiliary and Pancreas

1. Do you now or have you ever drunk alcoholic beverages? Age started: _____ Age stopped: _____.

2. Average numbers per week:

a. Beers: _____, ounces in usual container: b. Glasses of wine: _____, ounces per glass: c. Drinks: _____, ounces in usual container:

3. Do you have or have you ever had (explain each):

a. Hepatitis (infectious, autoimmune, drug-induced, or chemical)

b. Jaundice

c. Elevated liver enzymes or elevated bilirubin

d. Liver disease or cancer

E. Central Nervous System

1. Do you or have you ever had (explain each):

a. Headache

b. Dizziness

c. Fainting

d. Loss of consciousness

e. Garbled speech

f. Lack of balance

g. Mental/psychiatric illness

h. Forgetfulness

F. Hematologic

1. Do you have, or have you ever had (explain each):

a. Anemia

b. Sickle cell disease or trait

c. Glucose-6-phosphate dehydrogenase deficiency

d. Bleeding tendency disorder

2. If not already mentioned previously, have you ever had a reaction to sulfa drugs or to drugs used to prevent or treat malaria? What was the drug? Describe the reaction.

B. Physical Examination

The complete physical examination, when coupled with the medical and occupational history, assists the physician or other licensed health care professional in detecting pre-existing conditions that might place the employee at increased risk, and establishes a baseline for future health monitoring. These examinations should include:

1. Clinical impressions of the nervous system, cardiovascular function and pulmonary function, with additional tests conducted where indicated or determined by the examining physician or other licensed health care professional to be necessary.

2. An evaluation of the advisability of the worker using a respirator, because the use of certain respirators places an additional burden on the cardiopulmonary system. It is necessary for the attending physician or other licensed health care professional to evaluate the cardiopulmonary function of these workers, in order to inform the employer in a written medical opinion of the worker's ability or fitness to work in an area requiring the use of certain types of respiratory protective equipment. The presence of facial hair or scars that might interfere with the worker's ability to wear certain types of respirators should also be noted during the examination and in the written medical opinion.

Because of the importance of lung function to workers required to wear certain types of respirators to protect themselves from MC exposure, these workers must receive an assessment of pulmonary function before they begin to wear a negative pressure respirator and at least annually thereafter. The recommended pulmonary function tests include measurement of the employee's forced vital capacity (FVC), forced expiratory volume at one second (FEV1), as well as calculation of the ratios of FEV1 to FVC, and the ratios of measured FVC and measured FEV1 to expected respective values corrected for variation due to age, sex, race, and height. Pulmonary function evaluation must be conducted by a physician or other licensed health care professional experienced in pulmonary function tests.

The following is a summary of the elements of a physical exam which would fulfill the requirements under the MC standard:

Physical Exam

I. Skin and appendages

1. Irritated or broken skin 2. Jaundice 3. Clubbing cyanosis, edema 4. Capillary refill time 5. Pallor

II. Head

1. Facial deformities 2. Scars 3. Hair growth

III. Eyes

1. Scleral icterus 2. Corneal arcus 3. Pupillary size and response 4. Fundoscopic exam

IV. Chest

1. Standard exam

V. Heart

1. Standard exam 2. Jugular vein distension 3. Peripheral pulses

VI. Abdomen

1. Liver span

VII. Nervous System

1. Complete standard neurologic exam

VIII. Laboratory

1. Hemoglobin and hematocrit 2. Alanine aminotransferase (ALT, SGPT) 3. Post-shift carboxyhemoglobin

I. Studies

1. Pulmonary function testing

2. Electrocardiogram

An evaluation of the oxygen carrying capacity of the blood of employees (for example by measured red blood cell volume) is considered useful, especially for workers acutely exposed to MC. It is also recommended, but not required, that end of shift carboxyhemoglobin levels be determined periodically, and any level above 3% for nonsmokers and above 10% for smokers should prompt an investigation of the worker and his workplace. This test is recommended because MC is metabolized to CO, which combines strongly with hemoglobin, resulting in a reduced capacity of the blood to transport oxygen in the body. This is of particular concern for cigarette smokers because they already have a diminished hemoglobin capacity due to the presence of CO in cigarette smoke.

C. Additional Examinations and Referrals

1. Examination by a Specialist

When a worker examination reveals unexplained symptoms or signs (i.e. in the physical examination or in the laboratory tests), follow-up medical examinations are necessary to assure that MC exposure is not adversely affecting the worker's health. When the examining physician or other

licensed health care professional finds it necessary, additional tests should be included to determine the nature of the medical problem and the underlying cause. Where relevant, the worker should be sent to a specialist for further testing and treatment as deemed necessary. The final rule requires additional investigations to be covered and it also permits physicians or other licensed health care professionals to add appropriate or necessary tests to improve the diagnosis of disease should such tests become available in the future.

2. Emergencies

The examination of workers exposed to MC in an emergency should be directed at the organ systems most likely to be affected. If the worker has received a severe acute exposure, hospitalization may be required to assure proper medical intervention. It is not possible to precisely define "severe," but the physician or other licensed health care professional's judgment should not merely rest on hospitalization. If the worker has suffered significant conjunctival, oral, or nasal irritation, respiratory distress, or discomfort, the physician or other licensed health care professional should instigate appropriate follow-up procedures. These include attention to the eyes, lungs and the neurological system. The frequency of follow-up examinations should be determined by the attending physician or other licensed health care professional. This testing permits the early identification essential to proper medical management of such workers.

D. Employer Obligations

The employer is required to provide the responsible physician or other licensed health care professional and any specialists involved in a diagnosis with the following information: a copy of the MC standard including relevant appendices, a description of the affected employee's duties as they relate to his or her exposure to MC; an estimate of the employee's exposure including duration (e.g., 15hr/wk, three 8-hour shifts/wk, full time); a description of any personal protective equipment used by the employee, including respirators; and the results of any previous medical determinations for the affected employee related to MC exposure to the extent that this information is within the employer's control.

E. Physicians' or Other Licensed Health Care Professionals' Obligations

The standard requires the employer to ensure that the physician or other licensed health care professional provides a written statement to the employee and the employer. This statement should contain the physician's or licensed health care professional's opinion as to whether the employee has any medical condition placing him or her at increased risk of impaired health from exposure to MC or use of respirators, as appropriate. The physician or other licensed health care professional should also state his or her opinion regarding any restrictions that should be placed on the employee's exposure to MC or upon the use of protective clothing or equipment such as respirators. If the employee wears a respirator as a result of his or her exposure to MC, the physician or other licensed health care professional's opinion should also contain a statement regarding the suitability of the employee to wear the type of respirator assigned.

Furthermore, the employee should be informed by the physician or other licensed health care professional about the cancer risk of MC and about risk factors for heart disease,

and the potential for exacerbation of underlying heart disease by exposure to MC through its metabolism to carbon monoxide. Finally, the physician or other licensed health care professional should inform the employer that the employee has been told the results of the medical examination and of any medical conditions which require further explanation or treatment. This written opinion must not contain any information on specific findings or diagnosis unrelated to employee's occupational exposures.

The purpose in requiring the examining physician or other licensed health care professional to supply the employer with a written opinion is to provide the employer with a medical basis to assist the employer in placing employees initially, in assuring that their health is not being impaired by exposure to MC, and to assess the employee's ability to use any required protective equipment.

NEW SECTION

WAC 296-62-0747 Appendix C.

Questions and Answers

Methylene Chloride Control in Furniture Stripping (Adapted from NIOSH publication No. 93-133)

Introduction

This appendix answers commonly asked questions about the hazards from exposure to methylene chloride. It also describes approaches to controlling methylene chloride exposure during the most common furniture stripping processes. Although these approaches were developed and field tested by the National Institute of Occupational Safety and Health, each setting requires custom installation because of the different air flow interferences at each site.

1. What is the Stripping Solution Base?

The most common active ingredient in paint removers is a chemical called methylene chloride. Methylene chloride is present in the paint remover to penetrate, blister, and finally lift the old finish. Other chemicals in paint removers work to accelerate the stripping process, to retard evaporation, and to act as thickening agents. These other ingredients may include: methanol, toluene, acetone, or paraffin.¹

2. Is Methylene Chloride Bad for Me?

Exposure to methylene chloride may cause short-term health effects or long-term health effects.

Short-Term (Acute) Health Effects

Exposure to high levels of paint removers over short periods of time can cause irritation to the skin, eyes, mucous membranes, and respiratory tracts. Other symptoms of high exposure are dizziness, headache, and lack of coordination. The occurrence of any of these symptoms indicates that you are being exposed to high levels of methylene chloride. At the onset of any of these symptoms, you should leave the work area, get some fresh air, and determine why the levels were high.

A portion of inhaled methylene chloride is converted by the body to carbon monoxide, which can lower the blood's ability to carry oxygen. When the solvent is used properly, however, the levels of carbon monoxide should not be hazardous. Individuals with cardiovascular or pulmonary health problems should check with their physician before

using the paint stripper. Individuals experiencing severe symptoms such as shortness of breath or chest pains should obtain proper medical care immediately.¹

Long-Term (Chronic) Health Effects

Methylene chloride has been shown to cause cancer in certain laboratory animal tests. The available human studies do not provide the necessary information to determine whether methylene chloride causes cancer in humans. However, as a result of the animal studies, methylene chloride is considered a potential occupational carcinogen. There is also considerable indirect evidence to suggest that workers exposed to methylene chloride may be at an increased risk of developing ischemic heart disease. Therefore, it is prudent to minimize exposure to solvent vapors.³

3. What does the Methylene Chloride Standard Require?

On January 10, 1997, the Occupational Safety and Health Administration published a new regulation for methylene chloride. The standard establishes an eight-hour time-weighted average exposure limit of 25 parts per million (ppm), as well as a short-term exposure limit of 125 ppm determined from a 15 minute sampling period. That is a reduction from the current WISHA limit of 100 ppm. The standard also sets a 12.5 ppm action level (a level that would trigger periodic exposure monitoring and medical surveillance provisions).² WISHA adopted an identical standard on [date].

The National Institute for Occupational Safety and Health recommends that methylene chloride be regarded as a "potential occupational carcinogen." NIOSH further recommends that occupational exposure to methylene chloride be controlled to the lowest feasible limit. This recommendation was based on the observation of cancers and tumors in both rats and mice exposed to methylene chloride in air.⁵

4. How Can I Be Exposed to Methylene Chloride while Stripping Furniture?

Methylene chloride can be inhaled when vapors are in the air. Inhalation of the methylene chloride vapors is generally the most important source of exposure. Methylene chloride evaporates quicker than most chemicals. The odor threshold of methylene chloride is 300 ppm.⁶ Therefore, once you smell methylene chloride, you are being over-exposed. Pouring, moving, or stirring the chemical will increase the rate of evaporation.

Methylene chloride can be absorbed through the skin either by directly touching the chemical or through your gloves. Methylene chloride can be swallowed if it gets on your hands, clothes, or beard, or if food or drinks become contaminated.

5. How Can Breathing Exposures be Reduced? Install a Local Exhaust Ventilation System

Local exhaust ventilation can be used to control exposures. Local exhaust ventilation systems capture contaminated air from the source before it spreads into the workers' breathing zone.⁷ If engineering controls are not effective, only a self-contained breathing apparatus equipped with a full face piece and operated in a positive-pressure mode or a supplied-air respirator affords the level of protection. Air-purifying respirators such as gas masks with organic vapor canisters

can only be used for escape situations.⁸ These gas masks are not suitable for normal work situations because methylene chloride is poorly absorbed by the canister filtering material.

A local exhaust system consists of the following: a hood, a fan, ductwork, and a replacement air system.^{9,10,11} Two processes are commonly used in furniture stripping: flow-over and dip tanks. For flow-over systems there are two common local exhaust controls for methylene chloride - a slot hood and a down draft hood. A slot hood of different design is most often used for dip tanks. (See Figures 1, 2, and 3.)

The hood is made of sheet metal and connected to the tank. All designs require a centrifugal fan to exhaust the fumes, ductwork connecting the hood and the fan, and a replacement air system to bring conditioned air into the building to replace the air exhausted.

In constructing or designing a slot or down draft hood, use the following data:

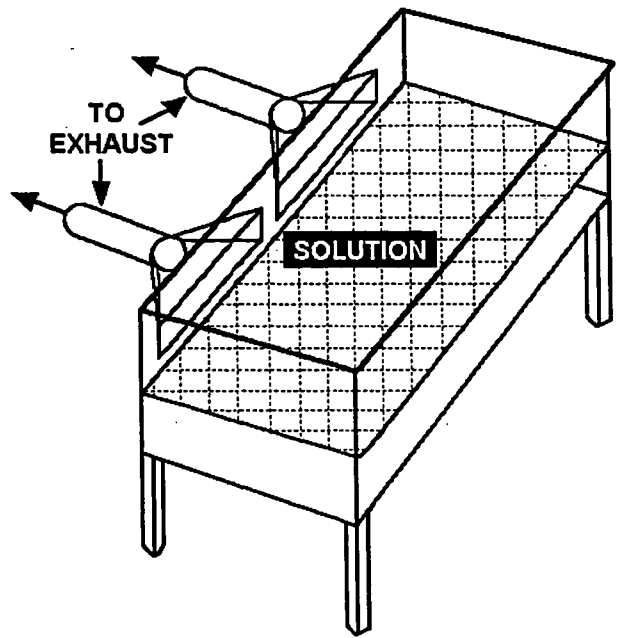


FIGURE 2 -- DOWNDRAFT HOOD

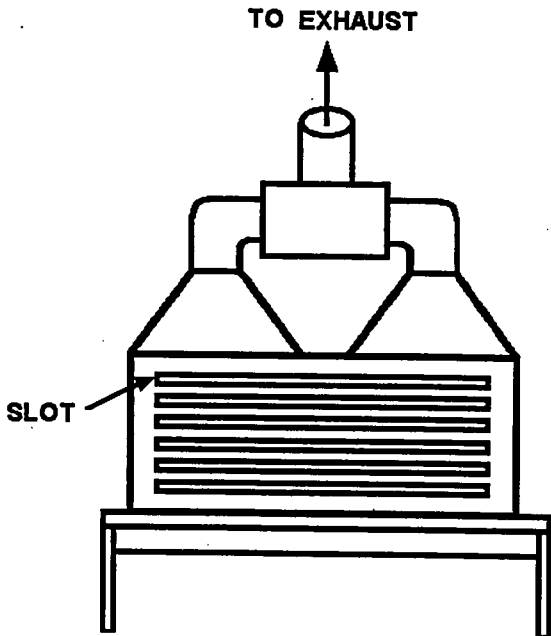


FIGURE 1 -- SLOT HOOD

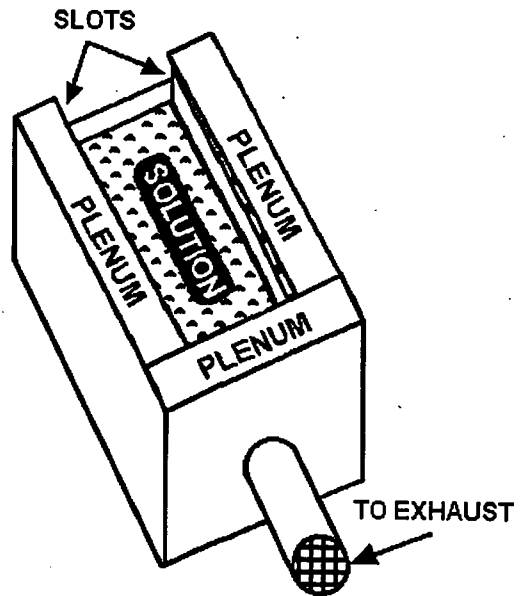


FIGURE 3 -- SLOT HOOD FOR DIP TANK

Safe Work Practices

Workers can lower exposures by decreasing their access to the methylene chloride.¹²

- 1) Turn on dip tank control system several minutes before entering the stripping area.
- 2) Avoid unnecessary transferring or moving of the stripping solution.

PROPOSED

- 3) Keep face out of the air stream between the solution-covered furniture and the exhaust system.
- 4) Keep face out of vapor zone above the stripping solution and the dip tank.
- 5) Retrieve dropped items with a long handled tool.
- 6) Keep the solution-recycling system off when not in use. Cover reservoir for recycling system.
- 7) Cover dip tank when not in use.
- 8) Provide adequate ventilation for rinse area.

How Can Skin Exposures Be Reduced?

Skin exposures can be reduced by wearing gloves whenever you are in contact with the stripping solution.¹³

- 1) Two gloves should be worn. The inner glove should be made from polyethylene/ethylene vinyl alcohol (e.g., Silver Shield®, or 4H®). This material, however, does not provide good physical resistance against tears, so an outer glove made from nitrile or neoprene should be worn.
- 2) Shoulder-length gloves will be more protective.
- 3) Change gloves before the break-through time occurs. Rotate several pairs of gloves throughout the day. Let the gloves dry in a warm well ventilated area at least over night before reuse.
- 4) Keep gloves clean by rinsing often. Keep gloves in good condition. Inspect the gloves before use for pin-holes, cracks, thin spots, and stiffer than normal or sticky surfaces.
- 5) Wear a face shield or goggles to protect face and eyes.

6. What Other Problems Can Occur?

Stripping Solution Temperature

Most manufacturers of stripping solution recommend controlling the solution to a temperature of 70°F. This temperature is required for the wax in the solution to form a vapor barrier on top of the solution to keep the solution from evaporating too quickly. If the temperature is too high, the wax will not form the vapor barrier. If it is too cold, the wax will solidify and separate from the solvent causing increased evaporation. Use a belt heater to heat the solution to the correct temperature. Call your solution manufacturer for the correct temperature for your solution.¹⁴

Make-Up Air

Air will enter a building in an amount to equal the amount of air exhausted whether or not provision is made for this replacement. If a local exhaust system is added a make-up or replacement air system must be added to replace the air removed. Without a replacement air system, air will enter the building through cracks causing uncontrollable eddy currents. If the building perimeter is tightly sealed, it will prevent the air from entering and severely decrease the amount exhausted from the ventilation system. This will cause the building to be under negative pressure and decrease the performance of the exhaust system.¹⁵

Dilution Ventilation

With general or dilution ventilation, uncontaminated air is moved through the workroom by means of fans or open windows, which dilutes the pollutants in the air. Dilution ventilation does not provide effective protection to other workers and does not confine the methylene chloride vapors to one area.¹⁶

Phosgene Poisoning from Use of Kerosene Heaters

Do not use kerosene heaters or other open flame heaters while stripping furniture. Use of kerosene heaters in connection with methylene chloride can create lethal or dangerous concentrations of phosgene. Methylene chloride vapor is mixed with the air used for the combustion of kerosene in kerosene stoves. The vapor thus passes through the flames, coming into close contact with carbon monoxide at high temperatures. Any chlorine formed by decomposition may, under these conditions, react with carbon monoxide and form phosgene.¹⁷

REFERENCES

¹Halogenated Solvents Industry Alliance and Consumer Product Safety Commission [1990]. Stripping Paint from Wood (Pamphlet for consumers on how to strip furniture and precautions to take). Washington DC: Consumer Product Safety Commission.

²*Ibid.*

³NIOSH [1992]. NIOSH Testimony on Occupational Safety and Health Administration's proposed rule on occupational exposure to methylene chloride, September 21, 1992, OSHA Docket No. H-71. NIOSH policy statements. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health.

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⁵NIOSH [1992].

⁶Kirk, R.E. and P.F. Othmer, Eds. [1978]. Encyclopedia of Chemical Technology, 3rd Ed., Vol. 5:690. New York: John Wiley & Sons, Inc.

⁷ACGIH [1988]. Industrial Ventilation: A Manual of Recommended Practice. 20th Ed. Cincinnati, OH: American Conference of Governmental Industrial Hygienists.

⁸NIOSH [1992].

⁹Fairfield, C.L. and A.A. Beasley [1991]. In-depth Survey Report at the Association for Retarded Citizens, Meadowlands, PA. The Control of Methylene Chloride During Furniture Stripping. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health.

¹⁰Fairfield, C.L. [1991]. In-depth Survey Report at the J.M. Murray Center, Cortland, NY. The Control of Methylene Chloride During Furniture Stripping. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health.

¹¹Hall, R.M., K.F. Martinez, and P.A. Jensen [1992]. In-depth Survey Report at Tri-County Furniture Stripping and Refinishing, Cincinnati, OH. The Control of Methylene Chloride During Furniture Stripping. Cincinnati, OH: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Institute for Occupational Safety and Health.

¹²Fairfield, C.L. and A.A. Beasley [1991]. In-depth Survey Report at the Association for Retarded Citizens, Meadowlands, PA. The Control of Methylene Chloride During Furniture Stripping. Cincinnati, OH: U.S. Department of Health and Human Service, Centers for Disease Control, National Institute for Occupational Safety and Health.

¹³Roder, M. [1991]. Memorandum of March 11, 1991 from Michael Roder of the Division of Safety Research to Cheryl L. Fairfield of the Division of Physical Sciences and Engineering, National Institute for Occupational Safety and Health, Centers for Disease Control, Public Health Service, U.S. Department of Health and Human Services.

¹⁴Kwick Kleen Industrial Solvents, Inc., [1981]. Operations Manual, Kwick Kleen Industrial Solvents, Inc., Vincennes, IN.

¹⁵ACGIH [1988].

¹⁶*ibid.*

¹⁷Gerritsen, W.B. and C.H. Buschmann [1960]. Phosgene Poisoning Caused by the Use of Chemical Paint Removers containing Methylene Chloride in Ill-Ventilated Rooms Heated by Kerosene Stoves. British Journal of Industrial Medicine 17:187.

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

WSR 97-13-067
PROPOSED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed June 17, 1997, 4:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-093.

Title of Rule: WAC 326-30-041 Annual goals.

Purpose: To implement RCW 39.19.030(4) and encourage MWBE participation in state contracting and procurement.

Statutory Authority for Adoption: RCW 39.19.030(7).

Statute Being Implemented: RCW 39.19.030(4).

Summary: This proposal maintains goals at the 1996 levels for each class of contract. The state will continue to administer this rule flexibly.

Reasons Supporting Proposal: The office's review of reasonable obtainable information indicates that current goal levels are consistent with the statutory mandate.

Name of Agency Personnel Responsible for Drafting: Juan Huey-Ray, 406 South Water, Olympia, WA 98504, (360) 586-1228; Implementation and Enforcement: James A. Medina, 406 South Water, Olympia, WA 98504, (360) 586-9679.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule implements chapter 39.19 RCW by establishing target levels for minority and women's business participation in state contracting and procurement. Overall annual goals are established to be administered on a contract by contract basis. Progress, levels, and availability of certified firms are continually reviewed. The anticipated effect is increased opportunities for minority and women's business enterprises to participate in state contracts and procurements.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule affects small business, as it is designed to assist small businesses seeking contracting opportunities with state agencies. However, any impact will be negligible, because the goals proposed for 1997 - 98 are the same as those implemented during 1996 - 97. Analysis is inappropriate under RCW 19.85.040, because the Office of Minority and Women's Business Enterprises does not have data from which to make comparison of costs, and because the effect, if any, is negligible.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rule does not fall under subsection (5)(a)(i) or (ii).

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504, on July 22, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Tammi Hazlitt by July 15, 1997, (360) 753-9691.

Submit Written Comments to: Juan Huey-Ray, Rules Coordinator, FAX (360) 586-1228, by July 15, 1997.

Date of Intended Adoption: July 23, 1997.

June 17, 1997

James A. Medina
Director

AMENDATORY SECTION (Amending WSR 96-14-064, filed 6/28/96, effective 7/29/96)

WAC 326-30-041 Annual goals. The annual overall goals for participation by certified firms in the public works, other contracting, and procurement of each state agency and educational institution, subject to this chapter, shall be as follows:

July 1, (~~(1996)~~) 1997, through June 30, (~~(1997)~~) 1998,

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE
Professional Services	10% MBE	4% WBE

WSR 97-13-076
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 (Securities Division)
 [Filed June 18, 1997, 9:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-058.

Title of Rule: Use of certain terms; Investment adviser and investment adviser salesperson (representative) registration and examinations; Capital requirements; Dishonest and unethical business practices—Salespersons.

Purpose: To add the certified investment management analyst ("CIMA") designation to others as an alternative to the Series 24 or Series 7 examinations; to correct reference to "accredited personal financial specialist" to instead reference "personal financial specialist"; to amend rules

PROPOSED

relating to the "holding out" provisions applicable to investment advisers or investment adviser representatives and to eliminate duplicative language; and to correct other misreferences.

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

Summary: The proposal would add CIMA designation to list of designations already recognized due to substantial equivalence of study programs; update APFS designation to renamed PFS designation; to amend the "holding out" rules relating to investment advisers or investment adviser representatives; and to correct misreference to WAC 460-20A-100 (recodified as WAC 460-21B-030) and the misreference to WAC 460-21A-010 instead of WAC 460-21B-010.

Reasons Supporting Proposal: The proposal will recognize additional designation as alternative to Series 24 or Series 7 examinations; recognize renaming of APFS to PFS; amend "holding out" provisions; and correct duplicative language or misreferences.

Name of Agency Personnel Responsible for Drafting: Brad Ferber, 210 11th Avenue S.W., Olympia, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue S.W., Olympia, (360) 902-8760; and Enforcement: Deborah R. Bortner, 210 11th Avenue S.W., Olympia, (360) 902-8760.

Name of Proponent: Securities Division, Department of Financial Institutions, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal would add the CIMA designation to list of designations already recognized to excuse persons holding the designation from the requirement of passing the Series 24 or Series 7 examinations as part of the licensing requirements for investment advisers or investment adviser representatives, respectively; correct the reference to the "APFS" designation, which has been renamed the PFS designation; to amend the "holding out" rules relating to investment advisers or investment adviser representatives and the related disclosure procedure provisions in relation to the use of the CFP abbreviation; and to correct misreference to WAC 460-20A-100 (recodified as WAC 460-21B-030) made in WAC 460-24A-170 and the misreference to WAC 460-21A-010 instead of WAC 460-21B-010 made in WAC 460-22B-090; and to eliminate language contained in WAC 460-24A-045 (3)(b) which provides no additional meaning to language contained in WAC 460-24A-045 (3)(c).

Proposal Changes the Following Existing Rules: The proposal would change the language of the following rules: WAC 460-24A-040 Use of certain terms, to specifically reference use of the CFP designation rather than to refer to the designation as an example; WAC 460-24A-045 Holding out as a financial planner, to delete duplicative language; WAC 460-24A-050 Investment adviser and investment adviser salesperson (representative) registration and examinations, to add the CIMA designation to others as an alternative to the Series 24 or Series 7 examinations and correct reference to APFS to instead reference PFS; WAC 460-24A-170 Capital requirements, and 460-22B-090 Dishonest and unethical business practices—Salespersons, to correct misreferences.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not have economic impact on business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Financial Institutions is not one of the agencies listed in section 201.

Hearing Location: Department of Financial Institutions, Securities Division, Executive Conference Room, 300 General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on July 23, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Darlene Christianson by July 21, 1997, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: Brad Ferber, P.O. Box 9033, Olympia, WA 98507-9033, FAX (360) 586-5068, by July 22, 1997.

Date of Intended Adoption: July 30, 1997.

June 17, 1997

John L. Bley
Director

AMENDATORY SECTION (Amending WSR 93-01-113, filed 12/21/92, effective 1/21/93)

WAC 460-24A-040 Use of certain terms. (1) For the purposes of RCW 21.20.040(2), use of any term, or abbreviation for a term, including the word "financial planner" or the word "investment counselor" is considered the same as the use of either of those terms alone. ~~((For example, use of the term Certified Financial Planner, and its abbreviation CFP, is considered the same as the use of "financial planner.")~~)

(2) For the purposes of RCW 21.20.040(2), terms that are deemed similar to "financial planner" and "investment counselor" include, but are not limited to, the following:

- (a) Financial consultant;
- (b) Investment consultant;
- (c) Money manager;
- (d) Investment manager;
- (e) Investment planner; ((☞))
- (f) Chartered financial consultant or its abbreviation

ChFC; or

(g) The abbreviation CFP.

AMENDATORY SECTION (Amending WSR 93-01-113, filed 12/21/92, effective 1/21/93)

WAC 460-24A-045 Holding out as a financial planner. A person using a term deemed similar to "financial planner" or "investment counselor" under WAC 460-24A-040(2) will not be considered to be holding himself out as a financial planner for purposes of RCW 21.20.005(6) and 21.20.040 under the following circumstances:

(1) The person is not in the business of providing advice relating to the purchase or sale of securities, and would not, but for his use of such a term, be an investment adviser required to register pursuant to RCW 21.20.040; and

(2) The person does not directly or indirectly receive a fee for providing investment advice. Receipt of any portion of a "wrap fee," that is, a fee for some combination of brokerage and investment advisory services, constitutes receipt of a fee for providing investment advice for the purpose of this section; and

(3) The person delivers to every customer, at least 48 hours before accepting any compensation, including commissions from the sale of any investment product, a written disclosure including the following information:

(a) The person is not registered as an investment adviser or investment adviser salesperson in the state of Washington;

(b) ~~((The person is not a financial planner, investment adviser or investment counselor;~~

~~(e))~~ The person is not authorized to provide financial planning or investment advisory services and does not provide such services; and

~~((d))~~ (c) A brief description the person's business which description should include a statement of the kind of products offered or services provided (e.g., the person is in the business of selling securities and insurance products) and of the basis on which the person is compensated for the products sold or services provided; and

(4) The person has each customer to whom a disclosure described in subsection (3) of this section is given sign a written dated acknowledgment of receipt of the disclosure; and

(5) The person shall retain the executed acknowledgments of receipt required by subsection (4) of this section and of the disclosure given for so long as the person continues to receive compensation from such customers, but in no case for less than three years from date of execution of the acknowledgment;

(6) If the person received compensation from the customer on more than one occasion, the person need give the customer the disclosure described in subsection (3) of this section only on the first occasion unless the information in the disclosure becomes inaccurate, in which case the person must give the customer updated disclosure before receiving further compensation from the customer.

AMENDATORY SECTION (Amending WSR 95-16-026 and 95-17-002, filed 7/21/95 and 8/2/95, effective 8/21/95 and 9/2/95)

WAC 460-24A-050 Investment adviser and investment adviser salesperson (representative) registration and examinations. (1) In order for an applicant to become licensed in this state as an investment adviser the individual applicant, an officer of the applicant if the applicant is a corporation, or a general partner of the applicant if the applicant is a partnership, shall:

(a) Pass the uniform investment adviser law examination (series 65); or the uniform combined state law examination (series 66); and

(b)(i) Pass the NASD general securities principal examination (series 24); or

(ii) Hold one of the following designations:

(A) Chartered investment counselor;

(B) Chartered financial analyst;

(C) Certified financial planner;

(D) Chartered financial consultant;

(E) ~~((Accredited))~~ Personal financial specialist; ~~((and))~~

(F) Certified investment management analyst; and

(c) File a completed Form ADV.

(2) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership

ceases to be an officer or general partner, then the investment adviser must notify the securities division of a substitute officer or general partner who has passed the examinations required in subsection (1) of this section within two months in order to maintain the investment adviser license.

(3) In order to become licensed in this state as an investment adviser salesperson (representative), an applicant shall:

(a) Pass the uniform investment adviser law examination (series 65); or the uniform combined state law examination (series 66); and

(b)(i) Pass the NASD general securities representative examination (series 7); or

(ii) Pass the general securities representative examination (series 2); or

(iii) Hold one of the following designations:

(A) Chartered investment counselor;

(B) Chartered financial analyst;

(C) Certified financial planner;

(D) Chartered financial consultant;

(E) ~~((Accredited))~~ Personal financial specialist; ~~((and))~~

(F) Certified investment management analyst; and

(c) File a completed Form U-4.

(4) The administrator may waive the testing requirements in subsection (3) of this section for an investment adviser representative whose activities will be limited to supervising the firm's investment advisory activities in Washington, provided that the applicant has been employed for five years preceding the filing of the application in a supervisory capacity, or as a portfolio manager, by an investment adviser registered under the Investment Advisers Act of 1940 for at least five years and the investment adviser has been engaged in rendering "investment supervisory services" as defined in section 202 (a)(13) of the Investment Advisers Act of 1940.

(5) Any individual who has been retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients any time during the two years prior to application and who has previously passed the required examination in subsection (1) or (3) of this section or the Washington state investment advisers examination shall not be required to retake the examination(s) to be eligible to be relicensed as an investment adviser salesperson (representative) upon application.

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-24A-170 Capital requirements. (1) Any investment adviser who takes any power of attorney from any investment advisory client to execute transactions or has custody of any or [of] his investment advisory clients' securities or funds is subject to the minimum capital requirement and the requirement regarding the ratio of net capital to aggregate indebtedness, in accordance with WAC ~~((460-20A-100))~~ 460-21B-030 of these rules.

(2) The administrator may, upon written application, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any investment adviser who satisfies the administrator that, because of the special nature of his business, his financial position, and the

safeguards he has established for the protection of customers' funds and securities, it is not necessary in the public interest or for the protection of investors to subject the particular investment adviser to the provisions of this section.

AMENDATORY SECTION (Amending WSR 95-16-026, filed 7/21/95, effective 8/21/95)

WAC 460-22B-090 Dishonest and unethical business practices-salespersons. The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to salespersons, is hereby defined to include any of the following:

(1) Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

(2) Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(3) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(4) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

(5) Dividing or otherwise splitting the agent's commissions, profits or other compensation from the purchase or sale of securities with any person not also registered for the same broker-dealer, or for a broker-dealer under direct or indirect common control;

(6) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(7) Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

(8) Executing a transaction on behalf of a customer without authorization to do so;

(9) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(10) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

(11) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(12) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the

latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering;

(13) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(14) Guaranteeing a customer against loss in any securities account for such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(15) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation presents a bona fide bid for, or offer of, such security;

(16) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions of any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

(17) In connection with the solicitation of a sale or purchase of an OTC non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under Section 13 of the Securities Exchange Act, when requested to do so by a customer;

(18) Marking any order ticket or confirmation as unsolicited when in fact the transaction is solicited;

(19) Failing to comply with any applicable provision of the Rules of Fair Practice of the National Association of Securities Dealers or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission or by a self-regulatory organization approved by the Securities and Exchange Commission; or

(20) Any act or practice enumerated in WAC ((460-21A-010)) 460-21B-010.

PROPOSED

The conduct set forth above is not inclusive. Engaging in other conduct such as a forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration.

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-24A-170 Capital requirements. (1) Any investment adviser who takes any power of attorney from any investment advisory client to execute transactions or has custody of any ~~(or of his)~~ of his/her investment advisory clients' securities or funds is subject to the minimum capital requirement and the requirement regarding the ratio of net capital to aggregate indebtedness, in accordance with WAC ~~((460-20A-100 of these rules))~~ 460-21B-030.

(2) The administrator may, upon written application, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any investment adviser who satisfies the administrator that, because of the special nature of his/her business, his/her financial position, and the safeguards he/she has established for the protection of customers' funds and securities, it is not necessary in the public interest or for the protection of investors to subject the particular investment adviser to the provisions of this section.

WSR 97-13-077
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)
[Filed June 18, 1997, 9:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-056.

Title of Rule: World class foreign issuer exemption.

Purpose: Provide an exemption from registration for substantial foreign issuers that might otherwise have to register. Domestic issuers of similar financial standing would typically qualify for an exemption from registration.

Other Identifying Information: WAC 460-42A-082.

Statutory Authority for Adoption: RCW 21.20.450.

Statute Being Implemented: Chapter 21.20 RCW.

Summary: The proposed provision would provide an exemption from registration for certain foreign issuers with a public float of \$1 billion, a market value of all equity shares of \$3 billion, and whose securities trade on an SEC-recognized foreign securities exchange.

Reasons Supporting Proposal: Absent this exemption, these substantial foreign issuers might have to register. Domestic issuers of similar financial standing would typically qualify for an exemption from registration. This proposal is consistent with the North American Securities Administrators Association (NASAA) statement of policy regarding world class foreign issuers.

Name of Agency Personnel Responsible for Drafting: William M. Beatty, 210 11th Avenue S.W., Olympia, (360) 902-8760; Implementation: John L. Bley, 210 11th Avenue

S.W., Olympia, (360) 902-8760; and Enforcement: Deborah R. Bortner, 210 11th Avenue S.W., Olympia, (360) 902-8760.

Name of Proponent: Securities Division, Department of Financial Institutions, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed provision would provide an exemption from registration for certain foreign issuers with a public float of \$1 billion, a market value of all equity shares of \$3 billion, and whose securities trade on an SEC-recognized foreign securities exchange. Absent this exemption, these substantial foreign issuers might have to register. Domestic issuers of similar financial standing would typically qualify for an exemption from registration. This proposal is consistent with the North American Securities Administrators Association (NASAA) statement of policy regarding world class foreign issuers.

Proposal does not change existing rules. This is a new provision.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal does not impose additional costs on business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Financial Institutions is not one of the agencies listed in section 201.

Hearing Location: Department of Financial Institutions, Securities Division, Executive Conference Room, 300 General Administration Building, 210 11th Avenue S.W., Olympia, WA 98504, on July 23, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Darlene Christianson by July 21, 1997, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: Bill Beatty, P.O. Box 9033, Olympia, WA 98507-9033, FAX (360) 586-5068, by July 22, 1997.

Date of Intended Adoption: July 30, 1997.

June 17, 1997

John L. Bley

Director

NEW SECTION

WAC 460-42A-082 World class foreign issuer exemption. (1) Any security meeting all of the following conditions is exempted under RCW 21.20.310(8):

(a) The securities are:

(i) Equity securities except options, warrants, preferred stock, subscription rights, securities convertible into equity securities or any right to subscribe to or purchase such options, warrants, convertible securities or preferred stock;

(ii) Units consisting of equity securities permitted by (a)(i) of this subsection and warrants to purchase the same equity security being offered in the unit;

(iii) Nonconvertible debt securities that are rated in one of the four highest rating categories of Standard and Poor's, Moody's, Dominion Bond Rating Services of Canadian Bond Rating Services or such other rating organization which the administrator by rule or order may designate. For purposes of this subsection (1)(a)(iii) of this section, nonconvertible debt securities means securities that cannot be converted for

at least one year from the date of issuance and then only into equity shares of the issuer or its parent; or

(iv) American Depository receipt representing securities described in (a)(i), (ii) or (iii) of this subsection.

(b) The issuer is not organized under the laws of the United States, or of any state, territory or possession of the United States, or of the District of Columbia or Puerto Rico.

(c) The issuer, at the time an offer or sale is made under this subsection, has been a going concern engaged in continuous business operations for the immediate past five years and during that period, has not been the subject of a proceeding relating to insolvency, bankruptcy, involuntary administration, receivership or similar proceeding. For purposes of this subsection (1)(c) of this section, the operating history of any predecessor that represented more than fifty percent of the value of the assets of the issuer that otherwise would have met the conditions of this section may be used toward the five year requirement.

(d) The issuer, at the time an offer or sale is made under this subsection (1)(d) of this section, has public float of one billion dollars (United States) or more.

(e) The market value of the issuer's equity shares, at the time an offer or sale is made under this subsection, is three billion dollars (United States) or more.

(f) The issuer, at the time an offer or sale is made under this subsection (1)(f) of this section, has a class of equity securities listed for trading on or through the facilities of a foreign securities exchange or recognized foreign securities market included in Rule 902 (a)(1) or successor rule promulgated under the Securities Act of 1933 or designated by the U.S. Securities and Exchange Commission under Rule 902 (a)(2) promulgated under the Securities Act of 1933.

(2) For purposes of this section:

(a) "Public float" means the market value of all outstanding equity shares owned by nonaffiliates.

(b) "Equity shares" means common shares, nonvoting equity shares and subordinate or restricted voting equity shares, but does not include preferred shares.

(c) An "affiliate" of a person is anyone who beneficially owns, directly or indirectly, or exercises control or direction over, more than ten percent of the outstanding equity shares of such person.

WSR 97-13-080

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed June 18, 1997, 10:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-13-015, 96-12-090, and 96-20-006.

Title of Rule: Chapter 308-17 WAC, Private detective agencies and private detectives.

Purpose: Establishes fee amounts for transfer of a license and renewal of a certified trainer's license. Adopts brief adjudicative hearings, deletes outdated information, and updates physical office address for the licensing program.

Statutory Authority for Adoption: Chapter 18.170 RCW, RCW 43.24.086, 34.05.482.

Statute Being Implemented: Chapter 18.165 RCW.

Summary: The additional changes bring the WACs up-to-date with the changes made to the laws in 1995 and as ordered by federal law (brief adjudicative hearings).

Reasons Supporting Proposal: The transfer fee and certified trainer renewal fee will recover the cost of processing and issuing new licenses for transfer applicants and certified trainers.

Name of Agency Personnel Responsible for Drafting: Pat Brown, 405 Black Lake Boulevard S.W., Olympia, WA, (360) 664-2356; Implementation: Toni Ortiz, 405 Black Lake Boulevard S.W., Olympia, WA, (360) 664-9072; and Enforcement: Tim Baker, 405 Black Lake Boulevard S.W., Olympia, WA, (360) 664-9073.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule changes allow the agency to clean up housekeeping issues like address changes and deletion of information that was time sensitive and no longer applies. Updates the WAC to reflect changes passed such as the nonrefundable fee for license applications. Adopts brief adjudicative proceedings to use in resolving disputes.

The certified trainer renewal fee will be used to process the renewal and issue a new license for certified trainers.

The transfer fee will be used to process a transfer application and issue a new license.

Proposal Changes the Following Existing Rules: Changes the rule to reflect RCW regarding nonrefundable application fees, deletes outdated information, and updates the department's office location.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Costs of compliance with the rules for the transfer fee and the certified trainer's renewal fee are below the threshold in the table of minor and negligible impact as defined by the Business Assistance Center's Guide to Facilitating Regulatory Fairness.

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

Hearing Location: Labor and Industries Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on August 1, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Toni Ortiz by July 28, 1997, TDD (360) 586-2788, or (360) 664-9072.

Submit Written Comments to: Department of Licensing, Private Investigator Licensing Program, P.O. Box 9045, Olympia, WA 98507-9045, FAX (360) 753-3747, by August 1, 1997.

Date of Intended Adoption: August 7, 1997.

June 18, 1997

Toni Ortiz

Program Coordinator

Chapter 308-17 WAC
PRIVATE ((DETECTIVE)) INVESTIGATIVE
AGENCIES AND PRIVATE ((DETECTIVES))
INVESTIGATORS

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-010 Promulgation—Authority. The director of the department of licensing, state of Washington, pursuant to the authority vested in the director by RCW 18.165.170, does hereby promulgate the following rules and regulations relating to the licensing of private ~~((detective))~~ investigative agencies, private ~~((detectives))~~ investigators and armed private ~~((detectives))~~ investigators.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-020 Organization. The principal location of the private detective licensing program is at ~~((2424 Bristol Court))~~ 405 Black Lake Boulevard SW, Olympia, Washington 98504. The department of licensing administers the Washington private ~~((detective))~~ investigator license law, chapter 18.165 RCW. Submissions and requests for information regarding private ~~((detective))~~ investigative agency licenses, private ~~((detective))~~ investigator licenses, and armed private ~~((detective))~~ investigator licenses may be sent in writing to the Private ~~((Detective))~~ Investigator Program, Department of Licensing, P.O. Box 9045, Olympia, Washington 98507-9045.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-030 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has under chapter 18.165 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(2) "Principal owner" means the sole owner of a private ~~((detective))~~ investigative agency.

(3) "Principal partner" means the partner who exercises operational control over a private ~~((detective))~~ investigative agency.

(4) "Certified trainer" means a principal or a licensed private ~~((detective))~~ investigator or armed private ~~((detective))~~ investigator who has fulfilled the requirements of WAC 308-17-320.

(5) "Company identification" in RCW 18.165.160(6), shall include the license card issued by the director to a private ~~((detective))~~ investigator or armed private ~~((detective))~~ investigator.

(6) "Fire investigator or arson investigator" is anyone who qualifies for certification and has certification by the International Association of Arson Investigators; the National Association of Fire Investigators; or any organization or government body that has a certification program that meets all the requirements of NFPA 1033.

(7) "Address of record" is a physical street address.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-100 Agency applications—Conditions. Any person desiring to be licensed as a private ~~((detective))~~ investigative agency must substantiate the experience requirements in RCW 18.165.050, or pass an examination as

provided in this chapter. Persons meeting the experience requirements shall make application for a license on a form prescribed by the director. Persons who do not meet the experience requirements shall make application for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

(1) Pay a nonrefundable fee or fees as prescribed by WAC 308-17-150.

(2) If the applicant is the qualifying agent of a corporation, he or she shall furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is the qualifying agent of a foreign corporation, he or she shall furnish a certified copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a partnership or limited partnership, each partner shall apply and furnish their addresses.

(3) When a license is issued to a principal owner he or she shall act as the principal of the agency without the payment of additional license fees. When a license is issued to a corporation the qualifying agent shall act as the principal of the agency without the payment of additional fees. When a license is issued to a partnership the principal partner shall act as the principal of the agency without the payment of additional fees.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-105 Branch office notification—Conditions. A principal of a private ~~((detective))~~ investigative agency shall notify the director of the addresses of all branch offices under the same name as the main office as a part of the agency application. The director shall issue a duplicate license for each of the branch offices showing the location of the main office and the particular branch. Each duplicate license shall be prominently displayed in the office for which it is issued. The principal shall notify the director by mail, within thirty days, of any changes to branch office addresses to include additions or deletions of branches.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-110 Private ~~((detective))~~ investigator applications—Conditions. Any person desiring to be a private ~~((detective))~~ investigator shall make application for a license on a form prescribed by the director and pay a nonrefundable fee as prescribed by WAC 308-17-150. ~~((Applicants who are employed by private detective agencies whose agency license was issued prior to January 1, 1992, shall make application during the time period as follows:~~

~~((1) Applicants whose last name begins with A through F shall apply during the month of February 1992.~~

~~((2) Applicants whose last name begins with G through L shall apply during the month of March 1992.~~

~~((3) Applicants whose last name begins with M through R shall apply during the month of April 1992.~~

~~((4) Applicants whose last name begins with S through Z shall apply during the month of May 1992.~~

PROPOSED

PROPOSED

~~Applicants need not fulfill the preassignment training requirements specified in WAC 308-17-300 if he or she, prior to June 30, 1992, provides proof to the director that he or she previously has met the training requirements and passed the preassignment training test or has been employed as a private detective or armed private detective continuously since January 1, 1991. The agency principal or a certified trainer shall attest on the application that the applicant has passed the preassignment training test or has been continuously employed since January 1, 1991.)~~

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-120 Armed private ((~~detective~~)) investigator applications—Conditions. Any person desiring to be an armed private detective shall obtain a firearms certificate from the criminal justice training commission, make application on a form prescribed by the director, and pay a nonrefundable fee as prescribed by WAC 308-17-150.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-130 Application for private ((~~detective~~)) investigator and armed private ((~~detective~~)) investigator license, licensed in another state—Conditions. Any person applying for a private ((~~detective~~)) investigator or armed private ((~~detective~~)) investigator license who holds a valid license, registration, identification, or similar card issued by another state that the director has determined has selection, training, and other requirements at least equal to those required by chapter 18.165 RCW shall make application on a form prescribed by the director, pay the fee as prescribed by WAC 308-17-150 for a private ((~~detective~~)) investigator or armed private ((~~detective~~)) investigator license, and submit evidence of licensure in another state by a license verification form completed by an administrative officer of the licensure authority of such state.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-140 Comments by chief law enforcement officers and employers. If comments required by RCW 18.165.070(3), are not received by the department within ten working days from the forwarding date, the permanent license for a private ((~~detective~~)) investigator shall be issued if he or she is otherwise qualified.

AMENDATORY SECTION (Amending WSR 93-16-060, filed 7/29/93, effective 9/1/93)

WAC 308-17-150 Private ((~~detective~~)) investigative agency, private ((~~detective~~)) investigator, and armed private ((~~detective~~)) investigator fees. The following fees for a one-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
Private ((detective)) <u>investigative</u> agency:	
Application/examination	\$350.00
Reexamination	25.00
License renewal	275.00
Late renewal with penalty	350.00
Certification	25.00
Private ((detective)) <u>investigator</u>:	
Original license	75.00
<u>Transfer fee</u>	<u>25.00</u>
Certified trainer examination/ reexamination	25.00
<u>Certified trainer renewal</u>	<u>15.00</u>
License renewal	75.00
Late renewal with penalty	100.00
Certification	25.00
Armed private ((detective)) <u>investigator</u>:	
Original license	50.00
<u>Transfer fee</u>	<u>25.00</u>
Certified trainer examination/ reexamination	25.00
<u>Certified trainer renewal</u>	<u>15.00</u>
License renewal	75.00
Late renewal with penalty	100.00
Certification	25.00

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-160 Expiration and renewal of licenses. Licenses issued to private ((~~detectives~~)) investigators and armed private ((~~detectives~~)) investigators expire one year from the date of issuance which date will be the renewal date. Licenses issued to private detective agencies expire one year from the date of issuance which date will be the renewal date, except that if the corporation registration or certificate of authority filed with the secretary of state expires, the agency license issued to the corporation shall expire on that date. Licenses must be renewed each year on or before the date established herein and a renewal license fee as prescribed by the director in WAC 308-17-150 must be paid.

If the application for a renewal license is not received by the director on or before the renewal date, a penalty fee as prescribed by the director in WAC 308-17-150 shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of any person whose license renewal fee is not received within one year from the date of expiration shall be cancelled. This person may obtain a new license by satisfying the procedures and qualifications for initial licensing, including the successful completion of any applicable training and examination requirements.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-165 Private ((~~detective~~)) investigator and armed private ((~~detective~~)) investigator—Termination of services. A person licensed as a private ((~~detective~~)) investigator or armed private ((~~detective~~)) investigator may perform duties and activities as licensed only under the direction and supervision of a licensed agency principal and as a representative of such principal. This relationship may be terminated unilaterally by either the company principal or private ((~~detective~~)) investigator or armed private ((~~detective~~)) investigator. Notice of such termination shall be by the agency principal to the director without delay and such notice shall be accompanied by, and include the surrender of, the private ((~~detective~~)) investigator or armed private ((~~detective~~)) investigator license held by the agency. Notice of termination shall be provided by signature of the agency principal, or a person authorized by the principal to sign for such principal, on the surrendered license. The termination date shall be the postmark date or date the license is hand delivered to the department. If the license held by the agency cannot be surrendered to the department because the license has been lost, the agency principal or authorized representative shall complete and submit an affidavit of lost license on a form provided by the department.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-170 Inactive license. (1) Any license issued under chapter 18.165 RCW and not otherwise revoked or suspended shall be deemed "inactive" at any time it is delivered to the director. Until reissued, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with the rules adopted pursuant to chapter 18.165 RCW.

(3) An inactive license may not be renewed. The inactive license will be cancelled if not activated ((~~by~~)) and renewed within one year of the expiration date. To obtain a new license the person must satisfy the procedures and qualifications for initial licensing, including the successful completion of any applicable training and examination requirements.

(4) The provisions of chapter 18.165 RCW relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

NEW SECTION

WAC 308-17-180 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482 for the categories of matters set forth below. Brief adjudicative proceedings will

be limited to a determination of one or more of the following issues:

(1) A determination whether an applicant for a license meets the minimum criteria for a license to practice as a private investigator in this state and the department proposes to deny the application;

(2) A determination whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) A determination whether an education course or curriculum meets the criteria for approval when approval by the department is required or authorized by statute or rule;

(4) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for renewal; and

(5) A determination whether a license holder has been certified by a lending agency and reported for nonpayment or default on a federally or state-guaranteed student loan or service-conditional scholarship.

NEW SECTION

WAC 308-17-185 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for an original or renewal license or for approval of an education course or curriculum shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the program in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the program regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the program regarding compliance with the final order or agreement; and

(d) All documents relied upon by the program showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed student loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or

(b) A written release, if any issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

NEW SECTION

WAC 308-17-190 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceeding shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-205 Filing of licenses. Licenses of all private ((~~detectives~~)) investigators and armed private ((~~detectives~~)) investigators shall be on file in the office located at the address appearing on the individual license.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-210 Change of office location. The principal of a private ((~~detective~~)) investigative agency shall notify the department of the change of location and mailing address of the agency office within ten working days by filing a completed change of address application with the department.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-230 Complaint notification. Every licensee shall, within twenty days after service or knowledge thereof, notify the private ((~~detective~~)) investigator program manager of any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-240 Required records. The minimum records the principal of a private ((~~detective~~)) investigative agency shall be required to keep are preassignment training and testing records for each private ((~~detective~~)) investigator. These records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-300 Minimum preassignment training and testing requirements. (1) The preassignment training required by RCW 18.165.090, shall include as a minimum four hours of training covering the following areas:

- (a) Legal powers and limitations.
 - (i) Representation and misrepresentation.
 - (A) How to properly identify yourself.
 - (B) Misrepresentation defined.
 - (C) Problems/liability arising out of misrepresentation.
 - (ii) Powers of arrest.
 - (A) Laws pertaining to arrest by private citizen.
 - (B) Probable cause.
 - (C) Potential liability resulting from false arrest claim.
- (b) Evidence.
 - (i) Definition.
 - (A) Written.
 - (B) Recorded.
 - (C) Material.
 - (ii) Marking.
 - (iii) Storage.
 - (iv) Chain of custody documentation.
- (c) Report writing.
 - (i) Elements of a report.
 - (ii) Fact versus opinion or assumption.
 - (iii) Penmanship.
- (d) Courtroom testimony.
 - (i) Expert witnesses.
 - (ii) Manufacturing evidence.
 - (iii) Perjury.
 - (iv) Discovery.
- (e) Confidentiality/privilege.
- (f) Federal, state, county, and municipal court systems.
- (g) Common sources of public information.
- (i) Court docket information.
 - (ii) U.S. Postal Service.
 - (iii) Voter registration.
 - (iv) Credit reporting agencies.
 - (v) Department of licensing.
 - (vi) Private sources.
- (h) Frequent activities in violation of criminal statutes.
 - (i) Privacy laws: Electronic surveillance.
 - (i) Chapter 9.73 RCW privacy violations.
 - (ii) U.S. Code violations.
 - (iii) Appellate court decisions.
 - (A) Explanation of privacy.
 - (B) Video/photography.
 - (C) Tracking transmissions.
 - (j) Fair Credit Reporting Act.
 - (i) Permissible purposes of reports.
 - (ii) Obtaining information under false pretenses.

(2) The minimum time each private detective candidate must spend in preassignment training is four hours. The time spent on each required topic may vary providing the time for all required topics totals four hours and the four hours is devoted solely to the topics designated.

(3) All private ((~~detective~~)) investigator applicants, after receiving preassignment training and prior to receiving their license, must successfully complete a test designed to demonstrate their understanding and retention of the infor-

mation learned in the training course. This test shall consist of a minimum of thirty multiple questions based on the training topics outlined above. Test results must be verified and signed by a certified trainer. All applicants must answer all questions correctly on the private ((~~detective~~)) investigator preassignment training test. Questions incorrectly answered initially must be reviewed to insure the applicant's understanding and then initialed by both the applicant and the certified trainer verifying knowledge of the correct answer(s).

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-310 Private ((~~detective~~)) investigative agency principal examination requirements. (1) All principals of an agency who do not meet the experience requirements required by RCW 18.165.050, must pass an examination demonstrating their knowledge and proficiency in the following areas:

- (a) All topics contained in the private detective preassignment training course.
- (b) Washington state law as it applies to private detective licensing and regulation.
- (c) Legal liability for employee actions pertaining to the private detective industry.
- (d) The Federal Freedom of Information Act (5 U.S.C. 552).
- (e) The Federal Privacy Act (5 U.S.C. 522A).
- (f) The Washington state Public Disclosure Act (chapter 42.17 RCW).

(g) Communication skills.
(2) The examination shall consist of a minimum of fifty questions based on information in the above required areas. A score of eighty-five percent must be achieved in order to pass the examination. Applicants who fail to achieve an eighty-five percent score will be required to wait a minimum of seven days before reexamination.

AMENDATORY SECTION (Amending WSR 91-22-111, filed 11/6/91, effective 12/7/91)

WAC 308-17-320 Certification of preassignment training trainers. An individual must successfully score at least ((~~eighty-five~~)) ninety percent on the agency principal examination and have three years investigative experience to become a certified trainer. Individuals who fail to obtain ((~~an eighty-five~~)) a ninety percent score will be required to wait a minimum of seven days before reexamination. There is no limit on the number of certified trainers an individual private detective agency may have certified.

WSR 97-13-081
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed June 18, 1997, 10:15 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-13-015, 96-12-091, and 96-20-006.

Title of Rule: Chapter 308-18 WAC, Private security guard companies and private security guards.

Purpose: Establishes fee amounts for transfer of a license and renewal of a certified trainer's license. Adopts brief adjudicative hearings, deletes outdated information, and updates physical office address for the licensing program.

Statutory Authority for Adoption: Chapter 18.170 RCW, RCW 43.24.086, 34.05.482.

Statute Being Implemented: Chapter 18.170 RCW.

Summary: The additional changes bring the WACs up-to-date with the changes made to the laws in 1995 and as ordered by federal law (brief adjudicative hearings).

Reasons Supporting Proposal: The transfer fee and certified trainer renewal fee will recover the cost of processing and issuing new licenses for transfer applicants and certified trainers.

Name of Agency Personnel Responsible for Drafting: Pat Brown, 405 Black Lake Boulevard S.W., Olympia, WA, (360) 664-2356; **Implementation:** Toni Ortiz, 405 Black Lake Boulevard S.W., Olympia, WA, (360) 664-9072; and **Enforcement:** Tim Baker, 405 Black Lake Boulevard S.W., Olympia, WA, (360) 664-9073.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule changes allow the agency to clean up housekeeping issues like address changes and deletion of information that was time sensitive and no longer applies. Updates the WAC to reflect changes passed such as the nonrefundable fee for license applications. Adopts brief adjudicative proceedings to use in resolving disputes.

The certified trainer renewal fee will be used to process the renewal and issue a new license for certified trainers.

The transfer fee will be used to process a transfer application and issue a new license.

Proposal Changes the Following Existing Rules: Changes the rule to reflect RCW regarding nonrefundable application fees, deletes outdated information, and updates the department's office location.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Costs of compliance with the rules for the transfer fee and the certified trainer's renewal fee are below the threshold in the table of minor and negligible impact as defined by the Business Assistance Center's Guide to Facilitating Regulatory Fairness.

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

Hearing Location: Labor and Industries Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on August 1, 1997, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Toni Ortiz by July 28, 1997, TDD (360) 526-2788, or (360) 664-9072.

Submit Written Comments to: Department of Licensing, P.O. Box 9045, Olympia, WA 98507-9045, FAX (360) 753-3747, by August 1, 1997.

Date of Intended Adoption: August 7, 1997.

June 18, 1997

Toni Ortiz
Program Coordinator

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-020 Organization. The principal location of the private security guard licensing program is at ~~((2424 Bristol Court))~~ 405 Black Lake Boulevard S.W., Olympia, Washington 98504. The department of licensing administers the Washington private security guard license law, chapter 18.170 RCW. Submissions and requests for information regarding private security guard company licenses, private security guard licenses, and armed private security guard licenses may be sent in writing to the Private Security Guard Program, Department of Licensing, P.O. Box 9045, Olympia, Washington 98507-9045.

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-030 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has under chapter 18.170 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(2) "Principal owner" means the sole owner of a private security guard company.

(3) "Principal partner" means the partner who exercises operational control over a private security guard company.

(4) "Certified trainer" means a principal or a licensed private security guard or armed private security guard who has fulfilled the requirements of WAC 308-18-320.

(5) "Other item of equipment" in RCW 18.170.170(7), shall include the license card issued by the director to a private security guard or armed private security guard.

(6) "Qualifying agent" means the employee whom is qualified to operate and represent a corporation, or in the case of a partnership by that partnership to obtain a license to operate a private security guard company, must meet the qualifications of RCW 18.170.060.

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-100 Company applications—Conditions. Any person desiring to be licensed as a private security guard company must substantiate the experience requirements in RCW 18.170.060, or pass an examination as provided in this chapter. Persons meeting the experience requirements shall make application for a license on a form prescribed by the director. Persons who do not meet the experience requirements shall make application for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

(1) Pay a nonrefundable fee or fees as prescribed by WAC 308-18-150.

(2) If the applicant is the qualifying agent of a corporation, he or she shall furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is the qualifying agent of a foreign corporation, he or she shall furnish a certified copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the

secretary of state. If the applicant is a partnership or limited partnership, each partner shall apply and furnish their addresses.

(3) When a license is issued to a principal owner he or she shall act as the principal of the company without the payment of additional license fees. When a license is issued to a corporation the qualifying agent shall act as the principal of the company without the payment of additional fees. When a license is issued to a partnership the principal partner shall act as the principal of the company without the payment of additional fees.

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-110 Private security guard applications—Conditions. Any person desiring to be a private security guard shall make application for a license on a form prescribed by the director and pay a nonrefundable fee as prescribed by WAC 308-18-150. ~~((Applicants who are employed by private security guard companies whose company license was issued prior to January 1, 1992, shall make application during the time period as follows:~~

~~(1) Applicants whose last name begins with A through F shall apply during the month of February 1992.~~

~~(2) Applicants whose last name begins with G through L shall apply during the month of March 1992.~~

~~(3) Applicants whose last name begins with M through R shall apply during the month of April 1992.~~

~~(4) Applicants whose last name begins with S through Z shall apply during the month of May 1992.~~

~~Applicants need not fulfill the preassignment training requirements specified in WAC 308-18-300 if he or she, prior to June 30, 1992, provides proof to the director that he or she previously has met the training requirements and passed the preassignment training test or has been employed as a private security guard or armed private security guard continuously since January 1, 1991. The company principal or a certified trainer shall attest on the application that the applicant has passed the preassignment training test or has been continuously employed since January 1, 1991.)~~

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-120 Armed private security guard applications—Conditions. Any person desiring to be an armed private security guard shall obtain a firearms certificate from the criminal justice training commission, make application on a form prescribed by the director, and pay a nonrefundable fee as prescribed by WAC 308-18-150.

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-140 Private security guard temporary registration card—Conditions. Only those temporary registration cards provided by the department and preprinted with an assigned number and the company's name and address may be used. A private security guard temporary registration card issued by a private security guard company, as authorized by RCW 18.170.090, shall show, as a minimum, the following information:

- ~~(1)~~ ((A) ~~preprinted number issued by the company.~~
- ~~(2)~~ ~~Company name.~~
- ~~(3)~~ Private security guard name.
- ~~((4))~~ (2) Date of issue.
- ~~((5))~~ (3) Date of expiration.
- ~~((6))~~ (4) Name and signature of the certified trainer.

AMENDATORY SECTION (Amending WSR 93-11-025, filed 5/7/93, effective 7/1/93)

WAC 308-18-150 Private security guard company, private security guard, and armed private security guard fees. The following fees for a one-year period shall be charged by professional licensing services of the department of licensing:

Title of Fee	Fee
Private security guard company:	
Application/examination	\$250.00
Reexamination	25.00
License renewal	250.00
Late renewal with penalty	350.00
Certification	25.00
Private security guard:	
Original license	35.00
<u>Transfer fee</u>	<u>20.00</u>
Certified trainer examination/ reexamination	25.00
<u>Certified trainer renewal</u>	<u>15.00</u>
License renewal	25.00
Late renewal with penalty	30.00
Certification	25.00
Armed private security guard:	
Original license	15.00
<u>Transfer fee</u>	<u>20.00</u>
Certified trainer examination/ reexamination	25.00
<u>Certified trainer renewal</u>	<u>15.00</u>
License renewal	25.00
Late renewal with penalty	30.00
Certification	25.00

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-170 Inactive license. (1) Any license issued under chapter 18.170 RCW and not otherwise revoked or suspended shall be deemed "inactive" at any time it is delivered to the director. Until reissued, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with the rules adopted pursuant to chapter 18.170 RCW.

(3) An inactive license may not be renewed. The inactive license will be cancelled if not activated ~~((by))~~ and renewed within one year of the expiration date. To obtain a new license the person must satisfy the procedures and qualifications for initial licensing, including the successful

completion of any applicable training and examination requirements.

(4) The provisions of chapter 18.170 RCW relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

NEW SECTION

WAC 308-18-180 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request for the categories of matters set forth below or at the discretion of the director pursuant to RCW 34.05.482. If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter is limited solely to one or more of the following issues:

(1) A determination whether an applicant for a license meets the minimum criteria for a license to practice as a security guard in this state and the department proposes to deny the application;

(2) A determination whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) A determination whether an education course or curriculum meets the criteria for approval when approval by the department is required or authorized by statute or rule;

(4) A determination whether a license holder requesting renewal has submitted all required information and meets minimum criteria for renewal; and

(5) A determination whether a license holder has been certified by a lending agency and reported for nonpayment or default on a federally or state-guaranteed student loan or service-conditional scholarship.

NEW SECTION

WAC 308-18-185 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to an application for an original or renewal license or for approval of an education course or curriculum shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the program in proposing to deny the application, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the program regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the program regarding compliance with the final order or agreement; and

PROPOSED

(d) All documents relied upon by the program showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a federally or state-guaranteed student loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed student loan or service-conditional scholarship; or

(b) A written release, if any issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

NEW SECTION

WAC 308-18-190 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-240 Required records. The minimum records the principal of a private security guard company shall be required to keep are:

(1) Preassignment training and testing records for each private security guard.

(2) ~~((Pre-numbered))~~ Private security guard temporary registration card ledger showing the department-supplied registration number, applicant's name, date of issue, date of expiration and date card was forwarded to the director.

These records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years.

AMENDATORY SECTION (Amending WSR 91-22-112, filed 11/6/91, effective 12/7/91)

WAC 308-18-300 Minimum preassignment training and testing requirements. (1) The preassignment training required by RCW 18.170.100, shall include as a minimum:

(a) Basic security.

(i) Role of the security officer.

(ii) Typical assignments and tasks.

(iii) Observation.

(iv) Patrol.

(v) Proper actions.

(b) Legal powers and limitations.

(i) Citizens arrest.

(ii) Authority to detain, question, or search a private citizen.

(iii) Authority to search or seize private property.

(iv) Use of force.

(v) Relationship with law enforcement.

(vi) Avoiding liability.

(c) Emergency response.

(i) How to contact police, fire, and medical response services.

(ii) How to define what is or is not an emergency situation.

(iii) Response to fires.

(iv) Response to medical emergencies.

(v) Response to criminal acts.

(vi) Assisting emergency services personnel.

(vii) Bomb threats.

(d) Safety and accident prevention.

(i) Observation and reporting of unsafe conditions.

(ii) Accident hazards.

(iii) Fire hazards.

(iv) Hazardous materials.

(v) Safety rules and regulations.

(vi) Accident reporting.

(e) Report writing.

(i) Why write a report.

(ii) Elements of a report.

(iii) Proper times, names, and location descriptions.

(iv) Giving physical descriptions.

(v) Fact versus opinion or assumption.

(vi) Penmanship.

(vii) Changes to a report.

(viii) Reports as legal documents.

(f) Public relations.

(i) Public relations skills.

(ii) Principles of good communication.

(iii) Proper telephone procedure.

(iv) Listening.

(v) Avoiding confrontation.

(vi) Dealing with the media.

(2) The minimum time each private security guard candidate must spend in preassignment training is at least four hours. The time spent on each required topic may vary providing the time for all required topics totals four hours and the four hours is devoted solely to the topics designated.

(3) All private security guard applicants, after receiving preassignment training and prior to receiving their license, must successfully complete a test designed to demonstrate their understanding and retention of the information learned

in the training course. This test shall consist of a minimum of thirty multiple choice questions based on the training topics outlined above. Test results must be verified and signed by a certified trainer. All applicants must answer all questions correctly on the private security guard preassignment training test. Questions incorrectly answered initially must be reviewed to insure the applicant's understanding and then initialed by both the applicant and the certified trainer verifying knowledge of the correct answer(s).

WSR 97-13-087
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (Public Assistance)
 [Filed June 18, 1997, 10:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-109.

Title of Rule: Amendments to WAC 388-11-400 through 388-11-430.

Purpose: To provide party status to custodial parents in all Division of Child Support support establishment proceedings.

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

Statute Being Implemented: RCW 74.20A.055.

Summary: Division of Child Support wishes to grant party status to all custodial parents in Division of Child Support support establishment proceedings, regardless of whether the family receives public assistance.

Reasons Supporting Proposal: Positive client outcome.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, 712 Pear Street S.E., Olympia, WA 98507, (360) 586-3077.

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: Under current rules, the custodial parent has party status in support establishment proceedings only if the family does not receive public assistance. These amendments will provide party status for the physical custodian regardless of receipt of public assistance. All physical custodians will thus have party status for purposes of establishing child support.

Proposal Changes the Following Existing Rules: Modifies current WAC 388-11-400 through 388-11-430, which currently apply only to nonassistance cases.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Does not apply to this rule adoption under RCW 34.05.328.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 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 13, 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 July 22, 1997.

Date of Intended Adoption: No sooner than July 23, 1997.

June 18, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

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

WAC 388-11-400 Physical custodians (~~receiving nonassistance services~~)—Rights to participate in hearings. (1) This section and WAC 388-11-410 through 388-11-425 of this chapter govern the rights of physical custodians receiving (~~nonassistance~~) support enforcement services to participate in hearings based on support establishment notices. (~~WAC 388-11-405 governs the participation rights of physical custodians receiving AFDC at the time the agency acts to establish a support order under RCW 74.20A.055 and 74.20A.056.~~)

(2) In a hearing based on a support establishment notice, the physical custodian shall have all the rights of a party to an adjudicative proceeding authorized by the Administrative Procedure Act, chapter 34.05 RCW. The exercise of those rights is governed by WAC 388-11-400 through 388-11-430, and chapters 10-08 and 388-08 WAC.

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

WAC 388-11-410 Notice of proposed child support amount. (1) This section describes and governs agency action in cases under WAC 388-11-400(2).

(2) Before serving a support establishment notice on a responsible parent, the IV-D agency shall serve a notice containing a summary of the proposed terms of the notice on the physical custodian by regular mail to the physical custodian's last known address.

(3) The physical custodian shall respond to the notice within twenty days by notifying the IV-D agency in writing that the custodian:

(a) Accepts the proposed child support amount and authorizes the IV-D agency to sign an agreed settlement or consent order if the order amount is greater than or equal to the proposed child support amount; or

(b) Objects to the proposed child support amount.

(4) A physical custodian who objects to the proposed child support amount must include a specific dollar amount the physical custodian believes to be the correct monthly child support obligation with the objection.

(5)(a) The IV-D agency cannot proceed to serve the responsible parent and may initiate case closure action under WAC 388-14-420 (1)(g) unless the physical custodian responds to the notice as required under subsection (3) of this section.

(b) If a physical custodian receiving public assistance fails to respond to the notice, the IV-D agency shall proceed as if the physical custodian had accepted the proposed child support amount. The physical custodian's failure to respond shall not be the basis of a claim of noncooperation.

(6) The IV-D agency may attempt to reconcile the proposed child support amount with the physical custodian's claim through negotiation or requests for production of documentary evidence. If the IV-D agency and the physical custodian reach agreement on a new proposed child support amount, upon written or telephonic acceptance by the physical custodian, the IV-D agency shall proceed under WAC 388-11-415.

(7) The notice of proposed child support amount shall inform the physical custodian of the custodian's rights and responsibilities under this section.

(8) The notice of proposed child support amount shall inform the physical custodian that at a hearing, the presiding officer will enter a support order based on the Washington state child support schedule, in an amount which may be different from the proposed child support order amount.

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

WAC 388-11-415 Support establishment notice—Physical custodian accepts proposed child support amount. (1) When the physical custodian accepts the proposed child support amount, the IV-D agency shall proceed to serve the responsible parent with the appropriate support establishment notice.

(2) If the responsible parent objects to the support establishment notice, the physical custodian may participate in the hearing to the extent allowed under WAC 388-11-400(2) and 388-11-425, including the right to appeal an adverse decision.

(3) The presiding officer shall conduct a hearing requested under this section according to the terms of:

(a) WAC 388-11-425;

(b) The statute and rules authorizing the support establishment notice;

(c) Chapter 10-08 WAC; and

(d) Chapter 388-08 WAC.

(4) The IV-D agency may accept a settlement, without the physical custodian's approval, for an amount equal to or greater than the proposed notice amount accepted by the physical custodian under WAC 388-11-410 (3)(a) or (6).

(5) The IV-D agency shall mail a copy of a settlement entered under subsection (4) of this section to the physical custodian within five working days of the date the settlement is entered.

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

WAC 388-11-420 Support establishment notice—Physical custodian objects to the proposed child support amount. (1) When the physical custodian objects to the proposed child support amount, the IV-D agency shall proceed to serve a support establishment notice according to the terms of this section.

(2) In addition to the requirements of the section of this chapter authorizing the notice, the IV-D agency shall include

the following in a support establishment notice served under this section:

(a) The physical custodian's claimed support amount;

(b) The agency's claimed support amount; and

(c) Notice that:

(i) The agency and the physical custodian disagree on the proper support amount;

(ii) A hearing will be scheduled to resolve the dispute;

(iii) The responsible parent is a party to that hearing;

(iv) If the responsible parent fails to appear for the hearing, the parent will be held in default and the child support amount may be resolved by agreement of the remaining parties at any amount equal to or lower than the highest amount claimed by the agency or the custodian; ~~((and))~~

(v) If the responsible parent fails to appear for the hearing, the parent will be held in default and the presiding officer may hold a hearing and enter an order based on the Washington state child support schedule, which order may be higher or lower than the amounts stated in the notice; and

(vi) The responsible parent may argue and present evidence at the hearing to show that the support obligation should be ~~((lower than))~~ different from that claimed by the agency or the ~~((custodial parent))~~ physical custodian.

(3) When the IV-D agency serves the responsible parent with a notice under this section, the ~~((department))~~ office of administrative hearings shall send a notice of ~~((their))~~ the hearing to the physical custodian and the responsible parent at ~~((the))~~ their last known mailing address.

(4) The presiding officer shall conduct a hearing requested under this section according to the terms of:

(a) WAC 388-11-425;

(b) The statute and rules authorizing the support establishment notice;

(c) Chapter 10-08 WAC; and

(d) Chapter 388-08 WAC.

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

WAC 388-11-425 Hearings on support establishment notices~~((—Physical custodian not receiving AFDC))~~. (1) In a hearing under this section, the IV-D agency shall proceed first to document the support amount the IV-D agency believes to be correct. Following the IV-D agency's presentation, the physical custodian and the responsible parent may proceed in turn to show why the agency position is wrong.

(2) If any party appears for the hearing and elects to proceed, absent the granting of a continuance the presiding officer shall hear the matter and enter an initial decision and order based on the evidence presented. The presiding officer shall include a party's failure to appear in the initial decision and order as an order of default against that party. The direct appeal rights of the party who failed to appear shall be limited to an appeal on the record made at the hearing.

(3) If neither party appears and elects to proceed, the presiding officer shall enter an initial decision and order on default, declaring the IV-D agency's claim for support to be final subject to collection action.

(4) If the physical custodian appears and the responsible parent fails to appear, the IV-D agency or the custodian may

seek an order of default against the responsible parent. On obtaining the default order, the IV-D agency and the custodian may execute an agreed settlement or consent order setting the support obligation, so long as the settlement is ~~((neither (a)))~~ no more than the greatest amount stated in the notice ~~((nor (b) Less than the lowest amount stated in the notice))~~.

(5) The IV-D agency shall not take action to collect support under an order based on subsection (4) of this section until:

(a) The default order becomes a final order, and

(b) The order has been sent by regular mail to the responsible parent with a copy of the default order.

(6) A party against whom the presiding officer has entered an order of default may petition to vacate the order under WAC 388-11-120. However, a physical custodian who has accepted the proposed notice amount under WAC 388-11-410 (3)(a) may vacate an order based on that amount only on a showing of fraud or misconduct in obtaining the custodian's acceptance of the proposed child support amount.

(7) When a party has advised the presiding officer that they will participate by telephone, the presiding officer shall attempt to contact that party on the record before beginning the proceeding or ruling on a motion. The presiding officer shall not disclose a telephone number or the location of the party appearing by phone.

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

WAC 388-11-430 Settlement and consent order. (1) Except as provided in this section, a consent order or agreed settlement entered under WAC 388-11-415 through 388-11-425 is not valid until it is signed by all parties to the action. However, the physical custodian's telephonic approval may be substituted for his or her signature.

(2) A presiding officer may issue a consent order without the signatures of the parties after reviewing the terms of the order with the parties and making a finding that the parties understand and accept the terms of the order.

(3) A consent order or agreed settlement entered according to WAC 388-11-410 (3)(a) becomes valid without the signature of the ~~((custodial parent))~~ physical custodian.

(4) A presiding officer may enter an order of default against a party who fails to appear at hearing, and that order of default shall substitute for the defaulting party's signature if the remaining parties enter into a consent order or agreed settlement.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-11-405 Physical custodians receiving AFDC—Rights to participate in hearings.

WSR 97-13-088
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Public Assistance)

[Filed June 18, 1997, 10:43 a.m.]

Original Notice.

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

Title of Rule: WAC 388-49-190 Household concept.

Purpose: Include as ineligible household members persons who have a felony conviction involving possession, use, or distribution of a controlled substance occurring after August 21, 1996, unless the person is convicted of drug use or possession and (a) was determined chemically dependent by a state-certified assessment agency; (b) is participating in or completed a rehabilitation plan consisting of chemical dependency treatment and vocation services; and (c) was not previously convicted of a felony for possession or use of a controlled substance within three years of the latest conviction.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Section 115 and RCW 74.08.025.

Summary: Public Law 104-193 does not allow persons convicted of a felony involving possession, use, or distribution after August 21, 1996, to be eligible for food stamp benefits. RCW 74.08.025, as amended this year, adds an exception to the federal law.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, Division of Assistance Programs, Lacey, Washington, (360) 413-3083.

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

Rule is necessary because of federal law, Public Law 104-193, Section 115.

Explanation of Rule, its Purpose, and Anticipated Effects: Includes as ineligible household members persons who have a felony conviction involving possession, use, or distribution of a controlled substance occurring after August 21, 1996. However, an exception is being added that will allow certain persons to be eligible for benefits even though they have a felony conviction as described above.

Persons convicted of this type of felony that do not meet the exception criteria will not be eligible for benefits. This means that ineligible persons' income and resources are considered available to the food stamp household.

Proposal Changes the Following Existing Rules: WAC 388-49-190 (4)(g), adds an exception that will allow some persons convicted of a felony with an element of use, possession, and distribution of a controlled substance after August 21, 1996, to be eligible for benefits.

Previously, there were no exceptions to this rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change impacts the food stamp program and does not affect small businesses.

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

PROPOSED

financial eligibility, which is exempt from the requirements in RCW 34.05.328 (as amended in 1997).

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 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 11, 1997, TTY (360) 902-8324, (360) 902-7540, e-mail lbaldwin@dshs.wa.gov.

Submit Written Comments to and Identify WAC Numbers: 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: No sooner than July 23, 1997.

June 18, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending 97-09-031, filed 4/10/97, effective 7/1/97)

WAC 388-49-190 Household concept. (1) The department shall consider the following as households:

- (a) A person living alone;
- (b) Persons living together and purchasing or preparing meals together; or
- (c) A permanently disabled and elderly person unable to prepare meals provided the:
 - (i) Person's spouse shall be included in the household; and
 - (ii) Income of other individuals, except the person's spouse, living with the person does not exceed one hundred sixty-five percent of the poverty level.

(2) The department shall consider the following as households regardless of the purchase and prepare arrangements:

(a) Parents and their natural, adoptive, or stepchildren twenty-one years of age or younger.

(b) Person seventeen years of age or younger under parental control of an adult other than their parent, and the adult who is maintaining the control; or

(c) Spouses who live together.

(3) The department shall consider the following persons living with the household as nonhousehold members who, if otherwise eligible, may qualify as a separate household:

(a) Roomers;

(b) Live-in attendants; or

(c) Persons sharing living quarters with the household who purchase food and prepare meals separately from the household.

(4) The department shall consider the following persons living with the household as ineligible household members:

(a) Persons disqualified for intentional program violation;

(b) Persons disqualified because of noncompliance with work requirements as described under WAC 388-49-360;

(c) Persons who are ineligible aliens;

(d) Persons disqualified for failure to apply for or provide a Social Security number;

(e) Persons who fail to sign the application attesting to their citizenship or alien status;

(f) Fleeing felons; or

(g) Persons convicted of a felony (~~with an element of~~) involving possession, use, or distribution of a controlled substance occurring after August ((22)) 21, 1996 unless the person is convicted of use or possession of a controlled substance and:

(i) Was determined chemically dependent by a state-certified assessment agency;

(ii) Is participating in or completed a rehabilitation plan consisting of chemical dependency treatment and vocational services; and

(iii) Was not previously convicted of a felony for possession or use of a controlled substance within three years of the latest conviction.

WSR 97-13-089

PROPOSED RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Public Assistance)

[Filed June 18, 1997, 10:44 a.m.]

Original Notice.

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

Title of Rule: WAC 388-49-020 Definitions.

Purpose: Include as ineligible household members persons who have a felony conviction involving possession, use, or distribution of a controlled substance occurring after August 21, 1996, unless the person is convicted of use or possession of a controlled substance and (a) was determined chemically dependent by a state-certified assessment agency; (b) is participating in or completed a rehabilitation plan consisting of chemical dependency treatment and vocation services; and (c) was not previously convicted of a felony for possession or use of a controlled substance within three years of the latest conviction. Adds a definition for "able-bodied adults without dependents" means adults eighteen to fifty years of age who do not have any dependents and are mentally and physically able to work. Corrects the definition of "fair hearing."

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Sections 115 and 824; RCW 74.08.025.

Summary: Public Law 104-193 does not allow persons convicted of a felony involving possession, use, or distribution after August 21, 1996, to be eligible for food stamp benefits. RCW 74.08.025, as amended this year, adds an exception to the federal law.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Wendy Forslin, Division of Assistance Programs, Lacey, Washington, (360) 413-3083.

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

Rule is necessary because of federal law, Public Law 104-193, Sections 115 and 824.

Explanation of Rule, its Purpose, and Anticipated Effects: Includes as ineligible household members persons who have a felony conviction involving possession, use, or distribution of a controlled substance occurring after August

21, 1996. However, an exception is being added that will allow certain persons to be eligible for benefits even though they have a felony conviction as described above.

Persons convicted of this type of felony that do not meet the exception criteria will not be eligible for benefits. This means that ineligible persons income and resources are considered available to the food stamp household.

Describes who is considered an "able-bodied adult without dependents."

Proposal Changes the Following Existing Rules: WAC 388-49-020, "ineligible household member" - adds an exception that will allow some persons convicted of a felony involving use, possession, and distribution of a controlled substance after August 21, 1996, to be eligible for benefits. Previously, there were no exceptions to this rule.

Adds a definition of "able-bodied adults without dependents." There was no such group prior to Public Law 104-193 (1996).

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change impacts the food stamp program and does not affect small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This amendment relates to client financial eligibility, which is exempt from the requirements in RCW 34.05.328 (as amended in 1997).

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 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 11, 1997, TTY (360) 902-8324, (360) 902-7540, e-mail lbaldwin@dshs.wa.gov.

Submit Written Comments to and Identify WAC Numbers: 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: No sooner than July 23, 1997.

June 18, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-06-096, filed 3/4/97, effective 4/4/97)

WAC 388-49-020 Definitions. **"Able-bodied adults without dependents"** means adults eighteen to fifty years of age who do not have any dependents and are mentally and physically able to work.

"Administrative disqualification hearing" means a formal hearing to determine whether or not a person committed an intentional program violation.

"Administrative error overissuance" means any overissuance caused solely by:

(1) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(2) Department failure to timely implement an intentional program violation disqualification; or

(3) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for

public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

"Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

"Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

"Allotment" means the total value of coupons a household is certified to receive during a calendar month.

"Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

"Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated, in writing, by the head of the household, spouse, or other responsible household member to act on behalf of the household.

"Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

"Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

"Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), or (c) who is a person:

(1) Paying reasonable compensation to the household for lodging and meals; or

(2) In foster care.

"Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

"Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

"Child" means someone seventeen years of age or younger, and under parental control.

"Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

"Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

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

"Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment; or attend training or education preparatory to employment.

"Destitute household" means a household with a migrant or seasonal farmworker with little or no income at the time of application and in need of immediate food assistance.

"Disabled person" means a person who meets one of the following criteria:

(1) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(2) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(3) Is a veteran:

(a) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(b) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(4) Is a surviving:

(a) Spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or

(b) Child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(5) A surviving spouse or child of a veteran and:

(a) Entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC; and

(b) Has a disability considered permanent under section 221(i) of the Social Security Act.

(6) Receives disability retirement benefits from a federal, state, or local government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(7) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(a) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(b) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(8) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

"Documentary evidence" means written confirmation of a household's circumstances.

"Documentation" means the process of recording the source, date, and content of verifying information.

"Elderly person" means a person sixty years of age or older.

"Eligible food" means:

(1) For a homeless food stamp household, meals prepared and served by an authorized homeless meal provider; or

(2) For a blind or a disabled resident, meals prepared and served by a group living arrangement facility.

"Entitlement" means the food stamp benefit a household received including a disqualified household member.

"Equity value" means fair market value less encumbrances.

"Expedited services" means providing food stamps within five calendar days to an eligible household which:

(1) Has liquid resources of one hundred dollars or less; and

(2) Has gross monthly income under one hundred fifty dollars; or

(3) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(a) Standard utility allowance as set forth in WAC 388-49-505; or

(b) Limited utility allowance; or

(c) Actual utility costs, whichever is higher; or

(4) Includes all members who are homeless individuals;

or

(5) Includes a destitute migrant or seasonal farmworker.

"Fair hearing" means an adjudicative proceeding in which the (~~department~~) presiding officer hears and decides an applicant/recipient's appeal from the department's action or decision.

"Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

"Fleeing felon" means a person who is:

(1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the person is fleeing; or

(2) Violating a condition of probation or parole imposed under a federal or state law as determined by an administrative body or court of competent jurisdiction.

"Food coupon" means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number.

"Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

"Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

"Gross income eligibility standard" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

"Group living arrangement" means a public or private nonprofit residential setting which:

(1) Serves not more than sixteen blind or disabled residents as defined under WAC 388-49-020(~~(19)~~), **"disabled person"**; and

(2) Is certified by the appropriate state agency under section 1616(e) of the Social Security Act.

"Head of household" means the person designated by the household to be named on the case file, identification card, and FCA card.

"Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

"Homeless individual" means a person lacking a fixed and regular nighttime residence or a person whose primary nighttime residence is a:

(1) Supervised shelter designed to provide temporary accommodations;

(2) Halfway house or similar institution providing temporary residence for persons needing or coming out of institutionalization;

(3) Temporary accommodation in the residence of another person for not more than ninety days; or

(4) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

"Homeless meal provider" means a public or private nonprofit establishment (for example, soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by the division of (~~income~~) assistance (~~(DIA)~~) programs (DAP) and authorized by food and consumer service (FCS).

"Household" means the basic client unit in the food stamp program.

"Household disaster" means when food coupons, food purchased with food coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

"Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

"Inadvertent household error overissuance" means any overissuance caused by either:

(1) Misunderstanding or unintended error by a household:

(a) Not determined categorically eligible under WAC 388-49-180(1); or

(b) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

~~((3))~~ (2) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

"Ineligible household member" means the member excluded from the food stamp household because of:

~~((a))~~ (1) Disqualification for intentional program violation;

~~((b))~~ (2) Failure to apply for or provide a Social Security number;

~~((c))~~ (3) Failure to comply with work requirements as described under WAC 388-49-360;

~~((d))~~ (4) Status as an ineligible alien;

~~((e))~~ (5) Failure to sign the application attesting to the member's citizenship or alien status; ~~((f))~~

~~((g))~~ (6) Status as a fleeing felon; or

(7) Felony conviction involving possession, use, or distribution of a controlled substance occurring after August 21, 1996 unless the person is convicted of use or possession of a controlled substance and:

(a) Was determined chemically dependent by a state-certified assessment agency;

(b) Is participating in or completed a rehabilitation plan consisting of chemical dependency treatment and vocational services; and

(c) Was not previously convicted of a felony for possession or use of a controlled substance within three years of the latest conviction.

"Initial month" means:

(1) The first month for which a household is issued an allotment; or

(2) The first month for which a household is issued an allotment following any period when the household was not certified due to expired eligibility or termination during a certification period; or

(3) For migrant and seasonal farmworker households, the first month for which the household is issued an allotment when applying more than one calendar month after a prior certification ends.

"Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

"Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or

vocational school that normally requires a high school diploma or equivalency for admittance to the course.

"Intentional program violation" means intentionally:

(1) Making a false or misleading statement;

(2) Misrepresenting, concealing, or withholding facts; or

(3) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

"Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

"Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

"Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(1) Income tax refunds,

(2) Rebates,

(3) Retroactive payments, and

(4) Insurance settlements.

"Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

"Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

"Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

"Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:

(1) Roomer;

(2) Live-in attendant;

(3) Ineligible student;

(4) Person who does not purchase and prepare meals with the food stamp household except for persons described under WAC 388-49-190(2); or

(5) Person eighteen through fifty years old without dependents who is no longer eligible for food stamps because of time limits.

"Nonstriker" means any person:

(1) Exempt from work registration the day before the strike for reasons other than their employment;

(2) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(3) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(4) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

"Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

"Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

"Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

"Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is

affected by information reported on the monthly report for the budget month.

"Period of intended use" means the period for which an FCA or food coupon is intended to be used.

"Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

"Principal wage earner" means the household member with the greatest source of earned income in the two months prior to the month of violation of employment and training and voluntary quit provisions, including members not required to register.

"Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

"Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

"Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

"Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

"Qualified alien" means an alien who, at the time the alien applies for or receives food stamps, is:

(1) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) An alien who is granted asylum under section 208 of such Act,

(3) A refugee who is admitted to the United States under section 207 of such Act,

(4) An alien who is paroled into the United States under section 212 (d)(5) of such Act for a period of at least one year,

(5) An alien whose deportation is being withheld under section 243(h) of such Act,

(6) An alien who is granted conditional entry pursuant to section 203 (a)(7) of such Act as in effect prior to April 1, 1980, or

(7) An alien who or an alien whose child:

(a) Has been battered or subjected to extreme cruelty in the United States by a spouse, parent, or the family of the spouse or parent living in the same household and the U.S. Attorney General determines that there is a substantial connection between such battery or cruelty and the alien's need for benefits;

(b) Has a petition under the Violence Against Women Act for adjustment for immigration status approved or pending with Immigration and Naturalization Service; and

(c) Does not reside in the same household as the individual responsible for the battery or extreme cruelty.

"Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

"Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

"Recent work history" means being employed and receiving earned income in one of the two months prior to the payment month.

"Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

"Resident of an institution" means a person residing in an institution that provides the person with the majority of meals as part of the institution's normal service.

"Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

"Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

"Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

"Seasonal farmworker" means a person working in seasonal agricultural employment who is not required to be absent overnight from the person's permanent residence.

"Shelter costs" means:

(1) Rent or mortgage payments plus taxes on a dwelling and property;

(2) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(3) Assessments;

(4) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(5) Standard basic telephone allowance;

(6) Initial installation fees for utility services; and

(7) Continuing charges leading to shelter ownership such as loan repayments for the purchase of a mobile home including interest on such payments.

"Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

"Sibling" means a natural or an adopted brother, sister, half brother, half sister, or stepbrother or stepsister.

"Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

"Sponsored alien" means an alien lawfully admitted for permanent residence who has an affidavit of support or similar agreement executed by a person on behalf of the alien as a condition of the alien's admission into the United States as a permanent resident.

"Spouse" means:

(1) Married under applicable state law; or

(2) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

"Striker" means any person:

(1) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(2) Involved in any concerted slowdown or other concerted interruption of operations by employees.

"Student" means any person:

(1) At least eighteen but less than fifty years of age;

- (2) Physically and mentally fit for employment; and
- (3) Enrolled at least half time in an institution of higher education.

"**Systematic alien verification for entitlements (SAVE)**" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

"**Temporary disability**" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

"**Thrifty food plan**" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

"**Under parental control**" means living with any adult other than the parent. A person is not under parental control when that person is:

- (1) Receiving an AFDC grant as the person's own payee; or
- (2) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-250-1400(2).

"**Vehicle**" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

"**Vendor payment**" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

- (1) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or
- (2) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

"**Verification**" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

**WSR 97-13-090
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed June 18, 1997, 10:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-072.

Title of Rule: WAC 388-15-196 Home and community services—Minimum qualifications for care providers in home and community settings.

Purpose: Amend WAC to allow challenge testing and modified course for certain providers.

Statutory Authority for Adoption: RCW 74.39A.010, [74.39A.]030(3), [74.39A.]070.

Summary: Allow parent providers, of their adult DDD child, to take a modified fundamentals of caregiving course

instead of fundamentals of caregiving course. Also allows all care providers to challenge the mandated class by successfully passing the department's caregiver's competency test.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sue Poltl, DDD, (360) 902-8474, Casey Zimmer, AASA, (360) 407-0431, Olympia, Washington.

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

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

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

Proposal Changes the Following Existing Rules: Allows parent providers of adult DDD children to take a modified course instead of fundamentals course. Also allows all in-home care providers the opportunity to challenge the mandatory class by successfully passing the department's caregiver's competency test.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section (RCW 34.05.328) does not currently 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 July 22, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by July 13, 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 July 22, 1997.

Date of Intended Adoption: No sooner than July 23, 1997.

June 18, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-20-093, filed 10/1/96, effective 11/1/96)

WAC 388-15-196 Home and community services—Minimum qualifications for care providers in home and community settings. To protect the health and welfare of a long-term care service client receiving an AASA administered service, the adult client's care provider shall:

- (1) Be eighteen years of age or older;
- (2) Complete and submit a criminal history background inquiry form prescribed by the department;
- (3) Possess the following minimum standards of knowledge and experience:
 - (a) General knowledge of acceptable standards of performance, including the necessity to perform dependably, report punctually, maintain flexibility, and to demonstrate kindness and caring to the client;
 - (b) Knowledge of when and how to contact the client's representative and the client's case manager.

(4) Have the following required skills:

(a) Adequate skills to read, either directly or through an interpreter, understand and implement the client's service plan;

(b) Adequate communication skills to convey and understand either directly or through an interpreter information required to implement the client's written service plan and verbal instructions;

(c) Adequate skills to maintain provider records of services performed and payments received.

(5) Be able to:

(a) Understand specific directions for providing the care which the individual client requires;

(b) Observe the client for change in health status, including weakness, confusion, and loss of appetite;

(c) Identify problem situations and take appropriate action;

(d) Respond to emergencies without direct supervision;

(e) Perform authorized housework functions competently;

(f) Perform authorized direct personal care functions competently;

(g) Accept the client's individual differences and preferences when performing routine tasks; and

(h) Work independently and perform responsibly within the boundaries of the nonmedical personal care task limits.

(6)(a) Complete the department's fundamentals of caregiving training according to the following schedule:

(i) All in-home personal care providers hired on or after the effective date of this section shall successfully complete the department-designated fundamentals of caregiving training within one hundred twenty days of employment, unless he or she meets the requirements under (iii) or (iv) of this subsection or in subsection (6)(c) or (6)(f);

(ii) All in-home care providers hired prior to ~~(the effective date of this section)~~ November 1, 1996 shall successfully complete the department designated fundamentals of caregiving training prior to October 31, 1997, unless he or she meets the requirements under (iii) or (iv) of this subsection or in subsection (6)(c) or (6)(f);

(iii) Natural, step, or adoptive parents hired as personal care providers for their division of developmental disabilities (DDD) adult children prior to the effective date of this section, will have until September 1, 1998 to complete the caregiving training;

(iv) Natural, step, or adoptive parents hired as personal care providers for their own adult children on or after the effective date of this section will have one hundred eighty days to complete the training requirements.

(b) Complete a minimum of ten hours of continuing education credits per calendar year, on topics relevant to caregiving unless he or she is a parent hired as a personal care provider for their own DDD adult child:

(i) Topics include, but are not limited to:

- (A) Residents' rights;
- (B) Personal care (such as transfers or skin care);
- (C) Dementia;
- (D) Mental illness;
- (E) Developmental disabilities;
- (F) Depression;
- (G) Medication assistance;
- (H) Communication skills;

(I) Alternatives to restraints; and

(J) Activities for clients.

(ii) Parent providers of their own DDD adult children are exempt from continuing education requirements;

(iii) Other caregivers are required to earn a certificate of completion to meet the requirement for continuing education credit and each hour of completed instruction will count as one hour of continuing education credit; and

~~((iii))~~ (iv) The continuing education requirement begins the calendar year after the year in which the caregiver completes the fundamentals or modified fundamentals of caregiving training.

(c) The following providers are exempt from the fundamentals of caregiving training requirement in subsection (6)(a) of this section if the provider successfully completes the department designated modified fundamentals of caregiving training in accordance with the dates specified in subsection (6)(a) of this section.

(i) A provider who ~~((i))~~ has successfully completed training as a registered or licensed practical nurse, a physical or occupational therapist, a certified nursing assistant, a Medicare-certified home health aide, or who has successfully completed department-approved adult family home training, or department-approved personal care training from an area agency on aging or their subcontractor~~(, is exempt from the fundamentals of caregiving training in subsection (6)(a) of this section if the provider successfully completes the department designated modified fundamentals of caregiving training in accordance with the dates specified in subsection (6)(a) of this section).~~

(ii) A provider who has successfully completed the ~~(division of developmental disabilities)~~ DDD staff training as required by chapter 275-26 WAC is exempt from the fundamentals of caregiving training in subsection (6)(a) of this section as long as the provider continues to work for a ~~(division of developmental disabilities)~~ DDD-contracted agency. This exemption no longer applies if the provider leaves the DDD-contracted agency.

(iii) Parent hired as a personal care provider for their own DD adult child. This exemption no longer applies if the parent provides services to anyone who is not their own adult child.

(d) The provider shall provide documentation upon request that the provider has met the education and training requirements.

(e) The department shall not continue to authorize reimbursement for services rendered by a care provider who does not meet the educational requirement in subsection (6) of this section.

(f) All in-home personal care providers are exempt from attending the "fundamentals of caregiving" or "modified fundamentals of caregiving" training if they successfully pass the department's challenge test for the class they are required to take. The provider only has one opportunity to successfully pass the challenge test. If the provider does not pass the challenge test then he/she must attend the "fundamentals of caregiving" or "modified fundamentals of caregiving" training as required.

WSR 97-13-093
PROPOSED RULES
SECRETARY OF STATE
 (Corporations Division)
 [Filed June 18, 1997, 10:56 a.m.]

June 18, 1997
 Donald F. Whiting
 Assistant Secretary of State

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-08-075.

Title of Rule: Chapter 434-120 WAC, Charitable solicitation organizations and charitable trust.

Purpose: To create a subcategory of commercial fundraisers, which are generally known as commercial coventurers.

Statutory Authority for Adoption: RCW 19.09.079, 19.09.190, and 19.09.315.

Statute Being Implemented: RCW 19.09.020, 19.09.079, 19.09.190, and 19.09.315.

Summary: There have been requests from constituents to create and define a subcategory of commercial fundraisers known as commercial coventurers.

Reasons Supporting Proposal: These rules create simplified reporting requirements and establish an exemption to the bonding requirement for commercial coventurers.

Name of Agency Personnel Responsible for Drafting: Frances Sant, 505 East Union, 1st Floor, Olympia, WA 98504, (360) 753-7120, ext. 261; **Implementation and Enforcement:** Coleen Kemp, 505 East Union, 1st Floor, Olympia, WA 98504, (360) 586-8465.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 434-120-025, creates a definition of "commercial coventurer" and strikes definition of "cost of solicitation"; WAC 434-120-210, describes who shall register as a commercial coventurer; WAC 434-120-212, describes the content of the registration form for commercial coventurers; and WAC 434-120-250, establishes a registration and renewal fee of \$20.00 for commercial coventurers.

Proposal Changes the Following Existing Rules: WAC 434-120-025, creates a definition of "commercial coventurer" and strikes definition of "cost of solicitation"; and WAC 434-120-250, establishes a registration and renewal fee of \$20.00 for commercial coventurers.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no fiscal impact being made on small business by this rule-making order.

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

Hearing Location: Office of the Secretary of State, 505 East Union, 2nd Floor, Olympia, WA 98504, on July 25, 1997, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Barbara Siemion by July 23, 1997, TDD (360) 586-1846.

Submit Written Comments to: Frances Sant, P.O. Box 40244, Olympia, WA 98504-0244, FAX (360) 664-4250, by July 21, 1997.

Date of Intended Adoption: July 28, 1997.

AMENDATORY SECTION (Amending WSR 95-11-135, filed 5/24/95, effective 6/24/95)

WAC 434-120-025 Definitions. (1) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable activity, but does not include any commercial fund-raiser or commercial fund-raising entity as defined in this section. "Charitable":

(a) Is not limited to its common law meaning unless the context clearly requires a narrower meaning;

(b) Does not include religious or political activities; and
 (c) Includes, but is not limited to, educational, recreational, social, patriotic, legal defense, benevolent, and health causes.

(2) "Charitable trust" means any real or personal property right held by an entity or person that is intended to be used for a charitable purpose(s). The trust may be created by will, deed, articles of incorporation, or other governing instrument. It may be express or constructive.

(3) "Commercial coventurer" means a corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, individual, or other entity that:

(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public; and

(b) Is not otherwise regularly or primarily engaged in making charitable solicitations in this state or otherwise raising funds in this state for one or more charitable organizations; and

(c) Represents to prospective purchasers that if they purchase a good or service from the commercial coventurer, or specified portion of the sales price or a certain sum of money or some other specified thing of value will be donated to a named charitable organization; and

(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.

(4) "Compensation," means salaries, wages, fees, commissions, or any other remuneration or valuable consideration. Compensation shall not include reimbursement for expenses incurred and documented or noncash awards or prizes, valued at one hundred dollars or less, given annually to each volunteer.

~~((4) "Revenue" means all proceeds from charitable solicitations or from similar activities which would be charitable solicitations except that they are exempt from chapter 19.09 RCW by virtue of being regulated by the gambling commission.))~~

(5) "Solicitation," means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(a) Any appeal is made for any charitable purpose; or

PROPOSED

(b) The name of any charitable organization is used as an inducement for consummating the sale; or

(c) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization; or

(d) The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

(6) "Solicitation," as defined in RCW 19.09.020(15), for the purposes of these regulations, shall not include any of the following:

(a) An application or request for application for a grant, contract, or similar funding from any foundation, corporation, governmental agency or similar entity which has an established application and review procedure for reviewing such requests;

(b) The attempt to sell a service or good which constitutes the basis of the charitable organization's activities under which the federal income tax exemption was granted, or is the primary purpose for the existence of the charitable organization. This includes, but is not limited to, admission to a theatrical or other performance presented by a charitable organization that is a drama, musical, dance, or similar group and fees for services such as a hospital provides or use of the charitable organization's facilities; or

(c) Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

(7) ("~~Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation. Cost of solicitation does not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as part of its fund-raising activities.~~

(8)) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits, receives or raises contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contributions for such purposes. However, the following shall not be deemed a "commercial fund-raiser" or "commercial fund-raising entity":

(a) Any entity that provides fund-raising advice or consultation to a charitable organization within this state but neither directly nor indirectly solicits or receives or raises any contribution for or on behalf of any such charitable organization; or

(b) A bona fide officer or other employee of a charitable organization.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-210 Who shall register. (1) Every commercial fund raiser, as described in RCW 19.09.020(8), shall register each year, pursuant to WAC 434-120-215,

except that commercial coventurers may instead register pursuant to WAC 434-120-212.

(2) (~~Entities exempt from registration shall include the following:~~

(a)) Suppliers of goods and services(=) to charitable organizations for fund raising purposes are exempt from registration, if they are not otherwise engaged in the business of charitable fund raising(= or

(b) ~~Retail establishments, not otherwise engaged in the business of charitable fund raising, in which the retail business promises to contribute a portion of the regular sales price of a product or service to a named charitable organization, when:~~

(i) ~~The price of the product or service is no more than the price thirty days before and thirty days after the promotion;~~

(ii) ~~There is a written agreement executed before the promotion begins that is signed by an officer of the charitable organization and the person in charge of the retail establishment. This agreement must include the retail establishment's contribution to the organization as a result of this promotion and the charitable organization's permission to use its name. It must be filed with the corporations division by the party specified in the contract and each party must have a copy on file;~~

(iii) ~~The retail establishment has a financial statement of the fund raising campaign on file, which, upon the attorney general's written request, it can produce within ten working days; and~~

(iv) ~~The retail establishment complies with the requirements of RCW 19.09.100, which control the conditions of solicitations).~~

NEW SECTION

WAC 434-120-212 Registration by commercial coventurers. (1) A commercial coventurer shall register with the secretary as either a commercial fund raiser or a commercial coventurer before conducting any solicitations. If a commercial coventurer chooses to register as a commercial fund raiser, it shall comply with all registration requirements for commercial fund raisers as set forth in chapter 19.09 RCW and chapter 434-120 WAC. If a commercial coventurer chooses to register as a commercial coventurer, it shall do all of the following:

(a) Pay a registration fee as specified in WAC 434-120-250 and file the registration form required by this rule. An entity which is entitled to and does register as a commercial coventurer need not:

(i) File the form specified in WAC 434-120-215; nor

(ii) Post a bond pursuant to RCW 19.09.190; and

(b) File with the secretary a copy of its written agreement with each charitable organization for which it solicits. This agreement must state the name, address and telephone number of the commercial coventurer and the charitable organization; must be signed by an officer of the charitable organization and the person in charge of the commercial coventurer; must specify how the commercial coventurer's contribution to the organization as a result of this promotion shall be calculated, based upon an aggregate fixed dollar amount, a fixed dollar amount per sale, or a fixed percentage

of gross sales revenue; and must state the charitable organization's permission to use its name; and

(c) Keep on file at its principal place of business a financial statement reflecting the results of its campaign(s) on behalf of each charitable organization for which it raises funds, which shall include at a minimum all of the information required by RCW 19.09.079(7), and shall produce this statement upon demand to the attorney general within ten business days.

(2) The registration form required by this rule shall be the same as the form described in WAC 434-120-215 except as follows:

(a) It shall omit the information required by WAC 434-120-215 (2)(e); and

(b) Instead of the solicitation report described by WAC 434-120-215 (2)(n), the form shall include a solicitation report on which the commercial coventurer must report:

(i) A brief description of the fund raising activity;

(ii) The name of each charitable organization with which it has contracted as a commercial coventurer; and

(iii) A disclosure of the planned financial contribution pursuant to contract with the named charitable organizations. A commercial coventurer shall comply with this requirement by specifying how the commercial coventurer's contribution to the organization as a result of this promotion shall be calculated, based upon an aggregate fixed dollar amount, a fixed dollar amount per sale, or a fixed percentage of gross sales revenue.

(3) Interpretive note: An entity that is regularly engaged in the business of promoting events, including but not limited to concerts, circuses, rodeos, and sporting events, by selling tickets to such events through the use of a charitable solicitation, shall be deemed to be regularly or primarily engaged in making charitable solicitations or otherwise raising funds for one or more charitable organizations, and therefore is not a commercial coventurer.

(4) Interpretive note: A transaction is not one for the purchase of a good or service, and therefore the seller is not a commercial coventurer, if the item ostensibly sold is of slight or grossly disproportionate value in relation to the price or contribution sought in exchange, or if it is described as a prize, gift, reward or award, or similar term, for contributions made or solicited.

(a) Example: A solicitor tells a prospective contributor that if he or she will contribute one hundred dollars to a named charity, the solicitor will send him or her a paper bookmark embossed with the charity's logo as a reward. The solicitor is not a commercial coventurer.

(b) Example: A solicitor offers to sell an individual a coffee mug, with a fair market value of five dollars, for one hundred dollars, with the representation that fifty percent of the purchase price would be contributed to a named charity. The solicitor is not a commercial coventurer. Caution: A person selling a good or service at fair market value is still not a commercial coventurer if he or she is regularly engaged in charitable fund raising (see WAC 434-120-025 (3)(b)), or is selling tickets to events (see WAC 434-120-212(3)), or otherwise fails to qualify.

(5) Interpretive note: An entity that acts as a commercial coventurer, and that does not engage in any commercial fund raising in this state other than as a commercial coventurer, may register as a commercial coventurer in

Washington even if it acts as a commercial fund raiser in other states.

(6) Unless specifically excused by this rule, a commercial coventurer shall comply with all other terms of chapter 19.09 RCW and chapter 434-120 WAC.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-250 Fees. All commercial fund raisers shall pay an original registration fee at the time of filing and a yearly reregistration fee.

(1) The fee for original registration in this state is two hundred fifty dollars.

(2) The annual renewal fee is one hundred seventy-five dollars.

(3) The fee for filing changes in any information previously filed under RCW 19.09.075, 19.09.079, and WAC 434-120-215 or for filing a contract is ten dollars.

(4) The penalty is fifty dollars for failing to reregister within sixty days of the due date. Beginning on the sixty-sixth day or following administrative dissolution of the corporation, whichever is later, the commercial fund raiser shall pay an additional penalty of one hundred dollars for each unregistered year for up to two years or shall register as a new entity. These penalties are cumulative.

Any commercial fund raiser failing to reregister and conducting business may be subject to other penalties and remedies, which may be cumulative and not exclusive and be imposed by law.

(5) The fee for expedited in-person service is twenty dollars for any and all transactions within one commercial fund raiser file.

(6) The photocopy fee is ten dollars for copies of the annual registration form or letter.

(c) A commercial coventurer shall pay a registration fee of twenty dollars when it registers with the secretary or renews its registration.

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 97-13-094
PROPOSED RULES
SECRETARY OF STATE
[Filed June 18, 1997, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-060.

Title of Rule: Verification of signatures on initiative and referendum petitions.

Purpose: To make the rule governing the verification of signatures on initiative and referendum petitions consistent with RCW 29.79.200.

Statutory Authority for Adoption: RCW 29.79.200 and 29.04.080.

Statute Being Implemented: RCW 29.79.200.

Summary: Specifies the statistical procedures for verification of an initiative and referendum petition based on

an unrestricted random sample of the signatures on the petition.

Reasons Supporting Proposal: To provide a mathematically reliable procedure to implement the statutory authority for the use of random sampling on petitions.

Name of Agency Personnel Responsible for Drafting: Donald F. Whiting, Legislative Building, Olympia, Washington, (360) 902-4148; Implementation and Enforcement: David Elliott, 1007 Washington S.E., Olympia, WA, (360) 586-8425.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Specifies the statistical procedures for verification of an initiative and referendum petition based on an unrestricted random sample of the signatures on the petition.

Proposal Changes the Following Existing Rules: Permits the use of random sampling in a broader range of situations, subject to all other preexisting requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rule applies to actions of the agency which do not affect the financial or economic affairs of any business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rule relates only to internal governmental operations and is not subject to violation by a nongovernmental party.

Hearing Location: Office of the Secretary of State, Second Floor, Legislative Building, Olympia, Washington, on July 24, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Rebecca Sherrell by July 23, 1997, TDD (800) 422-8683, or (360) 902-4147.

Submit Written Comments to: P.O. Box 40220, Olympia, WA 98504-0220, FAX (360) 586-5629, by July 23, 1997.

Date of Intended Adoption: July 24, 1997.

June 18, 1997
Donald F. Whiting
Assistant Secretary of State

AMENDATORY SECTION (Amending Order 78-2, filed 7/17/78)

WAC 434-79-010 Random sampling procedure. In the verification of signatures on initiative and referendum petitions, ~~((pursuant to))~~ under RCW 29.79.200 ~~((and 29.79.220, when the number of signatures submitted is more than 110 percent of the number of signatures required by Article II, Section 1A of the Washington State Constitution)),~~ the following statistical test may be employed:

(1) Take an unrestricted random sample of the signatures submitted;

(2) Check each signature sampled to determine the number of valid signatures in the sample, the number of signatures in the sample which are invalid because the individual signing is not registered or the signature is improper in form, and the number of signatures which are duplicated in the sample;

(3) Calculate an allowance for the chance error of sampling by multiplying the square root of the number of invalid signatures in the sample by 1.5;

(4) Estimate the upper limit of the number of signatures in the population which are invalid by dividing the sum of the invalid signatures in the sample and the allowance for the chance error of sampling by the sampling ratio, i.e. the number of signatures sampled divided by the number of signatures submitted;

(5) Determine the maximum allowable number of pairs of signatures in the population by subtracting the sum of ~~((110 percent of))~~ the number of signatures required by Article II, Section 1A of the Washington state constitution and the estimate of the upper limit of the number of invalid signatures in the population from the number of signatures submitted;

(6) Determine the expected number of pairs of signatures in the sample by multiplying the square of the sampling ratio by the maximum allowable number of pairs of signatures in the population;

(7) Determine the acceptable number of pairs of signatures in the sample by subtracting 1.65 times the square root of the expected number of pairs of signatures in the sample from the expected number of pairs of signatures in the sample;

(8) If the number of pairs of signatures in the sample is greater than the acceptable number of pairs of signatures in the sample, each signature shall be canvassed to determine the exact number of valid signatures;

(9) If the number of pairs of signatures in the sample is less than the acceptable number of pairs of signatures in the sample, the petition shall be deemed to contain sufficient signatures and the serial number and ballot title shall be certified to the state legislature as provided in RCW 29.79.200 or to the county auditors as provided in RCW 29.79.230.

WSR 97-13-096
PROPOSED RULES
STATE BOARD OF EDUCATION
[Filed June 18, 1997, 11:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-09-032.

Title of Rule: Remote and necessary small school plants, chapter 180-24 WAC.

Purpose: Further clarify policies and procedures for the designation of small school plants as remote and necessary.

Statutory Authority for Adoption: Section 502 (1)(e), chapter 6, Laws of 1994 1st sp. sess., WAC 180-24-400 through 180-24-415.

Summary: Establish further guidelines, policies, and procedures to base decisions of granting designation of small school plants as remote and necessary.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

PROPOSED

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to further establish policies and procedures to govern the classification of small school plants as remote and necessary and to further define criteria for such designation.

Proposal Changes the Following Existing Rules: To further identify more objective criteria for granting remote and necessary status for small school plants.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

Hearing Location: Educational Service District 113, 601 McPhee Road S.W., Olympia, WA 98502, on July 23, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by July 9, 1997, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, by July 21, 1997.

Date of Intended Adoption: July 25, 1997.

June 10, 1997

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 95-20-055, filed 10/2/95, effective 11/2/95)

WAC 180-24-410 Remote and necessary small school plants—Criteria. (1) Decisions of the state board of education on granting remote and necessary status to small school plants within school districts shall be based on a finding that granting remote and necessary status is necessary to assure reasonable provision of a basic education program to students, including related services, equipment, materials and supplies.

(2) In making the finding under subsection (1) of this section, the state board of education shall consider, including but not limited to, the factors ~~((including but not limited to the following:~~

~~(a) Existence of an intact, permanent community which is defined as a geographically site-specific, nonmobile group of people;~~

~~(b))~~ under (a) through (g) of this subsection. No single factor or combination of factors necessarily warrants granting or denying remote and necessary status. However, it shall be the policy of the state board of education to favor those requests which, in the board's judgment, meet the provisions of this section. "Favor" does not mean that the listed factors are necessarily exclusive. Unforeseen considerations or matters may appear in a particular request. If there is a factual situation that falls outside the scope of all or a portion of the listed factors, the state board may consider the facts and reasons the additional factors or considerations support the request.

(a) The student population to be served((

~~(e) Resources required to meet student needs, including but not limited to staffing, specialized personnel, and technology;))~~ must meet the small school funding formula

for remote and necessary school plants as provided in the Operating Appropriations Act.

(b) Existence of an intact, permanent community which is defined as a geographically site-specific, nonmobile group of people. This factor must be met.

(c) Transportation: Travel time to another school in the district or school in another district is not less than sixty minutes one way.

(d) Transportation((, including): Student safety to another school in the district or school in another district may be at risk due to the condition of roads or waterways, seasonal weather conditions, or topography((, distance and travel time to another school in the district or in another district, and student safety related to transportation;)).

(e) Operational efficiency((, including but not limited to: (i) Adequacy and availability): Nonavailability of facilities elsewhere in ((the community;)) the district((;)) or in the next nearest district or districts((;)).

((ii) Adequacy and)) (f) Operational efficiency: Availability of other age appropriate grade level or cooperative programs in adjacent school facilities in the district, or in the next nearest district or districts, or through the educational service district((; and)) or other educational organizations approved or recognized by the state board of education or the superintendent of public instruction.

((f)) (g) A safe and healthful environment for students.

(3) At its discretion, the state board of education may use as guidance the applicable provisions of WAC 180-24-013, 180-24-016, and 180-24-017.

AMENDATORY SECTION (Amending WSR 95-20-055, filed 10/2/95, effective 11/2/95)

WAC 180-24-415 Remote and necessary small school plants—Review committee. (1) There is hereby established by the state board of education a remote and necessary review committee comprised of the following five members:

(a) One member of the state board of education selected by the president of the board;

(b) Two staff members from the office of the superintendent of public instruction, one who is knowledgeable about finance issues and one who is knowledgeable about curriculum issues, both selected by the state superintendent;

(c) One school director selected by the Washington State School Directors' Association;

(d) One school district administrator selected by the Washington Association of School Administrators;

Vacancies on the review committee shall be filled by the person or organization responsible for appointments.

(2) It is the responsibility of the review committee to receive and review all applications from school districts requesting the state board of education to grant remote and necessary status to a small school plant located in the district. Following the review of applications, the review committee shall recommend to the state board whether such designation should be granted. Recommendations of the review committee shall be advisory only. The final determination rests solely with the state board of education.

(3) Every small school plant with remote and necessary status shall be reviewed every four years by the review committee and the state board. The review committee shall submit its findings and recommendations to the state board.

The review committee may conduct the review on-site, with the number of members participating determined by the committee, or may conduct the review by other means as determined by the committee and with state board approval. The state board shall provide to the fiscal committees of the legislature in January of odd-numbered years a list of remote and necessary small school plants. The first report shall be provided in January 1997. All currently designated remote and necessary small school plants shall be reviewed prior to January 1997.

(4) A small school plant shall lose its remote and necessary status if the number of students exceeds the enrollment requirements set forth in the state Operating Appropriations Act for three consecutive years. The loss of remote and necessary status shall take effect the immediate ensuing school year. When the enrollment of such small school plant again meets the requirements of the state Operating Appropriations Act, the school district may apply to the state board of education for redesignation as a remote and necessary plant.

WSR 97-13-098
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed June 18, 1997, 11:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-14-043.

Title of Rule: Special supplemental nutrition program for women, infants and children (WIC).

Purpose: The proposed revisions are needed to comply with regulatory reform legislation, to synchronize the rule with the retailer contract, and to streamline the hearing process. Other changes are language simplification and rearranging of sections to improve clarity and flow.

Statutory Authority for Adoption: RCW 43.70.120.

Statute Being Implemented: RCW 43.70.120.

Summary: The rule provides the authorization procedures for foods and retailers to participate in the WIC program, the contract responsibilities for authorized retailers, the types of sanctions a retailer is subject to and the reasons one might receive a sanction, and the appeal hearing process.

Reasons Supporting Proposal: Recent regulatory reform legislation prompted review and revision of the existing rule. In addition, the program took the opportunity to streamline some procedures and clean up and simplify language.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Evans, 586-6739, Becky Waite, 586-6740, PHNS, P.O. Box 47886, Olympia, WA 98504-7886.

Name of Proponent: Department of Health, Public Health Nutrition Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides the procedures by which food items and retailers become authorized to participate in the WIC program. It also details the contract responsibilities for authorized retailers, the sanctions a noncompliant retailer

might be subject to and the reasons a retailer might be sanctioned, and explains the appeal hearing process.

The goal is to offer a clear explanation of the rights and responsibilities of participating in the food delivery component of the WIC program.

Proposal Changes the Following Existing Rules: Public Health Nutrition Services is proposing these revisions to comply with recently enacted regulatory reform legislation. In addition the proposed changes will streamline the hearing process which contained procedures left over from when the program was in the Department of Social and Health Services; will clarify the sanction system; will make the rule consistent with the retailer contract, and will rearrange the flow of the rule to be easier to understand.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There are no fees involved since the WIC program enters into provider agreements with authorized retailers rather than any type of license.

No small business economic impact statement is required since there are no fees to affect and costs of compliance for contracted retailers will be reduced rather than increased with the proposed rule.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. This rule is significant under section 201, chapter 403, Laws of 1995, because it contains provisions which if violated will subject the violator to a sanction. The agency has conducted the analysis required under section 201.

Hearing Location: Department of Health, Building 1, Airdustrial Park, 7171 Cleanwater Lane, Tumwater, WA 98504, on July 28, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Evans by July 21, 1997, TDD (800) 833-6388, or (360) 586-6739.

Submit Written Comments to: Susan Evans, P.O. Box 47886, Olympia, WA 98504-7886.

Date of Intended Adoption: August 4, 1997.

June 17, 1997
 Mimi Fields, M.D.
 for Bruce Miyahara
 Secretary

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-010 Definitions. (1) "Appeal process" means a formal proceeding to appeal a program decision. The appeal hearing process provides a contractor the opportunity to review the case record prior to the hearing, to present its case in an impartial setting, to confront and cross-examine witnesses, and to be represented by counsel.

(2) "Applicant retailer" means any ((food vendor making a written request for authorization to participate)) retailer submitting a completed request for authorization requesting participation in the program.

((2)) (3) "Authorized" or "authorization" means the applicant retailer has ((been given approval by the department)) met selection criteria and signed a contract with the department signifying eligibility to participate in the WIC program.

~~((3))~~ (4) "CFR" means the Code of Federal Regulations.

~~((4))~~ (5) "Contract" means a written legal document ~~(with the department, which allows the food vendor to accept food instruments from WIC in exchange for specified supplemental foods. The contract shall be signed by the food vendor's legal representative and the contracting officer of the department of health)~~ binding the contractor and the department to designated terms and conditions.

~~((5))~~ (6) "Contractor" means ~~(a WIC authorized food vendor)~~ the owner, chief executive officer, controller, or other person legally authorized to obligate a retailer to a contract.

~~((6))~~ (7) "Department" means the Washington state department of health.

~~((7))~~ (8) "Disqualification" means the act of ~~(ending the participation)~~ revoking the authorization and terminating the contract of an authorized (food vendor, participant, or local agency in the) retailer for noncompliance with WIC program requirements.

~~((8))~~ (9) "Food company" means a manufacturer or broker of food items.

~~((9))~~ "Food instrument" means a WIC check which is used by a participant to obtain specified supplemental foods.

(10) "Food vendor" means the owner, chief executive officer, controller, or other person legally authorized to obligate a store location to a contract.

(11) "Fine" means a sum of money imposed as a penalty for an offense.

(12) "Fraud" means any act in which a food vendor misuses the WIC program for monetary gain.

~~((3))~~ (10) "Local WIC agency" means the contracted clinic or agency where a ~~(participant)~~ client receives WIC services.

~~((14))~~ "Program" means the special supplemental food program for women, infants and children (WIC).

~~((5))~~ (11) "Monetary penalty" means a sum of money imposed by the program for noncompliance with program requirements.

(12) "Reauthorization" means the process when a retailer who has a contract with the department which is expiring, has again applied and met the selection criteria, and signed a subsequent contract with the department signifying eligibility to participate in the WIC program.

(13) "Supplemental WIC foods" means those foods containing nutrients determined to be beneficial for pregnant, breast-feeding, and postpartum women, infants and children, as prescribed by federal regulations and state ~~((regulations))~~ requirements, and, as authorized by the Washington state WIC program.

~~((16))~~ "Termination" means discontinuing:

(a) Authorization of a food vendor to participate in the program; or

(b) Authorization of a participant to receive WIC benefits.

~~((7))~~ (14) "WIC program" or "program" means the federally funded special supplemental nutrition program for women, infants, and children administered in Washington state by the department of health.

(15) "WIC retailer" or "retailer" means an individual store owned by a contractor which is authorized to participate in the WIC program.

(16) "Wholesaler" means a business entity which sells food and other items to a ~~(food vendor)~~ retailer.

(17) "WIC check" means a negotiable instrument issued to and used by a WIC client or a WIC client's designee to obtain specified supplemental WIC foods at a contracted WIC retailer.

(18) "WIC ~~(participant)~~ client" or "client" means ~~(any individual)~~ a pregnant, breast-feeding, or postpartum woman, infant, or child receiving WIC benefits.

(19) "WIC client's designee" means a person authorized by the client to pick up WIC checks at the local WIC agency and use the WIC checks at the retailer when the client is unable to do so.

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-050 ((Description of WIC program.))
What is the WIC program? (1) The WIC program in the state of Washington is administered by the division of community and family health, office of public health nutrition services in the department of health.

(2) The WIC program is a federally funded program established in 1972 by an amendment to the Child Nutrition Act of 1966. ((The purpose of the program is to serve as an adjunct to health care by providing nutritious food.)) It is the purpose of the program to provide nutrition and health assessment, nutrition education ((and)), nutritious food, breast-feeding counseling; ((health screening.)) and referral services to pregnant ((and)), breast-feeding, and postpartum women, infants, and children in ((certain high-risk)) specific risk categories.

~~((2))~~ (3) Federal regulations governing the WIC program (7 CFR Part 246) require implementation of standards and procedures to guide the state's administration of the WIC program and are hereby incorporated by reference. These regulations are designed to promote consistent and high quality services to clients, promote consistent application of procedures for eligibility and food issuance, and ((lessen the possibility of participant, food vendor, and local agency abuse of the WIC program)) promote client and retailer compliance. These regulations define the rights, responsibilities, and legal procedures of ((participants, vendors, and local agencies).

~~((3))~~ The WIC program in the state of Washington is administered by the office of WIC services in the department of health) clients and retailers.

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-060 ((Authorized foods.))
What is the process for getting a food WIC authorized? (1) ((The department shall provide one or more of the following foods to eligible women, infants, and children.)) WIC eligible women, infants, and children receive supplemental WIC foods from one or more of the following food categories. These foods shall meet nutritional standards established by federal regulations and state requirements:

- (a) Cereals,
- (b) Juices,
- (c) Infant formula,
- (d) Infant cereal,

- (e) Liquid nutritional supplements,
 (f) Milk,
 ((f)) (g) Eggs,
 ((g)) (h) Dry beans and peas,
 ((h)) (i) Peanut butter, (and
 (i)) (j) Cheese,
 (k) Tuna, and
 (l) Carrots.

~~((These foods shall meet nutritional standards established by federal regulations.))~~

Additionally, the ((department shall approve)) WIC program authorizes specific brands of juice, cereal, and infant formula(, juice, and cereal) based on federal and state nutritional requirements. ((In addition, the department specifies juice provided to WIC clients must be unsweetened.

~~The department shall designate specific types of domestic, pasteurized cheese for the WIC program.~~

~~(2) A copy of the authorized WIC food list shall be included in the annually revised state plan which is available for public comment and is submitted to the United States Department of Agriculture Food and Nutrition Services regional office.~~

~~((3)) The WIC program limits the selection of authorized WIC foods in accordance with federal cost containment requirements, including, but not limited to, the competitive procurement of a single manufacturer's infant formula.~~

~~(2) The ((following steps have been established by the department as the format)) procedure for ((adding)) initially authorizing a food ((product to the WIC program)) is:~~

~~(a) By December 31 of odd-numbered years, a food company or other entity, such as a local WIC clinic, shall submit a written request to the WIC program for authorization of a ((product;~~

~~(b) The food company representative shall furnish the state WIC office with)) food, to include:~~

~~(i) Package flats or labels, information on package sizes and prices, and a summary of current distribution(, and~~

~~((ii) The food company's summary of current distribution shall be in writing and shall include, but not be limited to: (A)), including identification of the wholesaler carrying the ((product)) food; and~~

~~((B)) (ii) Assessment of when the new ((product)) food replaces the old on store shelves when there is a change in ((the product)) formulation.~~

~~((This information must be received ninety days or more before WIC food instrument revision deadlines.~~

~~(e) When the product meets federal and state requirements, the department shall verify product availability and price;~~

~~(d) The nutrition services work group of the office of WIC)) (b) The WIC program shall verify if a food considered for authorization fits within one of the authorized food categories, meets the federal requirements of nutritional standards, is available to retailers, and has been available to retailers for one year or more;~~

~~(c) A public health nutrition services work group shall make a recommendation based on the ((product's)) food's ingredients and value to the promotion of healthful and economic food buying practices;~~

~~((e)) (d) The ((department shall)) WIC program has the option to survey local WIC agency staff and clients for~~

~~their recommendation ((in regard to)) regarding need and demand for the ((product)) food;~~

~~((f)) (e) The ((department)) WIC program shall review data and recommendations and shall notify the food company of the ((department's)) program's decision;~~

~~((g)) (f) The ((department)) WIC program shall add the newly authorized foods ((items)) to the WIC ((food instrument at the next scheduled printing.~~

~~(4) State WIC monitor staff shall determine if a food product considered for authorization is available to retail outlets, statewide, and has a history of availability for one year or more)) check and related materials to coincide with the retailer contract period.~~

~~(3) Food companies shall notify the WIC program in writing of any changes in product formulation, product name, packaging, label design, size, or availability. A food company shall notify the WIC program of any such changes before any Washington state wholesaler receives the new product.~~

~~If a food company fails to notify the WIC program of any changes, the WIC program may revoke or deny the food's WIC authorization.~~

~~(4) A food company shall not use the term "WIC approved" or the WIC program logo without prior written approval from the WIC program.~~

~~(5) The ((department reserves the right to)) WIC program may require a food company to submit a statement guaranteeing a minimum period of time during which a food ((product)) will be available ((throughout)) in the state of Washington.~~

~~(6) The ((department reserves the right to)) WIC program shall refuse any food ((product)) that ((appears in contradiction to)) contradicts the principles promoted by the WIC program's nutrition service component.~~

~~(7) The ((department reserves the right to)) WIC program may limit the number of authorized foods within a food category.~~

~~(8) ((Food companies shall notify the department of any changes in product content, name, label design, or availability.~~

~~(a) If a food company fails to notify the department of the changes in writing, the WIC program shall revoke the product's authorization; and~~

~~(b) A food company shall notify the department of changes before a Washington state wholesaler receives the new product.~~

~~(9) A food company shall not use the term "WIC approved" without prior department approval)) The WIC program may initiate reassessment of any WIC authorized food.~~

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-070 ((Food vendor participation.))
How do I become a WIC retailer? (1) ~~((The department shall authorize food vendors who may redeem WIC food instruments or otherwise provide supplemental foods to WIC participants. Unauthorized vendors who redeem WIC food instruments are subject to the penalties specified in WAC 246-790-100.)) Applicant retailers interested in participating~~

in the WIC program must apply for authorization and enter into a contract with the department.

(2) Application procedure.

(a) ~~((Food vendors))~~ Upon request, the WIC program will send an application packet to interested applicant retailers. Applicant retailers shall submit ~~((an))~~ the completed application to the ~~((department))~~ WIC program, including a price list for authorized WIC foods. ~~((Forms used in the application process are contained in the state plan which is submitted annually to the United States Department of Agriculture Food and Nutrition Service regional office.))~~

(b) The ~~((department))~~ WIC program may require applicant~~((s))~~ retailers to provide information regarding ~~((gross food sales))~~ shelf price records and inventory records ~~((for WIC approved foods))~~ showing all purchases, both wholesale and retail, including but not limited to, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods and other pertinent records that substantiate the volume and the prices charged. Cash register receipts without specific identification of the quantity, unit price, and WIC food purchased are not acceptable as evidence of WIC food purchases.

(c) The ~~((department))~~ WIC program shall conduct ~~((a documented))~~ and document an on-site visit prior to, or at the time of, initial authorization of ~~((a new food vendor))~~ an applicant retailer, for the purpose of evaluating the inventory of WIC foods and providing training on ~~((rules and regulations of WIC transactions))~~ the WIC retailer handbook.

(d) ~~((The department shall issue contracts for a maximum period of two years. All contracts expire on March 31 of odd numbered years. No new applications will be accepted after October 1 in even numbered years, except))~~ Applications are accepted from April 1 of odd-numbered years until September 30 of even-numbered years. Exceptions can be made in the case of an ownership change or where there is a documented need for a location in order to ~~((solve))~~ assure client access ~~((problems))~~. The ~~((department has the authority to))~~ WIC program may limit acceptance of new applications ~~((to other specific times as well)).~~

(3) The ~~((department))~~ WIC program shall authorize ~~((an appropriate number and))~~ a distribution of ~~((food vendors to assure adequate participant convenience and))~~ retailers that facilitates client access, and ~~((to assure the department can effectively manage review of these food vendors))~~ enables effective management of the retailers. The ~~((department has the authority to))~~ WIC program may limit the number of authorized ~~((food vendors))~~ retailers in any given geographic area or state-wide.

(4) Selection is based on the following ~~((conditions))~~:

(a) The applicant retailer shall have requests from or the potential of serving ~~((six))~~ fifteen or more WIC ~~((participants))~~ clients as verified by the local WIC agency.

~~((i))~~ For vendors without prior contracts, the local WIC agency shall document six or more WIC participants requesting use of a location.

~~((ii))~~ Vendors) (b) Applicant retailers applying for re-authorization shall have a check redemption record averaging ~~((fifteen))~~ forty or more checks per month over a six-month period, documented by ~~((department))~~ WIC program statistics reports.

~~((iii))~~ (c) Exceptions may be made for:

~~((A))~~ (i) Pharmacies needed as suppliers of special infant formulas; or

~~((B) Retail grocery stores))~~ (ii) Applicant retailers in isolated areas where client access cannot otherwise be assured.

In either case, the need shall be documented by the local WIC agency.

~~((b) Food vendors))~~ (d) Applicant retailers shall stock representative items with current shelf lives from all food categories on the authorized WIC food list ~~((that apply to the vendor's classification))~~. Minimum quantities specified on the authorized WIC food list shall be ~~((stocked))~~ on the shelf available for purchase before a contract is offered to the ~~((food vendor))~~ retailer. ~~((A food vendor))~~ An applicant retailer seeking a waiver from the minimum formula stock requirement shall request the waiver in writing for each ~~((contracting))~~ contract period. No waivers shall be granted unless there is an insufficient number of authorized ~~((vendors))~~ retailers in a given service area to assure client access;

~~((e))~~ (e) Prices of individual foods ~~((items))~~ shall not exceed one hundred twenty percent of the state-wide average price~~((The state WIC office shall have the prerogative to grant waivers to the price percentage requirement when client access is jeopardized))~~ as calculated at least annually. An applicant retailer seeking a waiver from the one hundred twenty percent requirement shall request the waiver in writing for each contract period. No waivers shall be granted unless there is an insufficient number of authorized retailers in a given service area to assure client access;

~~((d))~~ (f) The ~~((food vendor))~~ applicant retailer shall possess a valid Washington state tax registration number;

~~((e))~~ (g) The ~~((food vendor))~~ applicant retailer shall agree to comply with training sessions~~((s))~~ and monitor visits, and provide ~~((invoices and))~~ shelf price~~((s))~~ records and inventory records showing all purchases, both wholesale and retail, including but not limited to, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods, and other pertinent records that substantiate the volume and prices charged upon the ~~((department's))~~ WIC program's request;

~~((f))~~ (h) The applicant retailer shall operate from a fixed location;

(i) The ~~((food vendor's store))~~ applicant retailer shall be open for business at a minimum eight or more hours per day, six days per week.

~~((4))~~ The department shall give written notification of denial, stating the reason, and advising the food vendor of the vendor's right of appeal. The department may deny a food vendor authorization for reasons including, but not limited to the following:

~~((a))~~ (j) The applicant retailer shall be in compliance with local sanitation rules;

(k) The applicant retailer with a history of any of the following shall be denied authorization unless client access can not otherwise be assured:

(i) WIC or food stamp disqualification;

(ii) Redeeming WIC ~~((food instruments))~~ checks without authorization;

~~((b))~~ (iii) Changing ownership more than twice during a two-year contracting period;

PROPOSED

~~((e) Failure)~~ (iv) Failing to implement corrective action imposed by the ~~((department))~~ program;

~~((d) Failure)~~ (v) Failing to complete payment within the time specified, of an imposed ~~((fine))~~ monetary penalty or reimbursement of an overcharge ~~((within the time specified));~~ and

~~((e))~~ (vi) Refusing to accept training from the WIC program~~((; and~~

~~(f) Repeated department documented noncompliance with program regulations)).~~

(5) The WIC program may deny a retailer authorization for failure to meet any of the stated selection criteria.

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-080 ((Food vendor contracts.)) What do I need to know about WIC retailer contracts? (1) All authorized ~~((food vendors))~~ retailers shall enter into written contracts with the department. The contract shall be signed by the ~~((food vendor's legal representative))~~ contractor and the designee of the contracting officer of the department of health.

(2) ~~((When the food vendor obligates more than one store location,))~~ The contract shall list all ((participating store locations shall be listed)) authorized retailers by name and location ~~((on the contract)).~~ Individual ~~((store locations))~~ retailers may be added, changed, disqualified, or terminated by contract amendment without affecting the remaining ~~((store locations))~~ retailers.

(3) ~~((The department shall have the authority to contract with a sole source for a specified WIC food product or food product category.~~

(4) WIC vendor rules. The food vendor contract shall contain the following rules:

(a) The food vendor shall stock sufficient quantities of authorized WIC foods to meet the needs of WIC customers;

(b) The food vendor shall redeem food instruments made payable only to that specific store or with the words "any authorized WIC vendor;"

(c) The food vendor shall accept food instruments from a WIC customer within thirty days of the time period specified on the food instrument and submit for payment within the time period stated on the food instrument;

(d) The food vendor shall ensure both signatures on the WIC check match;

(e) The food vendor shall not accept WIC food instruments altered in any way;

(f) The food vendor shall redeem WIC food instruments for only the supplemental foods specified and in the quantity specified on the food instrument;

(g) The food vendor shall post the prices of WIC foods so they are visible to the public;

(h) The food vendor shall provide supplemental foods at the current price or at less than the current price charged other customers;

(i) The food vendor shall not sell WIC authorized foods after the manufacturer's expiration date;

(j) The food vendor shall not accept WIC checks exceeding the maximum amount allowable;

(k) The department has the right to demand refunds from the food vendors for documented overcharges;

~~(l) The department may deny payment to the food vendor for improperly handled food instruments or may demand refunds for payments already made on improperly handled food instruments.~~

~~(m) The food vendor shall not seek restitution from WIC participants for food instruments not honored by the WIC program, nor shall the food vendor seek restitution through a collection agency;~~

~~(n) The food vendor shall not request cash or give change in a WIC transaction;~~

~~(o) The food vendor shall not impose a surcharge or charge sales tax on any product purchased with WIC food instruments;~~

~~(p) The food vendor shall not issue refunds for returned WIC foods or allow exchanges of WIC foods;~~

~~(q) The food vendor shall not issue rain checks or any form of credit;~~

~~(r) The food vendor shall treat WIC customers with the same courtesy provided to other customers;~~

~~(s) The department shall hold the food vendor responsible for the actions of employees or agents of the vendor with regard to any WIC transaction;~~

~~(t) The manager of the store or an authorized representative such as head cashier shall agree to accept training on WIC program requirements and procedures. The department shall provide this training;~~

~~(u) The food vendor shall inform and train cashiers or other employees on WIC program rules and food instrument cashing procedures;~~

~~(v) The department shall monitor the food vendor for compliance with WIC program rules;~~

~~(w) During the department monitoring visit of a food vendor, the food vendor shall provide access to redeemed food instruments for the purpose of review by the department representative;~~

~~(x) Food vendors shall provide department reviewers access to shelf price records, wholesale receipts, and purchase orders;~~

~~(y) Each food vendor shall provide the department with a complete price list of authorized WIC foods not more than twelve times per year; and~~

~~(z) The food vendor shall notify the department of any store closure or change of ownership, store name, and/or location no later than the tenth of the month before the month during which the change is effective. Notices from the vendor shall be addressed to DOH WIC Program, P.O. Box 47880, Olympia, Washington 98504 7880.~~

~~(5) Renewal of contract.~~

~~(a) Neither the department nor the food vendor is obligated to renew the food vendor contract. The department shall notify food vendors in writing not less than fifteen days before the expiration of a contract not being renewed by the department.~~

~~(b) Food vendors shall observe time lines, such as deadlines for submitting price lists and returning properly signed contracts. Failure of food vendors to do so may result in denial of authorization.~~

~~(6) Contract terminations.~~

~~(a) Either the department or the food vendor may terminate the contract at any time by submitting a written notice to the other party thirty days in advance.~~

~~(b) The food vendor contract shall automatically be terminated without advance notice from the department in the event of a store closure or change in ownership.~~

~~(c) The food vendor must reapply to be considered for participation in the WIC program.~~

~~(d) The food vendor shall remain in compliance with selection criteria (WAC 246-790-070(3)) and WIC food vendor rules (WAC 246-790-080))~~ Duration of contract.

(a) The WIC program shall issue contracts for a maximum period of two years. All contracts expire on March 31 of odd-numbered years.

(b) Neither the WIC program nor the contractor is obligated to renew the contract. The WIC program shall notify contractors in writing not less than fifteen days before the expiration of a contract not being renewed by the program.

(c) Authorization is valid for no longer than the period stated in the contract. The retailer must reapply to be considered for authorization in the WIC program.

(d) The contractor or the WIC program may terminate the contract at any time by submitting a written notice to the other party thirty days in advance.

(e) The contract is null and void in the event of a retailer closure or change in ownership.

NEW SECTION

WAC 246-790-085 What is expected of WIC retailers? (1) The retailer shall comply with WIC program requirements and terms of the retailer contract.

(2) The retailer shall stock sufficient quantities of authorized WIC foods to meet the needs of WIC customers, but not less than the minimum stock levels.

(3) The retailer shall redeem WIC checks made payable only to that specific retailer or with the words "any authorized WIC vendor."

(4) The retailer shall accept WIC checks from a WIC customer on the "first day to use," the "last day to use," or any day in between the dates printed on the WIC check. The retailer shall submit the WIC check for payment within sixty days from the "first day to use."

(5) The retailer shall refuse to accept WIC checks that have the purchase price missing, the client's signature missing, the "first day to use" or the "last day to use" missing, or that are postdated or stale dated.

(6) The retailer shall enter the actual purchase price of the specific quantity of WIC authorized foods on each WIC check before the WIC customer countersigns the check.

(7) The retailer shall accept only WIC checks on which the WIC customer's countersignature matches the first customer signature on the check.

(8) The retailer shall refuse to accept WIC checks that are altered in any way.

(9) The retailer shall redeem WIC checks for only the supplemental WIC foods and in no more than the quantity specified on the check.

(10) The retailer shall post the prices of WIC foods so they are visible to the public.

(11) The retailer shall provide supplemental foods at the current price or at less than the current price charged to other customers.

(12) The retailer shall not sell WIC-authorized foods after the manufacturer's expiration date.

(13) The retailer shall not accept WIC checks with purchase amounts over the "not to exceed" amount printed on the check.

(14) The retailer shall reimburse the WIC program for documented overcharges and payments made on improperly handled WIC checks.

(15) The retailer shall not seek restitution from WIC clients for WIC checks not paid by the WIC program, nor shall the retailer seek restitution through a collection agency.

(16) The retailer shall not request cash or give change in a WIC transaction.

(17) The retailer shall not impose a surcharge or charge sales tax on any food purchased with WIC checks.

(18) The retailer shall refuse WIC client's requests for exchanges or cash refunds for returned WIC foods. Exceptions may be made for exchange of food due to spoilage or expired date not noticed by the WIC client at the time of the WIC transaction.

(19) The retailer shall not issue rain checks, any form of credit, or otherwise charge the WIC program for foods not received by the WIC customer at the time the WIC check is redeemed.

(20) The retailer shall treat WIC customers with the same courtesy provided to other customers.

(21) The contractor shall be responsible for the actions of employees, agents, and authorized retailers with regard to participation in the WIC program.

(22) The manager of the retailer or an authorized representative such as head cashier shall attend training on WIC program requirements and procedures prior to issuance of a contract and as otherwise required by the WIC program. The WIC program shall provide this training at no cost to the retailer.

(23) Those who attend training shall inform and train other employees on WIC program requirements and WIC check cashing procedures.

(24) The retailer shall provide access to its facilities at all reasonable times for WIC program representatives to monitor, to provide training or technical assistance, and to evaluate performance, compliance, and quality assurance.

(25) During any WIC program visit of a retailer, the retailer shall provide access to redeemed WIC checks for the purpose of review by the program representative.

(26) Retailers shall maintain inventory records showing all purchases, both wholesale and retail, for a period of at least three years, including, but not limited to shelf price records, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods, and other pertinent records that substantiate the volume and prices charged and provide WIC program representatives access to those records on request.

(27) Each retailer shall provide the WIC program with a completed price list of authorized WIC foods on request, but not more than twelve times per year.

(28) The contractor shall notify the WIC program of any change of ownership, retailer name, location and/or cessation of operation for any reason no later than the tenth of the month prior to the effective date of the change.

PROPOSED

(29) Contractors shall observe time lines, such as deadlines for submitting price lists and returning properly signed contracts. Failure of contractors to do so may result in denial of authorization.

(30) Contractors shall take corrective action as directed by the WIC program.

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-090 ((Food vendor monitoring.)) **How are WIC retailer contracts monitored?** (1) The ((department shall identify high risk food vendors and ensure)) WIC program conducts on-site ((monitoring, further investigation, and sanctioning of such food vendors. Criteria for identifying high risk vendors shall include, but not be limited to, such considerations as participant complaints and the amount or frequency of suspected overcharges or other improper handling of redeemed food instruments)) compliance reviews at retailer locations to monitor retailer compliance with program requirements.

(2) ((The department shall conduct on-site monitoring visits as required by CFR 246. Vendors shall take corrective action as directed by the department.

(3) The department shall submit a summary of the results of the monitoring of high risk and representative food vendors and of the review of food instruments to USDA Food and Nutrition Service on an annual basis within four months after the end of the federal fiscal year.

(4)) Preauthorization visits.

(a) Visit is scheduled in advance.

(b) The WIC program representative identifies self.

(c) The WIC program representative provides training on the WIC retailer handbook which includes information on WIC foods and WIC check handling, and collects information on WIC food stock levels and shelf prices.

(d) The retailer signs the preauthorization visit form verifying receipt of the training, understanding of program requirements, and the commitment to train store personnel.

(3) Compliance visits.

(a) Visit may or may not be scheduled in advance;

(b) The WIC program representative identifies self;

(c) The WIC program representative may do some or all of the following during a visit: Review WIC check handling procedures, WIC food stock levels, expiration dates and prices, WIC checks negotiated but not yet deposited, shelf price records, wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of specific WIC foods, and other pertinent records that substantiate the volume and prices charged, provide training or technical assistance, and verify implementation of a corrective action plan.

(d) The ((department shall)) WIC program representative documents ((the following for all on-site vendor monitoring visits:

((a)) the name((s)) of ((vendor, reviewer, and, except for compliance buys,)) the retailer, the name of the program representative, the names of all persons interviewed((;

(b)), the date of ((review;

(e) Nature of problem or)) the visit, any problems or concerns detected or the observation ((that)) the ((food

vendor)) retailer appears to be in compliance ((with program requirements;

(d)), any corrective action plan if ((the deficiencies)) problems are detected, ((how the food vendor plans to correct those deficiencies;)) and

((e)) the signatures of ((reviewer)) the program representative and the retailer.

((5) Methods of on-site monitoring visits include, but are not limited to:

(a)) (4) Compliance purchases((;

(b) Review of cashier check out procedures;

(c) Review of inventory records;

(d) Review of the availability, prices, and expiration dates of authorized WIC foods; and

(e) Review of food instruments negotiated the day of the review.

(6) The department may conduct compliance purchases to collect evidence of improper food vendor practices, or arrange for this responsibility to be assumed by the proper federal, state, or local authorities.

(7) The department shall establish procedures to document the handling of complaints by WIC participants against food vendors. The department shall deal with complaints of civil rights discrimination in accordance with 7 CFR 246.8(b).

(8) The department shall establish procedures to document the handling of complaints by food vendors against WIC participants or other food vendors).

(a) The WIC program representative does not identify self;

(b) The WIC program representative makes a purchase using WIC checks applying a predetermined methodology;

(c) The WIC program representative completes a report on the visit itemizing information including but not limited to, a description of the checker involved, the time and date of the transaction, the number of checkstands opened and closed, other customers in line, exact items purchased and/or refused, the prices charged or the purchase prices, comments of the checker, observations of the investigator or the investigative aide, any stock deficiencies noted, any other pertinent information, and the signature of the investigator.

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-100 ((Food vendor sanctions.)) **What happens if I don't comply with the WIC retailer contract or rules?** (1) ((The department may disqualify a food vendor for reasons of program abuse, and terminate the food vendor's participation in the WIC program for a specified period of time. At the end of the disqualification period, the food vendor shall be required to reapply for authorization.

(2) Food vendors may be subject to sanctions in addition to, or in lieu of, disqualification, such as fines for improperly handled food instruments. Prior to disqualifying a food vendor, the department shall consider whether the disqualification would create undue hardships for WIC participants.

(3) The department shall set the period of disqualification from program participation at a minimum of one year and shall not exceed three years.

~~(4) The department shall disqualify a food vendor from the WIC program if that food vendor is suspended or disqualified from another FNS program.~~

~~(5) The department shall recover funds due the WIC program and impose a fine of not less than one hundred dollars on food vendors for the offenses in subsection (5) of this section. The department shall account for these funds in accordance with federal regulations.~~

~~Money shall be paid to the department within the time period specified in the notice of adverse action or the food vendor shall be disqualified from the WIC program for a period of at least one year. Offenses include:~~

~~(a) Providing cash, unauthorized food, nonfood items, or other items to WIC customers in lieu of or in addition to authorized WIC supplemental foods;~~

~~(b) Charging the WIC program for foods not received by the customer;~~

~~(c) Charging the WIC program more for authorized WIC supplemental foods than other customers are charged for the same food item;~~

~~(d) Providing rain checks or credit to customers in a WIC transaction;~~

~~(e) Charging WIC customers cash or giving change to customers in a WIC transaction; and~~

~~(f) Redeeming WIC food instruments without having authorization from the department.~~

~~Repeating any offense listed in subsection (5) of this section shall subject a food vendor to additional sanctions including disqualification.~~

~~(6) A food vendor who fails to give the specified notice of a change in ownership, store name, and/or location shall be liable for resultant costs incurred by the WIC program. In addition, a food vendor who fails to furnish the state WIC office with written notice of a change in ownership before the effective date of sale shall be subject to a fine of not less than one hundred dollars.~~

~~(7) A food vendor's failure to maintain a sufficient stock of WIC authorized foods or to follow the appropriate WIC food instrument cashing procedure may result in a one-year disqualification.~~

~~(8) Food vendors who have willfully misapplied, stolen, or fraudulently obtained program funds shall be subject to a fine of not more than one thousand dollars or imprisonment for not more than five years or both, if the value of the funds is one hundred dollars or more. If the value is less than one hundred dollars, the penalties are a fine of not more than one thousand dollars or imprisonment for not more than one year or both. The department shall refer these food vendors to federal, state, or local authorities for prosecution under applicable statutes.) Retailers who commit acts of noncompliance are liable to prosecution in accordance with federal regulations (7 CFR 246.12 and 7 CFR 246.23). Noncompliance is failure to follow WIC program requirements including, but not limited to:~~

~~(a) Providing cash, unauthorized food, nonfood items, or other items to WIC customers in lieu of or in addition to authorized WIC supplemental foods;~~

~~(b) Selling or offering to sell foods with expired shelf lives;~~

~~(c) Charging the WIC program for foods not received by the customer;~~

(d) Charging the WIC program more for authorized WIC supplemental foods than other customers are charged for the same food;

(e) Inflating the purchase price of a WIC transaction;

(f) Providing rain checks or credit to customers in a WIC transaction;

(g) Charging WIC customers cash or giving change in a WIC transaction;

(h) Redeeming WIC checks without having authorization from the WIC program;

(i) Failing to write the actual purchase price on the WIC check at the time of the WIC transaction; and

(j) Failing to maintain adequate stock of WIC foods on the retailer's shelves.

(2) The WIC program may deny payment to, impose monetary penalties on and disqualify retailers for noncompliance with WIC program requirements and terms of the retailer contract.

(3) The WIC program shall seek reimbursement from retailers for documented overcharges and for payments made on improperly handled WIC checks.

(4) Retailers found in noncompliance, except for the offenses listed in subsection (9) of this section, will be notified by the WIC program and given the opportunity to correct the deficiency. Methods of notification include, but are not limited to, technical assistance contacts and notice of correction letters. Repeating any act of noncompliance may subject a retailer to sanctions.

(5) When the WIC program denies a retailer authorization, denies payment, imposes a monetary penalty, requests reimbursement, or disqualifies a retailer, the program shall give the contractor written notice not less than fifteen days prior to the effective date of the action. The notice shall state what action is being taken, the effective date of the action, and the procedure for requesting an appeal hearing.

(6) Monetary penalties shall be imposed when noncompliance of a same or similar type of noncompliance occurs following notification and the opportunity for correction.

(7) Monetary penalties, in accordance with federal regulations, are:

(a) If the value of the unauthorized items was less than one hundred dollars, the monetary penalty shall be not less than one hundred dollars and not more than one thousand dollars.

(b) If the value of the unauthorized items was one hundred dollars or more, the monetary penalty shall be not less than five hundred dollars and not more than ten thousand dollars.

(8) Monetary penalties and reimbursements shall be paid to the revenue section of the department within the time period specified in the notice. Retailers who fail to pay within the time period specified in the notice shall be referred to a commercial collection agency and may be disqualified.

(9) The WIC program shall disqualify the WIC retailer for the following, after providing advance notice of not less than fifteen days:

(a) Redeeming a WIC check for the purchase of any form of alcohol or tobacco;

(b) Purchasing a WIC check for partial value and redeeming at full value (commonly referred to as trafficking or discounting);

(c) Redeeming a WIC check for the purchase of nonfood items;

(d) Using a pattern of overcharging;

(e) Noncomplying in a same or similar nature following notification and the opportunity for correction;

(f) Being disqualified from the food stamp program by the food and consumer service.

(10) The WIC program shall disqualify the retailer from the WIC program for a specified period of time, not to exceed three years. At the end of the disqualification period, the retailer must reapply to be considered for authorization.

(11) Prior to disqualifying a retailer, the WIC program shall consider whether the disqualification would create undue hardships for WIC clients. In these cases, the WIC program may agree on a monetary penalty in lieu of disqualification.

(12) A contractor who fails to give the specified notice of closure, a change in ownership, retailer name, and/or location shall be liable for resultant costs incurred by the WIC program.

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

WAC 246-790-120 ((WIC food vendor—Administrative review—Contract dispute resolution.)) How do I appeal a WIC decision I don't agree with? (1) ((Administrative review.

(a) A food vendor whose application to participate in the WIC program is denied has the right to administrative review which is an informal meeting between the department and the food vendor to discuss the reasons for the denial. With the exception of required reimbursements, contracted food vendors dissatisfied with department decisions regarding sanctions or affecting the food vendor's participation may request an administrative review.

(b)) The contractor may appeal notice of denial of payment, denial of authorization, monetary penalty, reimbursement, or disqualification. Expiration and nonrenewal of a WIC contract is not subject to appeal.

(2) When the action being appealed is disqualification, the retailer shall cease redeeming WIC checks effective the date specified in the notice and shall not accept WIC checks during the appeal period. Payments shall not be made for any WIC checks redeemed by a retailer during a period of disqualification.

(3) A request for an ((administrative review)) appeal hearing shall be in writing and:

((+)) (a) State the issue raised;

((ii) State the grounds for contesting the aggrieving department action;

(iii) State the law and allegations of fact on which the appeal relies;

(iv) Contain the appellant's current address and telephone number, if any; and

(v)) (b) Contain a summary of the contractor's position on the issue, indicating whether each charge is admitted, denied, or not contested;

(c) State the name and address of the contractor requesting the appeal hearing;

(d) State the name and address of the attorney representing the contractor, if applicable;

(e) State the contractor's need for an interpreter or other special accommodations, if necessary; and

(f) Have a copy of the ((adverse department)) notice from the program attached.

((e)) (4) A request for an ((administrative review)) appeal hearing shall be ((made by personal service on parent child health services headquarters office or by certified mail to the address given in the notice of adverse action)) filed at the Office of Professional Standards (OPS), Department of Health, P.O. Box 47872, Olympia, WA 98504-7872. The request shall be made within ((thirty)) twenty days of the date the ((food vendor)) contractor received the notice ((of adverse action. When the request is mailed, it shall be treated as having been made on the date it was postmarked provided it is received by the division of parent child health services properly addressed and with no postage due.

(d) The director of parent child health services, or the director's designee, shall conduct the administrative review)).

(5) The ((time limit for making the determination is thirty)) decision concerning the appeal shall be made within sixty days from the date the request for an ((administrative review)) appeal hearing was received by the office of professional standards (OPS). The time shall be extended by as many days as the ((vendor)) contractor requests, assents to, or necessitates a delay in the proceedings with due cause.

((e) Administrative review is the sole administrative remedy the department offers a WIC contract applicant. Contracted food vendors dissatisfied with administrative review decisions may request a contract dispute resolution.

(2) Contract dispute resolution.

(a) A WIC food vendor who is disqualified from participating in the program or who is aggrieved by any other adverse action the department takes which affects participation, has the right to a contract dispute resolution. This shall not apply to a nonrenewal of the contract.

(b) A request for a contract dispute resolution shall be in writing and:

(i) State the issue raised;

(ii) State the grounds for contesting the aggrieving department action;

(iii) State the law and allegations of fact on which the appeal relies;

(iv) Contain the contractor's current address and telephone number, if any; and

(v) Have a copy of the adverse department notice attached.

(c) A request for a contract dispute resolution shall be made by personal service on the office of contracts management in Olympia or by certified mail addressed to the Office of Contracts Management, 1300 SE Quince, P.O. Box 47902, Olympia, Washington 98504-7902. The request shall be made within thirty days of the date the contractor received the notice of adverse action. When the request is mailed, it shall be treated as having been made on the date it was postmarked provided it is received by the office of contracts management properly addressed and with no postage due.

(d) The time limit for making the determination is thirty days from the date the request for a contract dispute resolution was received by the office of contracts management.

~~The time shall be extended by as many days as the contractor requests, assents to, or causes a delay in the proceedings.~~

~~(e) The contract dispute resolution is the sole administrative remedy the department offers a WIC contractor.))~~

AMENDATORY SECTION (Amending Order 314, filed 10/27/92, effective 11/27/92)

~~WAC 246-790-130 ((WIC contractor—Continued participation pending contract dispute resolution.)) How does the WIC program get input from the food industry?~~

~~((1) If the action being appealed is a disqualification of a WIC authorized food vendor, that food vendor shall cease redeeming WIC checks effective on the date specified in the sanction notice. The food vendor shall not accept WIC food instruments during the appeal period. Payments shall not be made for any food instruments submitted by a food vendor for payment during a period of disqualification.~~

~~(2) The department may at its discretion permit the contractor to continue participating in the WIC program pending the proceedings outcome when implementing the action would unduly inconvenience WIC participants.)) (1)~~

The WIC program may establish a retailer advisory committee for the purpose of soliciting input on policies, procedures, and other matters pertinent to retailer participation in the WIC program.

(2) The retailer advisory committee shall meet at least two times per year.

(3) The membership of the retailer advisory committee will consist of representation of at least the following:

- (a) The Washington food industries;
- (b) Manager or checker trainer from a large chain;
- (c) Manager or checker trainer from a small chain;
- (d) Minority-owned retailer;
- (e) Instructor of a checker training program with a technical college;
- (f) Local WIC agency staff person;
- (g) Current or former WIC client;
- (h) Administrative representative, such as loss prevention or risk manager or human resources representative, from any size retailer;
- (i) Owner of an independent retailer (single store); and
- (j) A military commissary.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-790-110 Notice of adverse action to WIC food vendor—Denial of food vendor application, contract nonrenewal.

WSR 97-13-099
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed June 18, 1997, 11:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-16-071.

Title of Rule: Chapter 246-810 WAC, Counselors.

Purpose: There is a need to implement the 1995 mental health legislation and to update and clarify existing rules.

Statutory Authority for Adoption: RCW 18.19.050(1).
Statute Being Implemented: Chapter 18.19 RCW.

Summary: The current WACs require several housekeeping changes and updating obsolete WAC references. 1994 and 1995 legislative action requires changes to the WAC. The three certification areas have been reformatted and content and terminology is consistent among the professions. A new section has been developed relating to requirements general to all the certification areas. Establishes a requirement for continuing education in order to renew a certification.

Reasons Supporting Proposal: Eliminates unnecessary regulations, implements legislation, clarifies existing language, and makes housekeeping changes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Karen Burgess, Program Manager, 1300 S.E. Quince, Olympia, WA, (360) 586-8584.

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 original counselor WACs were developed by three separate advisory committees in 1987, and have no correlation among the related professions for content, terminology or format. This has been very confusing to applicants. The WACs require several basic housekeeping changes, such as changing department name (from Department of Licensing to Department of Health) and proper title of the department head (from director to secretary), and updating WAC references. Further, 1994 and 1995 legislative changes require changes to the related WACs.

The rules have been revised to implement 1995 mental health legislation; the three certified areas have been reformatted and content and terminology is consistent among the professions. A new section has been developed relating to requirements general to all the certification areas. Several sections of duplication have been eliminated. It is believed these changes will make the rules more understandable for the professions.

Proposal Changes the Following Existing Rules: In addition to the changes described above: There are changes to education requirements for marriage and family therapists and mental health counselors to bring them in line with what is currently being done; the hours of experience for a social worker have been reduced and come in line with national certification requirements. There are new sections establishing approved supervisor qualifications for each of the professions; thirty-six hours of required continuing education every two years. New sections have been added to require that counselors keep records, or acquire written waiver from a client; and requiring any fees received in advance be returned upon request if services have not been provided.

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

PROPOSED

ECONOMIC IMPACT ANALYSIS
and

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

This report contains two analyses: An economic impact analysis (EIA) and small business economic impact statement (SBEIS). The EIA was used by the Counselor Programs Office in determining program costs associated with conducting audits relating to continuing education (CE) requirements; examination administration fee (and the cost of administering the MFT certification examination). The SBEIS determines the cost to a typical counselor to maintain records, pay back advance fees not earned; and for a certified counselor to obtain CE; and determines whether the impact is disproportionate compared to large businesses employing counselors.

Background: The original counselor WACs were developed by three separate advisory committees in 1987, and have no correlation among the related professions for content, terminology or format. This has been very confusing to applicants. The WACs require several basic house-keeping changes, such as changing department name (from Department of Licensing to Department of Health) and proper title of the department head (from director to secretary), and updating WAC references. Further, 1994 and 1995 legislative changes require changes to the related WACs.

Representatives of the professional associations have requested the rules be revised to make these housekeeping changes, bring the WACs in line with current law, add continuing education for certification, and reformat the three certification professions to achieve uniformity and clearer application of the requirements. It is believed these changes will make the rules more understandable for the professions.

A work group, comprised of representatives from various counselor associations and universities and colleges held three work sessions and developed a proposal between September 1995, and August 1996. The department mailed notices of two public meetings to 22,000 active counselors and affiliated organizations. The meetings were held in

September 1996 and written comments were accepted through the end of October. In January 1997, a draft was mailed to all who attended the public meetings and/or who submitted comments, allowing for additional written input through February.

Accordingly, rules have been revised to implement 1995 mental health legislation; the three certified areas have been reformatted and content and terminology is consistent among the professions. A new section has been developed relating to requirements general to all the certification areas.

Those who will be required to comply with these rules are:

- WAC 246-810-010 through 246-810-080
14,850 Washington state registered counselors and 310 registered hypnotherapists;
- 765 Washington state certified marriage and family therapists,
- 2,915 certified mental health counselors, and
- 2,325 certified social workers.
- WAC 246-810-100 through 246-810-152
765 Washington state certified marriage and family therapists,
- 2,915 certified mental health counselors, and
- 2,325 certified social workers.
- WAC 246-810-310 through 246-810-348
765 Washington state certified marriage and family therapists.
- WAC 246-810-510 through 246-810-548
2,915 Washington state certified mental health counselors.
- WAC 246-810-710 through 246-810-748
2,325 Washington certified social workers.

The following chart summarizes the annual costs relating to new provisions for record keeping (WAC 246-810-035), fees in advance (WAC 246-810-045), continuing education (WAC 246-810-152):

	Cost to Counselor	Cost to Agency	Sm Bs cost /employee	Lg Bs cost /employee	Requirements and Expectations of Regulation
Record Keeping	\$336	0	\$336	0	Records be kept on clients. Will better protect clients and counselor in the disciplinary process.
Fees in Advance	\$347	0	\$347	0	Advance fees separate acct; return unused fees. Counselors will be aware of Securities Act; clients easier access to have unused fees returned.
Continuing Ed	(cert couns only) \$96	\$423	\$96	\$43	36 hours of CE every 2 years to renew certification. Counselors informed on latest therapy techniques and better serve their clients.

RECORD KEEPING: New section WAC 246-810-035, requires that counselors keep at least minimal records - with an allowance for a client to make a written request to waive clinical records being maintained.

A telephone survey was taken of association representatives, professionals who corresponded with the Counselor Programs Office, nonprofit agencies, private/county health agencies, chemical dependency agencies and randomly selected individuals.

Costs to Business: All twenty-seven agencies surveyed reported that counselors working for them are currently

required to keep records. Of twenty-two individuals surveyed, one or two do not currently keep clinical records, but they do keep the basic information we are requiring - specifically name, address, dates of service and payment information.

An extrapolation of this survey would suggest approximately 2% of counselors would routinely need to request a waiver of clinical records. This would require approximately five additional minutes to explain to a client during the first visit, when other disclosure information was given; another two minutes might be necessary to file the waiver.

PROPOSED

Approximate cost to the estimated 2% of counselors not currently keeping client records is as follows:

Direct Costs	\$1
2 file folders @ .50 each = \$1.00	
Indirect Costs	\$335
Counselor time explaining waiver request and filing written waiver request: Average hourly salary for a counselor = \$55. Assume 1 new client per week; 7 minutes per new client. 7 min x 52 wks = 6.1 hrs x \$55/hr = \$335	
Total costs per year to maintain records	\$336

PROPOSED

As large businesses (particularly mental health agencies) require their counselors to keep treatment/clinical records, the smaller counseling groups or individuals would be most impacted by this provision.

The initial proposal required that all counselors keep treatment records. Suggestions were submitted to allow clients to decide whether to have clinical records maintained. In an attempt to mitigate the impact on these smaller counselor businesses, this was incorporated in to the current rule.

Costs to Agency: There would be no cost to the agency in administering this rule.

FEES IN ADVANCE: New section WAC 246-810-045, requires that a counselor must disclose any practice of collecting fees in advance to a client; separate fees paid in advance from operating or expense funds; not expend the funds from advance fees until service has been provided; and to return any unused portion, upon request. The provision explains that failure to do these things is a violation of the Securities Act, RCW 21.20.005.

A telephone survey was taken of association representatives, professionals who corresponded with the Counselor Programs Office, nonprofit agencies, private/county health agencies, chemical dependency agencies and randomly selected individuals.

Costs to Business: The survey indicated some impact such as inclusion of this requirement into their client disclosure statement, maintaining a separate accounting for fees in advance, and time involved moving money back and forth between accounts.

It is estimated that less than 1% of counselors would be impacted by this new provision and the costs to those counselors might approximate \$476 per year.

PROPOSED

Direct Costs	\$36
Monthly service charge for bank account: \$3/mo x 12 mos - \$36	
Indirect Costs	\$440
Counselor time, setting up account, balancing statement, and transferring funds: Average hourly salary for a counselor = \$55.	
1 hr set up account (one time): 1 hr x \$55 = \$55	
1/2 hour per month maintenance: .5 hr x 12 mos x \$55/hr = \$330	
Counselor time to return funds for sessions paid for but not attended: 1/2 hour per client; 2 clients per year: .5 hr x 10 clients x \$55/hr = \$55	
Total costs per year to maintain separate account for, or return, fees in advance	\$347

As large businesses (particularly mental health agencies) do not collect fees in advance, the smaller counseling groups or individuals would be most impacted by this provision. Any attempt to mitigate the impact, however, would violate the Securities Act.

Costs to Agency: There would be no cost to the agency in implementing this rule. The costs to the agency are reflected as potential savings by counselors being better informed as to requirements of the securities law. The agency currently receives about four complaints a year involving fees received in advance, services were terminated and fees were not returned when a client requested a refund. It is hoped that specifically calling this to counselors attention in the rules will help a counselor avoid the misconduct and resulting costly disciplinary process by the department.

CONTINUING EDUCATION (CE): WAC 246-810-152 would require that certified counselors (counselors certified as marriage and family therapists, mental health counselors, and social workers) be required to complete thirty-six hours of CE over a two-year period in order to recertify.

A telephone survey was taken of association representatives, professionals who corresponded with the Counselor Programs Office, nonprofit agencies, private/county health agencies, chemical dependency agencies and randomly selected individuals.

Costs to Business: The survey showed that most were employed by agencies ranging from thirty-five to three hundred fifty total employees and having counselor staffs ranging from 3% to 65% of their employees. Agencies paid for all or part of the education; some had in-house training; some were already taking CE for associations wherein they hold membership, or for other state agencies already requiring CE - such as for chemical dependency counselors and vocational rehabilitation counselors. Only three of the forty-nine surveyed (6%) were individuals in private practice.

The survey revealed that most counselors were currently taking from eight to thirty-five clock hours of CE per year. Most were already taking twenty hours; individuals in private practice averaged about nine hours in a year.

Of the thirty-six hours of CE required every two years by this regulation, six will need to be in ethics and law. (Assume for purposes of an annual calculation: Eighteen total CE hours, three of which must be in ethics and law). It might be presumed that CE currently taken does not incorporate this component. This would reduce the estimates of CE currently being taken each year from twenty to seventeen for those working in agencies; and from nine to six for individuals.

For purposes of calculating costs, an average of these two figures is used, or twelve clock hours of CE currently being taken. The difference between this and the Department of Health required eighteen hours per year is six. Thus, it could be estimated that counselors might need to take an additional six hours of CE a year.

The survey revealed that an hourly fee charged by counselors in private practice averages about \$55; counselors working in an agency averaged about \$38 per hour. It was estimated that a counselor in private practice can see about four clients a day; those in an agency, about five.

The costs associated with implementation of the CE requirement in this regulation are as follows:

PROPOSED

Direct Costs	\$96
Average cost for one clock hour of Continuing Education = \$16	
$\$16 \times 6 \text{ hours} = \96	
Indirect Costs	\$0
Time loss attending CE training - -1-2 days per year (1 day usually a weekend)	
<ul style="list-style-type: none"> >1 day is usually a Friday, when most counselors schedule few clients; these clients can easily be re-scheduled. >1 day is usually a Saturday, when no clients are scheduled. >Therapists who work for agencies often have training time built in to their schedules. 	
Therefore, indirect costs are \$0.	
Total Costs for additional CE per year	\$96

Costs to an individual counselor involved with audit of CE records by the department:

Direct Costs	\$2
Copies of CE verification documents:	
1 document per 3 hours of CE; maximum of 12 copies	
$12 \text{ copies} \times .10/\text{copy} = \1.20	
Postage to mail documents:	
$\underline{\quad .55}$	
$\$1.75$	
Indirect Costs	\$93
Time to gather documents, copy and mail them to department: 2 hours	
Counselor in private practice: $\$55 \times 2 = \110	
Counselor working in an agency: $\$38 \times 2 = \76	
Average time cost for both types of employment: \$93	
Total Costs to comply with CE audit	\$95

The "large" businesses surveyed were hospitals and mental health agencies. Even the largest hospitals (with staff as high as three thousand eight hundred employees) had counselor staff of no more than forty employees. Therefore, the "large" businesses compared here represent mental health agencies, who had total staffs averaging two hundred seven employees, of which an average of ninety-two were counselors.

The following represents a per-employee cost comparison of a large business (mental health agencies) versus a small business (individual counselor):

	Small Businesses	Large Businesses
Direct Costs:		
\$96/ 6 additional CE hours per year	\$96	
\$96 x 92 counselors/yr		\$8,832
Indirect Costs:	\$0	\$0
Number of employees	1	207
Cost per employee	\$96	\$43

According to appropriate standard industrial code classification, the cost difference would be considered a borderline minor cost to a small business. (Major impact can fall between \$50 and \$300.) According to regulatory reform requirements, this may or may not require mitigation in order to reduce the impact on a small business.

The department has made an effort to mitigate this somewhat by drafting the rule to allow for CE from many varied sources (while still requiring certain standards be met) in hopes that a counselor may acquire good training at a minimal cost or at no charge. Some of these allowable sources include distance learning, in-house training; and such things as participation on a panel, board or council, community service or publication of articles relating to the profession; and sources may be from various industry-recognized local, state, national, international organizations.

Costs to Agency: There would be costs incurred to the Department of Health to conduct random audits of compliance with CE. Estimates of these costs are as follows:

Work Requirement	Time or Item	Cost/Item	Annual Volume	Annual Cost
Conduct audits of CE (5 audit letters per mo)				
Supplies*	5 ltrs/mo	\$1	60	\$60
CT3	15 mins/audit	\$9.81/hr	15 hrs	\$147.15
Follow-up on delinquent audits (1 fol-up letter per mo)				
Supplies*	1 ltr/mo	\$1	12	\$12
CT3	1/2 hr ea	\$9.81/hr	6 hrs	\$58.86
HPM1	2@ 1hr ea	\$19.65/hr	3 hrs	\$58.95
Corrective action resulting from delinquent CE (2 per year)				
HE2	1/2 hr ea	\$29.83/hr	1 hr	\$29.83
HPM2	1/2 hr ea	\$24.27/hr	1 hr	\$24.27
AA1	1hr ea	\$16.01/hr	2 hrs	\$32.02
*Paper, envelope, postage				
Total Costs				\$423.08

These costs could be absorbed at the current staffing level in the Counselor Programs Office.

A copy of the statement may be obtained by writing to Karen Burgess, Program Manager, Counselor Program, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 586-8584, or FAX (360) 753-0739.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. These rules are significant under section 201, chapter 403, Laws of 1995, because they alter qualifications for the issuance of a certification and adopt new requirements. The agency has conducted the additional analysis required under section 201.

Hearing Location: 1102 Quince Street S.E., Olympia, WA 98504, on July 30, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Karen Burgess by July 23, 1997, TDD 1-800-833-6388, or FAX (360) 753-0739.

Submit Written Comments to: Karen Burgess, Program Manager, Counselor Program, P.O. Box 47869, Olympia, WA 98504-7869, by July 23, 1997.

Date of Intended Adoption: July 31, 1997.

June 18, 1997
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-010 Definitions. The following terms are defined within the meaning of this chapter.

(1) "Counselor" means and includes any registered counselor or registered hypnotherapist, certified marriage and family therapist, certified mental health counselor, or certified social worker regulated under chapter 18.19 RCW.

(2) "Certified counselor" means a certified marriage and family therapist, certified mental health counselor, or certified social worker regulated pursuant to chapter 18.19 RCW.

(3) "Department" means the department of health, whose address is:

Department of Health
Health Professions Quality Assurance Division
P.O. Box 47869
Olympia, Washington 98504-7869

(4) "Fee" as referred to in RCW 18.19.030 means compensation ((paid in exchange)) received by the counselor for counseling services ((whether or not the fee is paid on a contractual basis through a government agency or another third party, or is charged by a company, corporation, or any other type of firm, business, or individual provider)) provided, regardless of the source.

PROPOSED

~~((2))~~ (5) "Hospital" means any health care institution licensed according to chapter 70.41 RCW.

(6) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(7) "Similarly regulated" as referred to in RCW 18.19.040(1) means individuals who are currently registered, certified, or licensed under other laws of this state wherein disciplinary standards defining acts of unprofessional conduct apply to each individual under the regulation.

~~((3))~~ "Therapeutic techniques" means the method of procedures used when assisting an individual with emotional, behavioral, or mental issues.

~~(4)~~ "Treatment" means assisting or attempting to assist an individual and does not include the initial assessment/evaluation.

~~(5)~~ "Counselor trainee" means any individual who is learning to be a counselor through on-the-job training while providing counseling services.

~~(6)~~ "Student" means any individual enrolled in a college or university who is taking part in a counseling practicum for course credit.

~~(7)~~ "Counselor intern" means any individual defined as a student; ~~(8)~~ "Unprofessional conduct" as used in this chapter shall mean the conduct described in RCW 18.130-180.

AMENDATORY SECTION (Amending WSR 93-14-011, filed 6/24/93, effective 7/25/93)

WAC 246-810-020 Expiration of registration or certification. (1) A registration or certification shall expire on the registered or certified ~~((practitioner's))~~ counselor's first birthdate following the date of initial issue ~~((at which time it will be subject to renewal))~~. If the counselor's next birthdate is within ninety days of the initial date of issue, the registration or certification will expire on the counselor's second birthdate following original issue. Thereafter, ~~((the registration or certification will be renewable at one-year intervals;))~~ it is the responsibility of the counselor to renew each year on or no sooner than sixty days before, the birthdate of the registered or certified ~~((practitioner))~~ counselor.

(2) Before the expiration date of a registration or certification, a courtesy renewal notice is mailed to the address on file of every person holding a current registration or certification. The counselor is responsible for renewing the registration or certification, regardless of whether the counselor receives the courtesy notice.

(3) Any renewal postmarked or given to department staff after midnight on the expiration date is late and is subject to a late renewal penalty fee in addition to the annual renewal fee. There is no grace period.

(4) Practicing counseling with an expired or canceled registration or certification is unprofessional conduct as defined in RCW 18.130.180(7) and 18.130.190.

NEW SECTION

WAC 246-810-022 Current address. (1) All counselor or applicants and all registered or certified counselors must provide a current mailing address at the time of making application, reapplication, or renewal. The address may be either home or business.

(2) It is the responsibility of each counselor or applicant to notify the counselors section of the department of any change in the address provided to the department. Such notification may be made by telephone, fax or by mail, but it is the counselor's or applicant's responsibility to confirm that such a change has taken place.

(3) Nothing in this section shall relieve a counselor of responsibility to provide the department with a current address as required by WAC 246-01-100.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-030 Client disclosure information. ~~((The term "counselor" as used in the wording of these rules includes all counselors, hypnotherapists, marriage and family therapists, mental health counselors, and social workers, whether registered or certified.))~~

Counselors must provide disclosure information to each client in accordance with chapter 18.19 RCW prior to implementation of a treatment plan. The disclosure information must be specific to the type of counseling service offered; in language that can be easily understood by the client; and contain sufficient detail to enable the client to make an informed decision whether or not to accept treatment from the disclosing counselor.

Firms, agencies, or businesses ~~((may supply generic information relative to a counselor's disclosure to the client, in a format which does not duplicate disclosure information provided when))~~ having more than one counselor ~~((is))~~ involved in a client's treatment, may provide disclosure information general to that agency. In these cases, the counselor would not be required to duplicate the information disclosed by the agency.

The disclosure information ~~((must))~~ may be printed in a format ~~((selected by))~~ of the counselor's ~~((whatever format is chosen))~~ choosing, but must include all required disclosure information per WAC 246-810-031.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-031 Required disclosure information.

(1) The following information shall be provided to each counseling client:

(a) Name of firm, agency, business, or counselor's practice.

(b) Counselor's business address and telephone number.

(c) Washington state registration or certification number.

(d) The counselor's name and type of counseling they provide.

(e) The methods or techniques the counselor uses.

(f) The counselor's education, training, and experience.

(g) ~~((Client's cost per each counseling session and))~~ The course of treatment where known.

(h) Billing information, including:

(i) Client's cost per each counseling session;

(ii) Billing practices, including any advance payments and refunds.

(i) The following language must appear on every client's disclosure statement:

"Counselors practicing counseling for a fee must be registered or certified with the department of ~~((licensing))~~

health for the protection of the public health and safety. Registration of an individual with the department does not include a recognition of any practice standards, nor necessarily implies the effectiveness of any treatment."

~~((4) Counseling)~~ (j) Clients are to be informed of the purpose of the Counselor Credentialing Act. The purpose of the law regulating counselors is: (A) To provide protection for public health and safety; and (B) to empower the citizens of the state of Washington by providing a complaint process against those counselors who would commit acts of unprofessional conduct.

~~((4) Counseling)~~ (k) Clients are to be informed that they as individuals have the right to choose counselors who best suit their needs and purposes. (This subsection is not intended to provide new rights by superseding those adopted by previous statutes.)

~~((4) Counseling)~~ (l) Clients are to be informed of the extent of confidentiality provided by RCW 18.19.180 (1) through (6).

~~((4) Counseling)~~ (m) Clients are to be provided a list of or copy of the acts of unprofessional conduct in RCW 18.130.180 with the name, address, and contact telephone within the department of ~~((icensing))~~ health.

(2) Signatures are required of both the counselor providing the disclosure information and the client following a statement that the client had been provided a copy of the required disclosure information and the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.

(3) The department of ~~((icensing))~~ health publishes a brochure for the education and assistance of the public. The department brochure may be photocopied and provided to each client ~~((as an option to satisfy))~~ in conjunction with the ~~((required))~~ disclosure information ~~((of subsection (1)(j) through (1) of))~~ required in this section. The brochure published by the department is insufficient, by itself, to meet the requirements of this section.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-032 Failure to provide client disclosure information. Failure to provide to the client any of the disclosure information as set forth in WAC ~~((308-190-040))~~ 246-810-030 and 246-810-031, and as required by the law shall constitute an act of unprofessional conduct as defined in RCW 18.130.180~~((2+))~~(7).

NEW SECTION

WAC 246-810-035 Recordkeeping and retention. (1) The counselor providing professional services to a client or providing services billed to a third-party payor, shall document services, except as provided in subsection (2) of this section. The documentation shall include:

- (a) Client name;
- (b) The fee arrangement and record of payments;
- (c) Dates counseling was received;
- (d) Disclosure form, signed by counselor and client;
- (e) The presenting problem(s), purpose or diagnosis;
- (f) Notation and results of formal consults, including information obtained from other persons or agencies through a release of information;

(g) Progress notes sufficient to support responsible clinical practice for the type of theoretical orientation/therapy the counselor uses.

(2) If a client requests that no treatment records be kept, and the counselor agrees to the request, the request must be in writing and only the following must be retained:

- (a) Client name;
- (b) Fee arrangement and record of payments;
- (c) Dates counseling was received;
- (d) Disclosure form, signed by counselor and client;
- (e) Written request that no records be kept.

(3) The counselor must not agree to the request if maintaining records is required by other state or federal law.

(4) All records must be kept for a period of five years following the last visit. Within this five-year period, all records must be maintained safely, with properly limited access.

Special provisions must be made for the retention or transfer of active or inactive records from clients last seen inside of five years; and for continuity of services in the event of a counselor going out of business, death or incapacitation. Such special provisions may be made in a will or by having another counselor review records with a client and recommend a course of action; or other appropriate means as determined by the counselor.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-040 Reporting of suspected abuse or neglect of a child, dependent adult, or a developmentally disabled person. As required by chapter 26.44 RCW, all ~~((hypnotherapists and))~~ counselors ~~((, registered or certified, shall))~~ must report abuse or neglect of a child, dependent adult, or developmentally disabled person when they have reasonable cause to believe that such an incident has occurred.

The report shall be made to the local law enforcement agency or to the department of social and health services at the first opportunity, but no longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

NEW SECTION

WAC 246-810-045 Fees paid in advance. (1) Any practice of collecting fees in advance, as well as refund policies, must be disclosed in accordance with WAC 246-810-031 to the client before any funds are collected.

(2) Counselors who collect fees in advance of the service provided must separate such funds from operating/expense funds. Failure to properly account for such funds may be a violation of the Securities Act, RCW 21.20.005. These fees may not be expended by the counselor until such time as the service is provided. Any funds left in the account, for which services were not rendered, must be returned to the client within thirty days of the request by the client for return of the funds.

(3) Room rental fees or similar expenses (i.e., as relates to group therapy), are not considered fees paid in advance.

NEW SECTION

WAC 246-810-049 Sexual misconduct. (1) A counselor shall not engage in sexual contact or sexual activity with current clients.

(2) Counselors shall not accept as patients or clients individuals with whom they have engaged in sexual contact or activity.

(3) A counselor shall not engage in sexually harassing or demeaning behavior with clients.

(4) Sexual contact or activity with a client, or an individual who has been a client within the past two years, constitutes unprofessional conduct.

(5) Counselors shall never engage in sexual contact or activity with former clients, if such contact or activity involves the abuse of the counselor-client relationship.

(a) The department may consider the following factors in evaluating if the counselor-client relationship has been abusive:

(i) The amount of time that has passed where there is no contact of any kind between counselor and client since therapy terminated;

(ii) The nature and duration of the therapy;

(iii) The circumstances of cessation or termination of therapy;

(iv) The client's personal history;

(v) The client's current mental status, emotional dependence and vulnerability;

(vi) The likelihood of adverse impact on the client and others; and

(vii) Any statements or actions made by the counselor during the course of therapy suggesting or inviting the possibility of a post termination sexual or romantic relationship with the client.

(b) If a counselor engages in sexual contact or activity with a client more than two years after the last therapeutic session, the counselor has had no contact with the client during the two-year period, and the sexual activity is not abusive of the counselor-client relationship the department will not consider the relationship to be unprofessional conduct.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-060 Mandatory reporting. (1) All reports required by this chapter shall be submitted to the department as soon as possible, but no later than twenty days after a determination is made.

(2) ~~((A))~~ Reports made in accordance with WAC 246-810-061, 246-810-062, 246-810-063, and 246-810-064 should contain the following information if known:

(a) The name, address, and telephone number of the person making the report.

(b) The name ~~((and))~~, address and telephone number~~((s))~~ of the ~~((registered))~~ counselors being reported.

(c) The case number of any client or patient whose treatment is a subject of the report.

(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.

(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.

(f) Any further information which would aid in the evaluation of the report.

(3) Mandatory reports shall be exempt from public inspection and copying to the extent permitted under ~~((RCW 42.17.310 or to the extent that public inspection or copying of the report or any portion of the report would invade or violate a person's right to privacy as set forth in RCW 42.17.255))~~ chapter 42.17 RCW.

(4) A person is immune from civil liability, whether direct or derivative, for providing information to the department pursuant to RCW 18.130.070.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-061 Health care institutions. The chief administrator or executive officer or their designee of any hospital ~~((or))~~, nursing home ~~((or alcohol))~~, chemical dependency treatment ~~((agency))~~ programs as defined in chapter~~((s 70.96 and))~~ 70.96A RCW, drug treatment agency as defined in chapter 69.54 RCW, and public and private mental health treatment agencies as defined in RCW 71.05.020 (6) and (7), and 71.24.025(3), shall report to the department when any ~~((registered))~~ counselor's services are terminated or are restricted based upon a determination that the ~~((registered))~~ counselor has committed an act which may constitute unprofessional conduct or that the ~~((registered))~~ counselor may be unable to practice with reasonable skill or safety to clients by reason of a mental or physical condition. Reports are to be made in accordance with WAC 246-810-060.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-062 Counselor associations or societies. The president or chief executive officer of any counselor or association or society within this state shall report to the department when the association or society determines that a registered or certified counselor has committed unprofessional conduct or that a ~~((registered))~~ counselor may not be able to practice counseling with reasonable skill and safety to clients as the result of any mental or physical condition. The report required by this section shall be made without regard to whether the ~~((registration holder))~~ counselor appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included. Reports are to be made in accordance with WAC 246-810-060.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-063 Health care service contractors and disability insurance carriers. The executive officer of every health care service contractor and disability insurer, licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW, operating in the state of Washington shall report to the department all final determinations that a ~~((registered))~~ counselor has engaged in fraud in billing for services.

Reports are to be made in accordance with WAC 246-810-060.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-064 Professional liability carriers.

Every institution or organization providing professional liability insurance directly or indirectly to ~~((registered))~~ counselors shall send a complete report to the department of any malpractice settlement, award, or payment in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured ~~((registered))~~ counselor's incompetency or negligence in the practice of counseling. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a twelve-month period as a result of the counselor's alleged incompetence or negligence in the practice of counseling. Reports are to be made in accordance with WAC 246-810-060.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90)

WAC 246-810-065 Courts. The department requests the assistance of the clerk of trial courts within the state to report all professional malpractice judgments and all convictions of ~~((registered))~~ counselors, other than minor traffic violations.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-066 State and federal agencies. The department requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a ~~((registered))~~ counselor is employed to provide client care services, to report to the department whenever such a ~~((registered))~~ counselor has been judged to have demonstrated his/her incompetency or negligence in the practice of counseling, or has otherwise committed unprofessional conduct, or ~~((is a mentally or physically disabled counselor))~~ may not be able to practice with reasonable skill and safety by reason of any mental or physical condition. These requirements do not supersede any federal or state law.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-070 Cooperation with investigation.

(1) A ~~((registrant))~~ counselor must comply with a request for records, documents, or explanation from an investigator who is acting on behalf of the ~~((director))~~ secretary of the department of ~~((licensing))~~ health by submitting the requested items within fourteen calendar days of receipt of the request by either the ~~((registrant))~~ counselor or their attorney, whichever is first. If the ~~((registrant))~~ counselor fails to comply with the request within fourteen calendar days, the investigator will contact that individual or their attorney by telephone or letter as a reminder.

(2) Investigators may ~~((extend the time))~~ grant a one-time extension for response if ~~((the request for extension does not exceed seven calendar days))~~ needed. Any other

requests for extension of time may be granted by the ~~((director))~~ secretary or the ~~((director's))~~ secretary's designee.

(3) If the ~~((registrant))~~ counselor fails to comply with the request within three business days after receiving the reminder, a ~~((subpoena will be served to obtain the requested items. A))~~ statement of charges may be issued pursuant to RCW 18.130.180(8) for failure to cooperate. If there is sufficient evidence to support additional charges, those charges may be included in the statement of charges.

~~((4)) If the registrant complies with the request after the issuance of the statement of charges, the director or the director's designee will decide if the charges will be prosecuted or settled. If the charges are to be settled the settlement proposal will be negotiated by the director's designee. Settlements are not considered final until the director signs the settlement agreement.))~~

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-080 AIDS prevention and information education requirements. (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health ~~((by))~~ in rule.

(b) "Office on AIDS" means that section within the department of ~~((social and))~~ health ~~((services))~~ or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

(2) ~~((Application for registration. Effective January 1, 1989))~~ Persons applying for registration ((shall)) or certification must submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection ~~((4))~~ (3) of this section.

(3) ~~((1989 Renewal of registration. Effective for the 1989 renewal period beginning January 1, 1989 all persons making application for registration renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4). Those persons who must renew during 1989 shall submit evidence of compliance with the education requirements of subsection (4) with their renewal application. Those persons who must renew during 1990 shall submit evidence of compliance with subsection (4) on or before December 31, 1989. Persons whose 1989 registration expires on or before March 31, 1989 will, upon written application, be granted an extension to April 15, 1989, to meet the AIDS education requirement. Renewal applicants who have documented hardship that prevents obtaining the required education may petition for an extension.~~

~~((4))~~ AIDS education and training.

(a) Acceptable education and training. The director will accept education and training that is consistent with the topical outline supported by the office on AIDS. Such education and training shall be a minimum of four clock hours and shall include, but is not limited to ~~((the following))~~: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

~~(b) ((Implementation—Effective January 1, 1989, the requirement for registration, renewal, or reinstatement of any registration on lapsed, inactive, or disciplinary status shall include completion of AIDS education and training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of subsection (a)).~~

~~(e)) Documentation. The applicant ((shall) must:~~

~~(i) Certify, on forms provided, that the minimum education and training ((has been)) was completed after January 1, 1987;~~

~~(ii) Keep records for two years documenting attendance and description of the ((learning)) training;~~

~~(iii) Be prepared to validate, through submission of these records, that attendance ((has taken)) took place.~~

CERTIFIED COUNSELORS—GENERAL REQUIREMENTS

NEW SECTION

WAC 246-810-110 Definitions. The following terms apply to the remainder of this chapter:

(1) "Counseling internship" is defined as supervised mental health counseling, marriage and family therapy and social work performed through counseling field placement while acquiring a master's or doctoral degree.

(2) "Counseling practicum" is defined as mental health counseling, marriage and family therapy and social work that is supervised as a part of a course.

(3) "Distance learning" means correspondence, computer, audio, video, or teleconference courses.

(4) "Formal meeting" is defined as conversations with an approved supervisor to discuss supervisee's cases. The formal meeting is usually a period of approximately one hour and focuses on the raw data from a supervisee's postgraduate experience, which may be made available to the supervisor through such means as direct observation, cotherapy, written clinical notes and audio and video recordings. Formal meetings, as defined here, take place during the supervised postgraduate experience and may be in the form of individual formal meetings or group formal meetings:

(a) "Individual formal meeting" is defined as a meeting with an approved supervisor, involving one supervisor and no more than two supervisees.

(b) "Group formal meeting" is defined as sessions of one or more supervisors meeting with no more than six supervisees.

(5) "Marriage and family therapist" is a counselor who practices that aspect of counseling described in RCW 18.19.130(2).

(6) "Mental health counselor" is a counselor who practices that aspect of counseling as described in RCW 18.19.120(2).

(7) "Social worker" is a counselor who practices that aspect of counseling described in RCW 18.19.110(3).

(8) "Official transcript" is defined as the transcript from the graduate school, in an envelope readily identified as having been sealed by the school.

(9) "Supervised postgraduate experience" is the post-master's degree practice as referred to in RCW 18.19.110

(1)(b) and the postgraduate practices as referred to in RCW 18.19.120 (1)(b) and RCW 18.19.130 (1)(b), and is the experience received under an approved supervisor after the master's or doctoral degree is acquired. A practicum or internship done while acquiring the degree is not applicable. The total number of counseling hours must be accumulated over a minimum twenty-four-month period. Accumulation of professional experience is not required to be consecutive.

NEW SECTION

WAC 246-810-120 Qualifications not met—Appeal.

(1) An applicant notified by the department as not meeting qualifications for state certification may request an informal review and an outline of requirements met or not met by making such request to the department in writing.

(2) The department will provide the applicant with an outline and the process for an appeal.

(3) After receiving the breakdown, the applicant may appeal the department's decision by submitting a letter requesting a brief adjudicative proceeding. The letter must clearly state the specific reason for the appeal and how the department was in error. The applicant must cite the law or rule on which the appeal is based.

(4) Following the brief adjudicative proceeding, the department will render a decision and notify the applicant in writing of the results.

NEW SECTION

WAC 246-810-130 Canceled certification—Reapplication. If a certification has been expired for three years or more, the certification is canceled. The certified counselor must reapply with the department, pay any current fees, and may be required to meet all the requirements of a new applicant. This section does not apply to anyone in a temporary retirement status.

NEW SECTION

WAC 246-810-140 Temporary retirement. Temporary retirement means a certified counselor who desires to place their certification in a nonpracticing status. The following applies only to counselors whose certification is active:

(1) Request must be made in writing.

(2) While in temporary retirement, the counselor:

(a) May not represent him/herself as "certified"; and

(b) Is not required to pay certification renewal fees.

(3) Reinstatement of the certification requires written notification to the department within five years of temporary retirement, and compliance with any applicable continuing education requirements, renewal requirements and fees in place at the time.

(4) If renewal is not made within five years of expiration, the counselor must reapply with the department, pay any current fees, provide evidence of current knowledge and skill and may be required to meet all the requirements of a new applicant.

(5) A certified counselor may let the certification lapse and practice under another certification or as a registered counselor.

NEW SECTION

WAC 246-810-150 Approved continuing education programs. (1) The continuing education (CE) program or course shall contribute to the advancement, extension and enhancement of the professional competence of the certified counselor. Courses or workshops primarily designed to increase practice income or office efficiency are specifically not eligible for CE credit. Counselors are encouraged to take CE relating to the various phases of their professional career.

(2) Acceptable CE courses (including distance learning), seminars, workshops and postgraduate institutes are those which are:

(a) Programs having a featured instructor, speaker(s) or panel which has been approved by an industry-recognized local, state, national or international organization or institution of higher learning;

(b) Distance learning programs, approved by an industry-recognized local, state, national or international organization or institution of higher learning. Such programs must have accompanying required tests of comprehension upon completion, and be independently graded.

(3) Training programs sponsored by the agency where a counselor is employed are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the certified counselor; and

(b) Are limited to six hours per reporting period.

(4) Other learning experiences, such as serving on a panel, board or council, community service, or publishing articles for professional publications, are acceptable if:

(a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the certified counselor; and

(b) Are limited to six hours per reporting period.

NEW SECTION

WAC 246-810-152 Continuing competency—Continuing education requirements. The purpose of these continuing education rules is to require certified counselors to continue their professional education as a condition of maintaining state certification.

(1) Certified counselors shall be responsible for obtaining thirty-six clock hours of continuing education during the two-year reporting period immediately preceding renewal of certification, at least six hours of which must be in professional ethics and law.

(2) When requested with the renewal of certification, the certified counselor shall submit an affidavit of compliance with continuing education requirements on a form provided by the department.

(3) The certified counselor shall obtain documentation of attendance from the continuing education provider to substantiate the affidavit of compliance and provide such documentation to the department if requested. Accordingly, it is the responsibility of the certified counselor to maintain evidence of such compliance for one year after the reporting date.

(4) Acceptable documentation of continuing education attendance to substantiate the affidavit shall include transcripts, letters from course instructors, or certificate of

completion or other formal certification. In all cases other than transcripts, the documentation must show the participant's name, the activity title, number of CE credit hours, date(s) of activity, and the signature of verifying individual (program sponsor).

(5) The certified counselor is subject to random compliance audit of continuing education any time within one year after the reporting date to which the affidavit of compliance applies; and shall provide such documentation to the department if requested. As part of the audit, the department may require a report of how a specific course improved the counselor's professional performance or benefitted the counselor's clients. If the secretary finds that the certificate holder did not obtain acceptable continuing education during the reporting period, the secretary may take action against the certified counselor.

(6) The certificate holder who has been in temporary retirement pursuant to RCW 18.19.160(2) shall be required to submit an affidavit of compliance with continuing education requirements upon request for reinstatement. The continuing education must have been obtained during the two-year period immediately prior to the renewal.

(7) The certificate holder who allows the certification to lapse and who requests renewal shall provide documentation of at least thirty-six hours of continuing education taken during the two years immediately prior to renewal.

(8) Continuing education clock hours in excess of the required hours obtained in any renewal period may not be carried forward to a subsequent renewal period.

(9) The certificate holder who prepares and presents lectures or education that contributes to the professional competence of a certified counselor may accumulate the same number of clock hours obtained for continuing education purposes by attenders. The clock hours for presenting a specific topic lecture or education may only be used for continuing education credit once during each renewal period.

(10) The effective date of the continuing education requirement shall be two years after the 1998 renewal date.

CERTIFIED MARRIAGE AND FAMILY THERAPISTS

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-310 Definitions. (~~Definitions within the meaning of this chapter as pertains~~) The following terms apply to the certification of marriage and family therapists.

(1) (~~"Shows evidence" is defined as the official transcript sent directly to the department of licensing by the approved college or university to include course catalogs and syllabi if requested by the department.~~

(2)) "Approved school" ((and "approved graduate school" both) means:

(a) Any ((regionally accredited)) college or university accredited by a national or regional accrediting body recognized by the commission on recognition of postsecondary accreditation or its successor; or

(b) A program accredited by the commission on accreditation for marriage and family therapy education, at the time the applicant completed the required education.

(2) "Approved supervisor" is an individual who meets the education and experience requirements described in WAC 246-810-334.

(3) "Marriage and family ((assessment)) treatment" includes the evaluation and diagnosis of individual, marital, family functioning, and psychopathology.

(4) "Treatment" is a process that is derived from a systemic or interactional theoretical orientation where psychotherapy is employed to improve the individual, marital, and family functioning.

(5) "Program equivalency" is graduate level courses the content of which compares to coursework required for achievement of a master's or doctoral degree in marriage and family therapy.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-320 Education requirements—Degree equivalents. (1) To meet the education requirement of RCW 18.19.130, an applicant must possess a master's or doctoral degree in marriage and family therapy or a behavioral science master's or doctoral degree with equivalent coursework from an approved school. An official transcript must be provided as evidence of fulfillment of the coursework required.

(2) The following are considered to ((establish equivalence)) be equivalent to a master's or doctoral degree in marriage and family therapy from an approved school ((or an approved graduate school)):

((1)) (a) A doctoral or master's degree from an approved school in any of the behavioral sciences that shows evidence of fulfillment of the coursework requirements set out in WAC ((308-220-040)) 246-810-321; or

((2)) (b) A doctoral or master's degree in any of the behavioral sciences from an approved school that shows evidence of partial fulfillment of the equivalent coursework requirements set out in WAC ((308-220-040)) 246-810-321, plus supplemental coursework from ((either)) an ((AAMFT accredited postgraduate institution or from a regionally accredited college or university)) approved school to satisfy the remaining equivalent coursework requirements set out in WAC ((308-220-040)) 246-810-321; or

(3) ((A doctoral or master's degree in any of the behavioral sciences and proof of meeting requirements for receiving AAMFT clinical membership.)) Applicants who held a behavioral science master or doctoral degree and are completing supplemental coursework through an approved school to satisfy any missing program equivalencies may count any postgraduate experience hours acquired concurrently with the additional coursework.

(4) Anyone who has obtained American Association for Marriage and Family Therapy (AAMFT) clinical membership status is considered to have met the education requirements of this chapter. Verification must be sent directly to the department from the AAMFT.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-321 Program equivalency. ((The equivalent course of graduate study)) Coursework equivalent to a master's or doctoral degree in marriage and family

therapy shall include graduate level courses in marital and family systems, marital and family therapy, individual development psychopathology, human sexuality, research, professional ethics and law, and supervised clinical practice and electives.

A total of forty-five semester ((hours)) credits and sixty quarter ((hours)) credits are required in all nine areas of study. A minimum of twenty-seven semester ((hours)) credits or thirty-six quarter ((hours)) credits are required in the first five areas of study: Marital and family systems, marital and family therapy, individual development psychopathology, human sexuality, and research. Distribution of the coursework is as follows ((below)):

(1) Marital and family systems.

(a) An applicant must ((take from)) have taken at least two ((to four)) courses in marital and family systems. ((Course hours)) Coursework required ((are)) is a minimum of six ((to twelve)) semester ((hours)) credits or eight ((to sixteen)) quarter ((hours)) credits.

(b) Marital and family systems is a fundamental introduction to the systems approach to intervention. The student should learn to think in systems terms on a number of levels across a wide variety of family structures, and regarding a diverse range of presenting problems. While the most intense focus may be on the nuclear family (in both its traditional and alternative forms), models should be taught which integrate information regarding the marital, sibling, and individual subsystems, as well as the family of origin and external societal influences. Developmental aspects of family functioning should also be considered of the family system, it also provides a theoretical basis for treatment strategy. Some material may be drawn from familiar sources such as family sociology, but it should be integrated with recent clinically-oriented systems concepts. Supplemental studies may include family simulation, the observation of well families, and study of the student's family of origin.

(2) Marital and family therapy.

(a) An applicant must ((take from)) have taken at least two ((to four)) courses in marital and family therapy. ((Course hours)) Coursework required ((are)) is a minimum of ((two to four)) six semester ((hours)) credits or ((three to six)) eight quarter ((hours)) credits.

(b) Marital and family therapy is intended to provide a substantive understanding of the major theories of systems change and the applied practices evolving from each orientation. Major theoretical approaches to be surveyed might include strategic, structural, experiential, neoanalytical (e.g., object relations), communications, and behavioral. Applied studies should consider the range of technique associated with each orientation, as well as a variety of treatment structures, including individual, concurrent, collaborative, conjoint marital, marital group, transgenerational, and network therapies.

(3) Individual development.

(a) An applicant must ((take)) have taken at least one course in individual development. ((Course hours)) Coursework required ((are)) is a minimum of two ((to four)) semester ((hours)) credits or three ((to six)) quarter ((hours)) credits.

(b) A course in this area is intended to provide a knowledge of individual personality development and its normal and abnormal manifestations. The student should have

relevant coursework in human development across the life span, and in personality theory. An attempt should be made to integrate this material with systems concepts. Several of the courses in this category may be required as prerequisites for some degree programs.

(4) Psychopathology.

(a) An applicant must ~~((take))~~ have taken at least one course in psychopathology. ~~((Course hours))~~ Coursework required ((are)) is a minimum of two ((to four)) semester ((hours and)) credits or three ((to six)) quarter ((hours)) credits.

(b) Psychopathology is the assessment and diagnosis including familiarity with current diagnostic nomenclature, diagnostic categories and the development of treatment strategies.

(5) Human sexuality.

(a) An applicant must ~~((take))~~ have taken at least one course in human sexuality. ~~((Course hours))~~ Coursework required ((are)) is a minimum of two ((to four)) semester ((hours and)) credits or three ((to six)) quarter ((hours)) credits.

(b) Human sexuality includes normal psycho-sexual development, sexual functioning and its physiological aspects and sexual dysfunction and its treatment.

(6) Research.

(a) An applicant must ~~((take))~~ have taken at least one course in research methods. ~~((Course hours))~~ Coursework required ((are)) is a minimum of three semester ((hours and)) credits or four quarter ((hours)) credits.

(b) The research area is intended to provide assistance to students in becoming informed consumers of research in the marital and family therapy field. Familiarity with substantive findings, together with the ability to make critical judgments as to the adequacy of research reports, is expected.

(7) Professional ethics and law.

(a) An applicant must ~~((take))~~ have taken at least one course in professional ethics and law. ~~((Course hours))~~ Coursework required ((are)) is a minimum of three semester ((hours and)) credits or four quarter ((hours)) credits.

(b) This area is intended to contribute to the development of a professional attitude and identity. Areas of study will include professional socialization and the role of the professional organization, licensure or certification legislation, legal responsibilities and liabilities, ethics and family law, confidentiality, independent practice and interprofessional cooperation.

(8) Electives.

(a) An individual must take one course in an elective area. Coursework required is a minimum of three semester credits and four quarter credits.

(b) This area will vary with different institutions but is intended to provide supplemental and/or specialized supporting areas.

(9) Supervised clinical practice.

(a) An applicant ((must have a minimum of one year of)) may acquire up to nine semester credits or twelve quarter credits through supervised clinical practice in marriage and family therapy under the supervision of a qualified marriage and family therapist((- Course hours required are a minimum of nine semester hours and twelve quarter hours.

~~(b) A minimum of five hundred hours of direct contact is required during graduate school. The student shall be involved in direct systemic/interactional clinical work with individuals, couples, and families. This work will continue without interruption for the balance of the student's academic program or at least one calendar year. A total of five hundred direct clinical hours shall be spread evenly throughout the calendar year with a minimum of one hundred hours of supervision (a minimum of fifty group hours and a minimum of fifty individuals).~~

~~(c) Applicants who have completed master's programs accredited by the AAMFT commission of accreditation will have met the five hundred hours of direct contact required during graduate school.~~

~~(9) Electives.~~

~~(a) An individual must take one course in an elective area. Course hours required are a minimum of three semester hours and four quarter hours.~~

~~(b) This area will vary with different institutions but is intended to provide supplemental and/or specialized supporting areas-) as determined by the school;~~

(b) If an applicant completed a master's or doctoral degree program in marriage and family therapy, or a behavioral science master's or doctoral degree with equivalent coursework, prior to January 1, 1997; and if that degree did not include a supervised clinical practice component, the applicant may substitute the clinical practice component with proof of a minimum of three years postgraduate experience in marriage and family therapy, in addition to the two years supervised postgraduate experience required under WAC 246-810-332(1).

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-332 Supervised postgraduate ((practice)) experience. ((Two years)) (1) To meet the postgraduate practice requirements provided in RCW 18.19.130(1), an applicant must have accomplished a minimum of twenty-four months of ((supervised)) postgraduate ((practice is required to be eligible for certification examination. The two years would include)) experience with an approved supervisor, who is responsible for the oversight of the supervisee's continuing clinical practice of marriage and family therapy. Total experience requirements include:

(a) One thousand hours of direct client contact; plus

(b) At least two hundred hours of ((supervision with)) formal meetings with an approved supervisor. At least one hundred of the two hundred hours ((to)) must be individual ((supervision. The two hundred hours of supervised practice represents one thousand hours of direct client contact)) formal meetings. The remaining hours may be in group formal meetings.

(2) Applicants who have completed a master's program accredited by the ((AAMFT)) commission on accreditation for marriage and family therapy education of the AAMFT may be credited with one hundred hours of supervision toward the two hundred hour ((supervision)) formal meeting requirement.

(3) Applicant must provide proof of experience on forms provided by the department.

(4) Staff development or orientation, or work done in a classroom, workshop or seminar setting are not applicable toward the supervised postgraduate experience required by this chapter.

(5) Anyone who has obtained American Association for Marriage and Family Therapy (AAMFT) clinical membership status is considered to have met the postgraduate experience requirements of this chapter. Verification must be sent directly to the department of health from the AAMFT.

NEW SECTION

WAC 246-810-334 Approved supervisor—Qualifications. (1) "Approved supervisor" (also referred to as "supervisor,") is defined as: A certified marriage and family therapist; or a mental health care provider who meets or exceeds the requirements of a certified marriage and family therapist in the state of Washington; and who would be eligible to take the examination required for certification. The supervisor must not be a blood or legal relative or cohabitant of the supervisee, supervisee's peer, or someone who has acted as the supervisee's therapist.

(2) The approved supervisor shall meet the following additional experience requirements:

(a) Must have completed at least three years of employment, or private practice, as a professional as defined above; and

(b) Must have at least one year's experience supervising the practice of marriage and family therapy, or the supervision of a practicum or internship.

(c) The one year of supervision may be acquired during the three years of employment or private practice.

(3) An American Association of Marriage and Family Therapy approved supervisor is considered to have met the requirements described in subsections (1) and (2) of this section.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-340 Examination. (1) Examinations ~~((with))~~ must be given to qualified candidates at least once annually as determined by the ~~((director))~~ secretary. Application~~((s))~~ and application fee must be ~~((complete and))~~ submitted at least ninety days ~~((in advance))~~ prior to the scheduled examination date. All other supporting documents, including verification of supervised postgraduate experience, must be submitted sixty days prior to the examination date.

(2) Examinations required.

(a) Applicant must take and pass the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination. The passing score on the examination shall be that established by the testing company in conjunction with the AMFTRB.

(b) Applicant will be required to take and pass the written examination on Washington's statutes and rules. The passing score on the examination shall be determined by the secretary.

(3) Applicants who fail one or both of the examination(s) shall submit the current reexamination fee(s).

NEW SECTION

WAC 246-810-345 Examination appeal procedures.

(1) The candidate who fails the examination for marriage and family therapist certification may appeal the examination results by requesting a review of the failed examination.

(2) The procedure for informal review of failed state-examination questions is as follows:

(a) The request for a review must be in writing and be postmarked within thirty days from the date of the letter notifying the candidate of the specific examination results.

(b) The department must notify the candidate of time, date and place to personally review incorrect answers on the failed examination. The time and place for such review shall be determined by the department.

(c) At the time of the candidate's review, the department shall provide the candidate's failed questions, indicating the incorrect selections. The candidate shall also be provided a form for completion in defense of the candidate's examination answers. The form, which serves the purpose of requesting an informal appeal, must be completed by the candidate only at the time of the review.

(i) The candidate must be identified only by candidate number for the purpose of the informal review.

(ii) The candidate must state the specific reason(s) why her or his answer(s) should be considered correct.

(d) The following restrictions shall apply during the review:

(i) The candidate must not bring in any resource material for use while completing the review.

(ii) The candidate is not allowed to remove any notes or material from the review site.

(iii) Letters of reference or requests for special consideration will not be considered.

(e) Requests for informal appeal are considered only when sufficient questions are challenged to result in a passing score.

(f) The informal appeal must be reviewed by the department which shall determine whether or not the candidate should be given credit for her or his answer(s) on the examination.

(g) The department must notify the candidate of the informal appeal decision in writing.

(3) The candidate who wishes informal review of the national examination must:

(a) Request hand scoring of the national examination from the department. The request must be in writing and postmarked within thirty days from the date of the letter notifying the candidate of the specific examination results. Upon request from the candidate, the department must provide examination-agency forms to the candidate. The candidate must fill out the form and forward with any required fee to the examination agency. Hand score results will be sent to the department. The department notifies the candidate of the results by letter.

(b) The candidate may request a review of the national examination within ninety days of the date of the exam, by submitting a written request to the department. The department will work with the examination agency to provide the candidate with the opportunity to review the exam in accordance with any review procedures required by the examination agency. The time and place for such review is

determined by the department as required by any constraints from the examination agency.

(4) The candidate who is not satisfied with the informal appeal decision may request a formal hearing before a law judge as provided by the Administrative Procedure Act, chapter 34.05 RCW. Such request for formal hearing must be submitted in writing to the department and be postmarked within thirty days from the date on the written notification of the informal appeal decision. The issues raised by the candidate at the formal hearing must be limited to those issues raised by the candidate for consideration in the informal appeal, unless amended by a prehearing order. The department must inform the candidate of the formal appeal process in writing within twenty days of receipt of the request for formal appeal.

(5) If there is a prehearing conference, the law judge must enter an order which sets forth the actions taken at the conference, including the settlement or simplification of issues. The prehearing order limits the issues for formal hearing to those not disposed of by admission or agreement. Such order controls the subsequent course of the proceeding unless modified by subsequent prehearing order.

NEW SECTION

WAC 246-810-348 Certification of persons credentialed out-of-state. Certification as a Washington state certified marriage and family therapist may be extended to persons credentialed in another jurisdiction.

(1) Applicants must have met the same education and experience as required by Washington state statute, chapter 18.19 RCW, and rules, chapter 246-810 WAC.

(2) Applicants who are currently a clinical member of The American Association for Marriage and Family Therapy (AAMFT) have met the educational and supervised postgraduate experience requirements for Washington state certification and are eligible to take the examination. Documentation of AAMFT status must be sent directly to the department of health from AAMFT.

(3) Examinations.

(a) Applicant must have passed the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination. Verification must be provided directly from the jurisdiction in which the applicant took the required examination.

(b) Applicant will be required to take and pass the written examination on Washington's statutes and rules.

(4) The following situations are not considered substantially equal for Washington state certification:

(a) Certification of persons credentialed out-of-state through a state-constructed examination; or

(b) Grandfathering provisions where proof of education, supervised postgraduate experience, or examination was not required.

CERTIFIED MENTAL HEALTH COUNSELORS

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-510 Definitions. The following terms apply to the certification of mental health counselors.

(1) ("~~Wellness model~~" is defined as focusing on a client's inherent strengths rather than pathology or restrictions on the clientele to be treated. "~~Wellness model~~" is an attitudinal rather than methodological intention.

(2) "~~Postgraduate supervision~~" is defined as consisting of a total of one hundred documented hours of individual face-to-face case consultation with an approved supervisor, with no more than six hours per month to be allowed to accrue toward the total.

(3) "~~Postgraduate professional experience~~" is defined as consisting of face-to-face counseling service with an individual or with a group of individuals for at least fifty percent of counseling service hours per week for a full-time or part-time employee. The total number of counseling hours is two thousand or more documented hours accumulated over a minimum of twenty-four months but not more than forty-eight months.

(4) "~~Counseling practicum~~" is defined as mental health counseling that is supervised as a part of a course.

(5) "~~Counseling internship~~" is defined as supervised mental health counseling performed through counseling field placement.

(6)) "Approved school" means any college or university accredited by a national or regional accrediting body recognized by the commission on recognition of postsecondary accreditation, or its successor, at the time the applicant completed the required education.

(2) "Approved supervisor" ((shall include a certified mental health counselor, licensed psychologist, licensed psychiatrist, or other mental health care provider who meets or exceeds the requirements of certified mental health counselor; provided, the supervisor is not a blood or legal relative or cohabitant of the supervisee.

(7) "Related field" is defined as counseling, psychology, social work, nursing, education, or social sciences)) is an individual who meets the education and experience requirements described in WAC 246-810-534.

(3) "Program equivalency" is a core of study, the content of which compares to coursework required for achievement of a master's or doctoral degree in mental health counseling.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-520 ((~~Approved schools~~)) Education requirements. ((~~Approved schools are those colleges or universities which were accredited by Western Association of Schools and Colleges, Northwest Association of Schools and Colleges, or an essentially equivalent national or regional accrediting body recognized by the council on postsecondary accreditation at the time the applicant completed the required education.~~)) (1) To meet the education requirement imposed by RCW 18.19.120, an applicant must possess a master's or doctoral degree in mental health counseling or a behavioral science master's or doctoral degree in a field relating to mental health counseling from an approved school. Fields recognized as relating to mental health counseling may include counseling, psychology, social work, nursing, education, pastoral counseling, rehabilitation counseling, or social sciences. Any field of study qualifying as related to mental health counseling must satisfy course-

work equivalency requirements included in WAC 246-810-521. An official transcript must be provided as evidence of fulfillment of the coursework required.

(2) Any supplemental coursework required must be from an approved school.

(3) Applicants who held a behavioral science master or doctoral degree and are completing supplemental coursework through an approved school to satisfy any missing program equivalencies may count any postgraduate experience hours acquired concurrently with the additional coursework.

(4) A person who is a Nationally Certified Counselor (NCC) or a Certified Clinical Mental Health Counselor (CCMHC) through the National Board of Certified Counselors (NBCC) is considered to have met the education requirements of this chapter. Verification must be sent directly to the department from NBCC.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-521 (~~(Mental health counselors—Education requirement prior to examination for certification.) Behavioral sciences—Program equivalency.~~ ~~((+))~~ To meet the education requirement imposed by RCW 18.19.120, an applicant must possess:

(a) A master's or doctoral degree in mental health counseling or related field from a regionally accredited college or university; or

(b) Have successfully completed at least thirty graduate semester hours or forty five graduate quarter hours in the field of mental health counseling or the substantial equivalent in subject content.

(2) Subject content)) (1) Behavioral science in a field relating to mental health counseling includes a core of study relating to counseling (~~(theories;))~~ theory and counseling philosophy(~~;-)~~). Either a counseling practicum, or a counseling internship, (~~(and should incorporate content in professional ethics and law and shall))~~ or both, must be included in the core of study. Exclusive use of an internship or practicum used for qualification must have incorporated supervised direct client contact. This core of study must include (~~(at least five))~~ seven content areas from the entire list (a) through (~~((h))~~) (g) of this subsection (~~(and at least two additional))~~, five of which must be from content areas (~~(from the entire list))~~ (a) through (h) of this subsection:

(a) Assessment/diagnosis.

(b) (~~(Career development counseling;))~~ Ethics/law.

(c) Counseling individuals.

(d) Counseling groups.

(e) Counseling couples and families.

(f) Developmental psychology (may be child, adolescent, adult or life span).

(g) (~~(Abnormal psychology;))~~ Psychopathology/abnormal psychology.

(h) Research and evaluation.

(i) Career development counseling.

(j) Multicultural concerns.

~~((j))~~ (k) Substance/chemical abuse.

~~((k))~~ (l) Physiological psychology.

~~((l))~~ (m) Organizational psychology.

~~((m))~~ (n) Mental health consultation.

~~((n))~~ (o) Developmentally disabled persons.

~~((o))~~ (p) Abusive relationships.

~~((p))~~ (q) Chronically mentally ill.

NEW SECTION

WAC 246-810-532 Supervised postgraduate experience. (1) To meet the postgraduate practice requirements provided in RCW 18.19.120(1), an applicant must have accomplished a minimum of twenty-four months of postgraduate experience with an approved supervisor, who is responsible for the oversight of the supervisee's continuing practice of mental health counseling. Total experience requirements include:

(a) Two thousand hours of supervised work experience; at least one thousand of the total hours must be direct client contact; and

(b) One hundred hours of individual formal meetings.

(2) Applicant must provide proof of experience on forms provided by the department.

(3) Staff development or orientation, or work done in a classroom, workshop or seminar setting are not applicable toward the supervised postgraduate experience required by this chapter.

(4) A person who is a Certified Clinical Mental Health Counselor (CCMHC) through the National Board of Certified Counselors (NBCC) is considered to have met the postgraduate experience requirements of this chapter. Verification must be sent directly to the department from NBCC.

NEW SECTION

WAC 246-810-534 Approved supervisor—Qualifications. (1) "Approved supervisor" (also referred to as "supervisor,") is defined as: A certified mental health counselor, certified marriage and family therapist, certified social worker, licensed psychologist, licensed psychiatrist; or a mental health provider who meets or exceeds the requirements of a certified mental health counselor in the state of Washington, and who would be eligible to take the examination required for certification. The supervisor must not be a blood or legal relative or cohabitant of the supervisee, supervisee's peer, or someone who has acted as the supervisee's therapist.

(2) The approved supervisor shall meet the following additional experience requirements:

(a) Must have completed at least three years of employment, or private practice, as a professional as defined above; and

(b) Must have at least one year's experience supervising the practice of mental health counseling, or the supervision of a practicum or internship.

(i) The one year of supervision may be acquired during the three years of employment or private practice.

(ii) A minimum of thirty clock hours of training in supervision may be substituted for the one year of supervision experience.

(3) A person who is an NBCC approved supervisor for CCMHC through NBCC is considered to have met the requirements described in subsections (1) and (2) of this section.

(4) Supervisors of applicants whose supervised postgraduate experience was acquired prior to January 1, 2000,

need not meet the requirements of subsection (2) of this section.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-540 Examination for certified mental health counselors. (1) A written ~~(, multiple-choice)~~ certification examination on knowledge and application of mental health counseling ~~((with))~~ must be administered at least once a year. Application ~~((s))~~ and application fee must be submitted at least ninety days prior to the scheduled examination date. All other supporting documents, including verification of supervised postgraduate experience, must be submitted sixty days prior to the examination date.

(2) Applicants who ~~((successfully complete))~~ take and pass the National Board of Certified Counselors (NBCC) national certification examination (NCE) or the National Clinical Mental Health Counselor Examination (NCMHCE) have met the examination requirement of RCW 18.19.120. Verification of successful completion and passage of the NBCC certification examination is to be provided directly to the department of ~~((licensing))~~ health by ~~((the))~~ NBCC at the request of the applicant for Washington state certified mental health counselor.

(3) ~~((Applicants who successfully complete and pass the National Academy of Certified Clinical Mental Health Counselors (NACCMHC) certification examination have met the examination requirement of RCW 18.19.120. Verification of successful completion and passage of the NACCMHC certification examination is to be provided directly to the department of licensing by the NACCMHC at the request of the applicant for Washington state certified mental health counselor.))~~ The passing score established by the testing company is the passing score accepted by the department of health.

NEW SECTION

WAC 246-810-545 Examination appeal procedures. The candidate who fails the examination for mental health counselor certification may appeal the examination result by requesting a review of the failed examination.

(1) The candidate who wishes informal review of the national examination must:

(a) Request hand scoring from the department. The request must be in writing and postmarked within thirty days from the date of the letter notifying the candidate of the specific examination results. Upon request from the candidate, the department must provide examination-agency forms to the candidate. The candidate must fill out the form and forward with any required fee to the examination agency. Hand score results will be sent to the department. The department notifies the candidate of the results by letter.

(b) The candidate may request a review of the national examination within ninety days of the date of the examination, by submitting a written request to the department. The department will work with the examination agency to provide the candidate with the opportunity to review the exam in accordance with any review procedures required by the examination agency. The time and place for such review is determined by the department as required by any constraints from the examination agency.

(2) The candidate who is not satisfied with the informal review decision may request a formal hearing before a law judge as provided by the Administrative Procedure Act, chapter 34.05 RCW. Such request for formal hearing must be submitted in writing to the department and be postmarked within thirty days from the date on the written notification of the informal review decision. The issues raised by the candidate at the formal hearing must be limited to those issues raised by the candidate for consideration at the informal review, unless amended by a prehearing order. The department must inform the candidate of the formal appeal process in writing within twenty days of receipt of the request for formal appeal.

(3) If there is a prehearing conference, the law judge must enter an order which sets forth the actions taken at the conference, including the settlement or simplification of issues. The prehearing order limits the issues for formal hearing to those not disposed of by admission or agreement. Such order controls the subsequent course of the proceeding unless modified by subsequent prehearing order.

NEW SECTION

WAC 246-810-548 Certification of persons credentialed out-of-state. Certification as a Washington state certified mental health counselor may be extended to persons credentialed in another jurisdiction.

(1) Applicants must have met the same education and experience as required by Washington state statute, chapter 18.19 RCW, and rules, chapter 246-810 WAC.

(2) Applicants who are a Nationally Certified Counselor (NCC) through the National Board of Certified Counselors (NBCC) have met the education requirements for Washington state certification. Applicants who are a Certified Clinical Mental Health Counselor (CCMHC) through the NBCC have met the education and experience requirements for Washington state certification.

(3) Examination. Applicant must have passed the National Board of Certified Counselors National Counselor Examination (NCE) or the National Clinical Mental Health Counselor Examination (NCMHCE). Verification must be provided directly from the jurisdiction in which the applicant took the required examination.

(4) The following situations are not considered substantially equal for Washington state certification:

(a) Certification of persons credentialed out-of-state through a state-constructed examination; or

(b) Grandfathering provisions where proof of education, supervised postgraduate experience, or examination was not required.

CERTIFIED SOCIAL WORKERS

NEW SECTION

WAC 246-810-710 Definitions. The following terms apply to the certification of social workers.

(1) "Approved school" is an accredited graduate school of social work as provided in RCW 18.19.110, and means a program accredited by the council on social work education (CSWE).

(a) Canadian graduate schools of social work that are approved by the Canadian council of social work; and

(b) Foreign curriculums which meet the requirements of the foreign equivalency determining service of the council on social work education.

(2) "Approved supervisor" is an individual who is a certified social worker who meets the education and experience requirements described in WAC 246-810-734.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-720 ((Accredited programs.)) Educational requirements. ~~((Accredited graduate school of social work as provided in RCW 18.19.110, means a program accredited by the council of social work education. Program equivalency includes:~~

~~(1) Canadian graduate schools of social work that are approved by the Canadian council of social work; and~~

~~(2) Foreign curriculum which meets the requirements of the foreign equivalency determining service of the council on social work education.))~~ To meet the education requirement imposed by RCW 18.19.110, an applicant must possess a master's or doctoral degree from an approved school of social work as defined in WAC 246-810-710. An official transcript must be provided as evidence of fulfillment of the coursework required. Obtaining ((such)) equivalency approval of a foreign curriculum is the applicant's responsibility.

NEW SECTION

WAC 246-810-721 Education and experience equivalency. (1)(a) Anyone who has held Academy of Certified Social Workers (ACSW) status since prior to 1972 is considered to have met the education and postgraduate experience requirements to be eligible for Washington state certification examination.

(b) Persons who obtained ACSW status, during 1972 or later must provide verification of forty-five hours of master of social work supervision as provided in WAC 246-810-732 to be considered to have met the education and formal meetings requirements to be eligible for Washington state certification examination.

(c) Documentation of ACSW status must be sent directly to the department from the ACSW or any chapter office of the National Association of Social Workers (NASW).

(2)(a) Persons who obtained the Board Certified Diplomate in Clinical Social Work from the American Board of Examiners in Clinical Social Work (ABECSW) shall be considered to have met the education and postgraduate experience requirements to be eligible for Washington state certification examination.

(b) Documentation of ABECSW Board Certified Diplomate in Clinical Social Work must be sent directly to the department from the ABECSW.

(3)(a) Persons who obtained the Diplomate in Clinical Social Work (DCSW) or Qualified Clinical Social Work (QCSW) from the National Association of Social Workers (NASW) shall be considered to have met the education and postgraduate experience requirements to be eligible for Washington state certification examination.

(b) Documentation of DCSW or QCSW must be sent directly to the department from NASW.

NEW SECTION

WAC 246-810-732 Supervised postgraduate experience. (1) To meet the post-master's practice requirements provided in RCW 18.19.110(1), an applicant must have accomplished a minimum of twenty-four months of postgraduate experience with an approved supervisor, who is responsible for the oversight of the supervisee's continuing practice of social work. Total experience requirements include:

(a) Three thousand hours of social work experience under the supervision of an approved supervisor.

(b) Within the total experience hours, ninety hours of formal meetings with the supervisor to discuss social work practice related issues.

(i) At least forty-five of the ninety hours, must be under the supervision of a person who is either a Washington state certified social worker, ACSW or a person who has received a master's or doctoral degree in social work from an approved school and who can demonstrate qualifications equal to those required for Washington state social worker certification.

(ii) The remaining forty-five hours may be under the supervision of an approved supervisor.

(2) Applicant must provide proof of experience on forms provided by the department.

(3) Staff development or orientation, or work done in a classroom, workshop or seminar setting are not applicable toward the supervised postgraduate experience required by this chapter.

NEW SECTION

WAC 246-810-734 Approved supervisor—Qualifications. (1) "Approved supervisor" (also referred to as "supervisor,") is defined as: A certified social worker, certified mental health counselor, or certified marriage and family therapist, licensed psychologist, licensed psychiatrist; or a mental health provider who meets or exceeds the requirements of a certified social worker in the state of Washington; and who would be eligible to take the examination required for certification. The supervisor must not be a blood or legal relative or cohabitant of the supervisee, supervisee's peer, or someone who has acted as the supervisee's therapist.

(2) The approved supervisor shall meet the following additional experience requirements:

(a) Must have completed at least three years of employment, or private practice, as a professional as defined above; and

(b) Must have at least one year's experience supervising the practice of social work, or the supervision of a practicum or internship.

(i) The one year of supervision may be acquired during the three years of employment or private practice.

(ii) A minimum of thirty clock hours of training in supervision may be substituted for the one year of supervision experience.

(3) An ACSW approved supervisor is considered to have met the requirements of subsections (1) and (2) of this section.

(4) Supervisors of applicants whose supervised postgraduate experience was acquired prior to January 1, 2000,

need not meet the requirements of subsection (2) of this section.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-810-740 Examination required. (1) Either the American Association of State Social Work Board's ~~(level-C)~~ advanced or clinical examination is approved for use as the state examination for certification of social workers.

(2) The passing score established by the testing company is the passing score accepted by the department of health.

NEW SECTION

WAC 246-810-745 Examination appeal procedures. The candidate who fails the examination for social worker certification may appeal the examination result by requesting a review of the failed examination.

(1) The candidate who wishes informal review of the national examination must:

(a) Request hand scoring from the department. The request must be in writing and postmarked within thirty days from the date of the letter notifying the candidate of the specific examination results. Upon request from the candidate, the department must provide examination-agency forms to the candidate. The candidate must fill out the form and forward with any required fee to the examination agency. Hand score results will be sent to the department. The department notifies the candidate of the results by letter.

(b) The candidate may request a review of the national examination within ninety days of the date of the examination, by submitting a written request to the department. The department will work with the examination agency to provide the candidate with the opportunity to review the exam in accordance with any review procedures required by the examination agency. The time and place for such review is determined by the department as required by any constraints from the examination agency.

(2) The candidate who is not satisfied with the informal review decision may request a formal hearing before a law judge as provided by the Administrative Procedure Act, chapter 34.05 RCW. Such request for formal hearing must be submitted in writing to the department and be postmarked within thirty days from the date on the written notification of the informal review decision. The issues raised by the candidate at the formal hearing must be limited to those issues raised by the candidate for consideration at the informal review, unless amended by a prehearing order. The department must inform the candidate of the formal appeal process in writing within twenty days of receipt of the request for formal appeal.

(3) If there is a prehearing conference, the law judge must enter an order which sets forth the actions taken at the conference, including the settlement or simplification of issues. The prehearing order limits the issues for formal hearing to those not disposed of by admission or agreement. Such order controls the subsequent course of the proceeding unless modified by subsequent prehearing order.

NEW SECTION

WAC 246-810-748 Certification of persons credentialed out-of-state. Certification as a Washington state certified social worker may be extended to persons credentialed in another jurisdiction.

(1) Applicants must have met the same education and experience as required by Washington state statute, chapter 18.19 RCW, and rules, chapter 246-810 WAC.

(2) Applicants who currently hold ACSW, ABECSSW or NASW status, as stipulated in WAC 246-810-721, may have met the education and/or experience requirements for Washington state certification.

(3) Examination. Applicant must have passed the American Association of State Social Work Board's Advanced or Clinical examination. Verification must be provided directly from the jurisdiction in which the applicant took the required examination.

(4) The following situations are not considered substantially equal to Washington state certification:

(a) Certification of persons credentialed out-of-state through a state-constructed examination; or

(b) Grandfathering provisions where proof of education, supervised experience, or examination was not required.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-810-050	General provisions.
WAC 246-810-330	Supervision.
WAC 246-810-331	Supervisor qualifications.
WAC 246-810-350	General provisions.
WAC 246-810-360	Mandatory reporting.
WAC 246-810-361	Health care institutions.
WAC 246-810-362	Marriage and family therapist associations or societies.
WAC 246-810-363	Health care service contractors and disability insurance carriers.
WAC 246-810-364	Professional liability carriers.
WAC 246-810-365	Courts.
WAC 246-810-366	State and federal agencies.
WAC 246-810-370	Cooperation with investigation.
WAC 246-810-380	AIDS prevention and information education requirements.
WAC 246-810-530	Mental health counselors—Professional experience requirement prior to examination for certification.
WAC 246-810-541	Applicants with graduate degree by January 26, 1989.
WAC 246-810-542	Examination waiver eligibility.
WAC 246-810-550	General provisions.
WAC 246-810-560	Mandatory reporting.
WAC 246-810-561	Health care institutions.
WAC 246-810-562	Mental health counselor associations or societies.
WAC 246-810-563	Health care service contractors and disability insurance carriers.
WAC 246-810-564	Professional liability carriers.

WAC 246-810-565	Courts.	Late renewal penalty	50.00
WAC 246-810-566	State and federal agencies.	Duplicate certification	15.00
WAC 246-810-570	Cooperation with investigation.	((Certification)) Verification	15.00
WAC 246-810-580	AIDS prevention and information education requirements.	Wall certificate	15.00
WAC 246-810-730	Supervision requirements.	Certified social worker:	
WAC 246-810-731	Education and supervision equivalency.	Application	50.00
WAC 246-810-741	Certification of persons credentialed out-of-state.	Initial certification	50.00
WAC 246-810-750	General provisions.	Renewal	65.00
WAC 246-810-760	Mandatory reporting.	Late renewal penalty	50.00
WAC 246-810-761	Health care institutions.	Duplicate certification	15.00
WAC 246-810-762	Social worker associations or societies.	((Certification)) Verification	15.00
WAC 246-810-763	Health care service contractors and disability insurance carriers.	Wall certificate	15.00
WAC 246-810-764	Professional liability carriers.		
WAC 246-810-765	Courts.		
WAC 246-810-766	State and federal agencies.		
WAC 246-810-770	Cooperation with investigation.		
WAC 246-810-780	AIDS prevention and information education requirements.		

AMENDATORY SECTION (Amending WSR 96-08-069, filed 4/3/96, effective 5/4/96)

WAC 246-810-990 Fees. The following fees shall be charged by the ~~((professional licensing services))~~ health professions quality assurance division of the department of health:

Title	Fee
Registered counselor:	
Application and registration	\$ 40.00
Renewal	37.00
Late renewal penalty	37.00
Duplicate registration	15.00
((Certification)) Verification	15.00
Registered hypnotherapist:	
Application and registration	95.00
Renewal	130.00
Late renewal penalty	65.00
Duplicate registration	15.00
((Certification)) Verification	15.00
Certified marriage and family therapist:	
Application	100.00
Initial certification	125.00
((Written)) Examination <u>administration</u>	((250.00))
	<u>50.00</u>
((Retake examination — Written	250.00))
Renewal	200.00
Late renewal penalty	100.00
Duplicate certification	15.00
((Certification)) Verification	15.00
Wall certificate	15.00
Certified mental health counselor:	
Application	75.00
Initial certification	60.00
Renewal	65.00

PROPOSED



WSR 97-13-001
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

(Fisheries)

[Order 97-84—Filed June 4, 1997, 1:37 p.m.]

Date of Adoption: May 5, 1997.

Purpose: Amend hydraulic project approval rules and adopt rules pertaining to control of aquatic plants.

Citation of Existing Rules Affected by this Order: Amending WAC 220-110-010, 220-110-020, and 220-110-035.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 97-07-077 on March 19, 1997.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-110-332, prior authorization will be required for weed raking in eight lakes which contain sockeye salmon. A ten-linear feet aquatic plant removal for access and egress is permitted. Removal of the entire aquatic noxious weed is required, if possible. A general requirement for prior approval for raking in fish spawning areas was removed.

WAC 220-110-333, both biodegradable and nonbiodegradable screens may be used to provide the access and egress point.

WAC 220-110-334, prior approval needed for use of weed rollers to remove beneficial aquatic plants. Removal of the entire aquatic noxious weed is required, if possible. A general requirement for prior approval for weed rolling in fish spawning areas was removed.

WAC 220-110-337, a general requirement for prior approval for dredging in fish spawning areas was removed.

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 10, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 10, amended 2, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 28, 1997
Chris Drivdahl
for Bern Shanks
Director

AMENDATORY SECTION (Amending Order 94-160, filed 11/14/94, effective 12/15/94)

WAC 220-110-010 Purpose. It is the intent of the department to provide protection for all fish life through the development of a state-wide system of consistent and predictable rules. The department will coordinate with other

local, state, and federal regulatory agencies, and tribal governments, to minimize regulatory duplication. Pursuant to chapter 75.20 RCW, this chapter establishes regulations for the construction of hydraulic project(s) or performance of other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, and sets forth procedures for obtaining a hydraulic project approval (HPA). In addition, this chapter incorporates criteria generally used by the department (~~of fish and wildlife~~) for project review and conditioning HPAs.

The technical provisions in WAC 220-110-040 through (~~220-110-330~~) 220-110-338 represent common provisions for the protection of fish life for typical projects proposed to the department. Implementation of these provisions is necessary to minimize project specific and cumulative impacts to fish life. These regulations reflect the best available science and practices related to protection of fish life. The department will incorporate new information as it becomes available, and to allow for alternative practices that provide equal or greater protection for fish life.

The technical provisions shall apply to a hydraulic project when included as provisions on the HPA. Each application shall be reviewed on an individual basis. Common technical provisions applicable to a specific project may be modified or deleted by the department pursuant to WAC 220-110-032. HPAs may also be subject to additional special provisions to address project or site-specific considerations not adequately addressed by the common technical provisions.

AMENDATORY SECTION (Amending Order 94-160, filed 11/14/94, effective 12/15/94)

WAC 220-110-020 Definitions. As used in this chapter, unless the context clearly requires otherwise:

(1) "Aquatic beneficial plant" means native and non-native aquatic plants not prescribed by RCW 17.10.010(10), and that are of value to fish life.

(2) "Aquatic noxious weed" means an aquatic weed on the state noxious weed list as prescribed by RCW 17.10.010(10).

(3) "Aquatic plant" means any aquatic noxious weed and aquatic beneficial plant that occurs within the ordinary high water line of waters of the state.

(4) "Beach area" means the beds between the ordinary high water line and extreme low tide.

~~((2))~~ (5) "Bed" means the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

~~((3))~~ (6) "Bed materials" means natural-occurring material, including aquatic plants, found in the beds of state waters.

~~((4))~~ (7) "Bio-degradable" means material that is capable of being readily decomposed by biological means, such as by bacteria.

(8) "Bio-engineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank

stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

~~((5))~~ (9) "Bottom barrier or screen" means synthetic or natural fiber sheets of material used to cover and kill plants growing on the bottom of a watercourse.

(10) "Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

~~((6))~~ (11) "Cofferdam" means a temporary enclosure used to keep water from a work area.

~~((7))~~ (12) "Control" means level of treatment of aquatic noxious weeds as prescribed by RCW 17.10.010(5).

(13) "Department" means the department of fish and wildlife.

~~((8))~~ (14) "Diver-operated dredging" means the use of portable suction or hydraulic dredges held by SCUBA divers to remove aquatic plants.

(15) "Drawdown" means decreasing the level of standing water in a watercourse to expose bottom sediments and rooted plants.

(16) "Dredging" means removal of bed material using other than hand held tools.

~~((9))~~ (17) "Early infestation" means an aquatic noxious weed whose stage of development, life history, or area of coverage makes one hundred percent control and eradication as prescribed by RCW 17.10.010(5) likely to occur.

(18) "Emergency" means an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation, arising from weather or stream flow conditions, other natural conditions, or fire.

~~((10))~~ (19) "Entrained" means the entrapment of fish into a watercourse diversion without the presence of a screen, into high velocity water along the face of an improperly designed screen, or into the vegetation cut by a mechanical harvester.

(20) "Equipment" means any device powered by internal combustion; hydraulics; electricity, except less than one horsepower; or livestock used as draft animals, except saddle horses; and the lines, cables, arms, or extensions associated with the device.

~~((11))~~ (21) "Eradication" See "control."

(22) "Established ford" means a crossing place in a watercourse that was in existence and annually used prior to 1986 or subsequently permitted by the department, and, has identifiable approaches on the streambanks.

~~((12))~~ (23) "Extreme low tide" means the lowest level reached by a receding tide.

~~((13))~~ (24) "Farm and agricultural land" means those lands identified as such in RCW 84.34.020.

~~((14))~~ (25) "Filter blanket" means a layer or combination of layers of pervious materials (organic, mineral, or synthetic) designed and installed in such a manner as to provide drainage, yet prevent the movement of soil particles due to flowing water.

~~((15))~~ (26) "Fish life" means all fish species, including but not limited to food fish, shellfish, game fish, and other nonclassified fish species and all stages of development of those species.

~~((16))~~ (27) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that shall not be fished for except as authorized by rule of the director of the department of fish and wildlife.

~~((17))~~ (28) "Freshwater area" means those state waters and associated beds below the ordinary high water line that are upstream of river mouths including all lakes, ponds, and streams.

~~((18))~~ (29) "Game fish" means those species of the class Osteichthyes that shall not be fished for except as authorized by rule of the fish and wildlife commission.

~~((19))~~ (30) "General provisions" means those provisions that are contained in every ~~((HPA))~~ HPA.

~~((20))~~ (31) "Hand cutting" means the removal or control of aquatic plants with the use of hand-held tools or equipment, or equipment that is carried by a person when used.

(32) "Hand-held tools" means tools that are held by hand and are not powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are shovels, rakes, hammers, etc.

~~((21))~~ (33) "Hatchery" means any water impoundment or facility used for the captive spawning, hatching, or rearing of fish and shellfish.

~~((22))~~ (34) "Hydraulic project" means construction or performance of other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. Hydraulic projects include forest practice activities, conducted pursuant to the forest practices rules (Title 222 WAC), that involve construction or performance of other work in or across the ordinary high water line of:

(a) Type 1-3 waters; or

(b) Type 4 and 5 waters with identifiable bed or banks where there is a hatchery water intake within two miles downstream; or

(c) Type 4 and 5 waters with identifiable bed or banks within one-fourth mile of Type 1-3 waters where any of the following conditions apply:

(i) Where the removal of timber adjacent to the stream is likely to result in entry of felled trees into flowing channels;

(ii) Where there is any felling, skidding, or ground lead yarding through flowing water, or through dry channels with identifiable bed or banks with gradient greater than twenty percent;

(iii) Where riparian or wetland leave trees are required and cable tailholds are on the opposite side of the channel;

(iv) Where road construction or placement of culverts occurs in flowing water;

(v) Where timber is yarded in or across flowing water;

(d) Type 4 and 5 waters with identifiable bed or banks that are likely to adversely affect fish life, where the HPA requirement is noted by the department in response to the forest practice application.

Hydraulic projects and associated permit requirements for specific project types are further defined in other sections of this chapter.

~~((23))~~ (35) "Hydraulic project application" means a form provided by and submitted to the department of fish and wildlife accompanied by plans and specifications of the proposed hydraulic project.

~~((24))~~ (36) "Hydraulic project approval" (HPA) means:

(a) A written approval for a hydraulic project signed by the director of the department of fish and wildlife, or the director's designates; or

(b) A verbal approval for an emergency hydraulic project from the director of the department of fish and wildlife, or the director's designates; or

(c) A "Gold and Fish" pamphlet issued by the department which identifies and authorizes specific minor hydraulic project activities for mineral prospecting (panning); or

(d) An "Irrigation and Fish" pamphlet issued by the department which identifies and authorizes specific minor hydraulic project activities; or

(e) An "Aquatic Plants and Fish" pamphlet issued by the department which identifies and authorizes specific aquatic noxious weed and aquatic beneficial plant removal and control activities.

~~((25))~~ (37) "Large woody material" means trees or tree parts larger than four inches in diameter and longer than six feet and rootwads, wholly or partially waterward of the ordinary high water line.

~~((26))~~ (38) "Mean higher high water" or "MHHW" means the tidal elevation obtained by averaging each day's highest tide at a particular location over a period of nineteen years. It is measured from the MLLW = 0.0 tidal elevation.

~~((27))~~ (39) "Mean lower low water" or "MLLW" means the 0.0 tidal elevation. It is determined by averaging each day's lowest tide at a particular location over a period of nineteen years. It is the tidal datum for vertical tidal references in the saltwater area.

~~((28))~~ (40) "Mechanical harvesting and cutting" means the partial removal or control of aquatic plants with the use of aquatic mechanical harvesters which cut and collect aquatic plants, and mechanical cutters which only cut aquatic plants.

(41) "Mitigation" means actions which shall be required as provisions of the HPA to avoid or compensate for impacts to fish life resulting from the proposed project activity. The type(s) of mitigation required shall be considered and implemented, where feasible, in the following sequential order of preference:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

(e) Compensating for the impact by replacing or providing substitute resources or environments; or

(f) Monitoring the impact and taking appropriate corrective measures to achieve the identified goal.

For projects with potentially significant impacts, a mitigation agreement may be required prior to approval. Replacement mitigation may be required to be established and functional prior to project construction.

~~((29))~~ (42) "Natural conditions" means those conditions which arise in or are found in nature. This is not meant to include artificial or manufactured conditions.

~~((30))~~ (43) "No-net-loss" means:

(a) Avoidance or mitigation of adverse impacts to fish life; or

(b) Avoidance or mitigation of net loss of habitat functions necessary to sustain fish life; or

(c) Avoidance or mitigation of loss of area by habitat type.

Mitigation to achieve no-net-loss should benefit those organisms being impacted.

~~((31))~~ (44) "Ordinary high water line" means the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland: *Provided*, That in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood.

~~((32))~~ (45) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations.

~~((33))~~ (46) "Protection of fish life" means prevention of loss or injury to fish or shellfish, and protection of the habitat that supports fish and shellfish populations.

~~((34))~~ (47) "Purple loosestrife" means Lythrum salicaria and Lythrum virgatum as prescribed in RCW 17.10.010(10) and defined in RCW 17.26.020 (5)(b).

(48) "River or stream." See "watercourse."

~~((35))~~ (49) "Rotovation" means the use of aquatic rotovators which have underwater rototiller-like blades to uproot aquatic plants as a means of plant control.

(50) "Saltwater area" means those state waters and associated beds below the ordinary high water line and downstream of river mouths.

~~((36))~~ (51) "Shellfish" means those species of saltwater and freshwater invertebrates that shall not be taken except as authorized by rule of the director of the department of fish and wildlife. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

~~((37))~~ (52) "Spartina" means Spartina alterniflora, Spartina anglica, Spartina x townsendii, and Spartina patens as prescribed in RCW 17.10.010(10) and defined in RCW 17.26.020 (5)(a).

(53) "Special provisions" means those conditions that are a part of the ~~((HPA))~~ HPA, but are site or project specific, and are used to supplement or amend the technical provisions.

~~((38))~~ (54) "Streambank stabilization" means those projects which prevent or limit erosion, slippage, and mass wasting; including, but not limited to bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection (physical armoring of streambanks using rock or woody material, or placement of jetties or groins), gravel removal or erosion control.

~~((39))~~ (55) "Technical provisions" means those conditions that are a part of the ~~((HPA))~~ HPA and apply to most projects of that nature.

~~((40))~~ (56) "Toe of the bank" means the distinct break in slope between the stream bank or shoreline and the stream bottom or marine beach or bed, excluding areas of slough-

ing. For steep banks that extend into the water, the toe may be submerged below the ordinary high water line. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure, where it meets the stream bed or marine beach or bed.

~~((41))~~ (57) "Viable" means that any plant or plant part is capable of taking root or living when introduced into a body of water.

(58) "Watercourse" and "river or stream" means any portion of a channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, storm water run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by humans.

~~((42))~~ (59) "Water right" means a certificate of water right, a vested water right or a claim to a valid vested water right, or a water permit, pursuant to Title 90 RCW.

~~((43))~~ (60) "Waters of the state" or "state waters" means all salt waters and fresh waters waterward of ordinary high water lines and within the territorial boundaries of the state.

~~((44))~~ (61) "Water type" means water categories as defined in WAC 222-16-030 of the forest practice rules and regulations (~~published and dated November 1, 1988~~).

~~((45))~~ (62) "Weed rolling" means the use of a mechanical roller designed to control aquatic plant growth.

(63) "Wetted perimeter" means the areas of a watercourse covered with water, flowing or nonflowing.

NEW SECTION

WAC 220-110-031 Pamphlet hydraulic project approvals—Procedures. (1) In those instances where a pamphlet is the equivalent of an HPA as defined in WAC 220-110-020(36), a person shall obtain a pamphlet HPA issued by the department which identifies and authorizes specific minor hydraulic project activities before conducting a hydraulic project.

(2) The pamphlet HPA, or clear reproduction, shall be on the project site when work is being conducted and shall be immediately available for inspection.

(3) The pamphlet HPA shall be conditioned to ensure protection of fish life.

(4) Pamphlet HPAs do not exempt the applicant from obtaining other appropriate permits and following the rules or regulations of local, federal, and other Washington state agencies.

(5) Administration of this chapter shall be conducted in compliance with SEPA, chapter 43.21C RCW, and chapters 197-11, 220-100, and 232-19 WAC.

AMENDATORY SECTION (Amending Order 94-160, filed 11/14/94, effective 12/15/94)

WAC 220-110-035 Miscellaneous hydraulic projects—Permit requirements and exemptions. (1) Operators of mechanical or hydraulic clam harvesters shall be required to obtain an HPA and comply with provisions of WAC 220-52-018, and shall obtain and comply with the provisions of the department's permit to operate a clam harvesting machine.

(2) ~~(Noxious aquatic weed control by hand pulling or hand held tools does not require hydraulic project approval.)~~ An activity conducted solely for the removal or control of spartina does not require an HPA. An activity conducted solely for the removal or control of purple loosestrife and which is performed with hand-held tools, hand-held equipment, or equipment carried by a person when used does not require an HPA. Any other activity conducted solely for the removal or control of aquatic noxious weeds or aquatic beneficial plants shall require either a copy of the current Aquatic Plants and Fish pamphlet HPA available from the department or an individual HPA.

(3) The installation, by hand or hand-held tools, of small scientific markers, oyster stakes, boundary markers, or property line markers does not require an HPA.

(4) Driving a vehicle or operating equipment on or across an established ford does not require an HPA. However, ford repair with equipment or construction work waterward of the ordinary high water lines requires an HPA. Driving a vehicle or operating equipment on or across wetted stream beds at areas other than established fords requires an HPA. HPAs for new fords issued subsequent to January 1995 shall require that the entry and exit points of the ford not exceed one hundred feet upstream or downstream of each other.

(5) A person conducting a remedial action under a consent decree, order, or agreed order, pursuant to chapter 70.105D RCW, and the department of ecology when it conducts a remedial action, are exempt from the procedural requirements of the Hydraulic Code. Compliance with the substantive provisions of the Hydraulic Code is required.

(6) The technical and special provisions of an individual or a pamphlet HPA shall be followed by the permit holder, equipment operator(s), and other individuals conducting the project.

NEW SECTION

WAC 220-110-331 Aquatic plant removal and control technical provisions. WAC 220-110-332 through 220-110-338 set forth technical provisions that shall apply to hydraulic projects that control or remove aquatic plants. Aquatic plant removal and control methods include physical, mechanical, biological and chemical control methods. Often the best approach to aquatic plant control and removal is through the development of a vegetation management plan. A vegetation management plan is a comprehensive approach to control of aquatic plants where all forms of control strategies are considered and usually some combination of techniques is selected and implemented in a planned manner. These plans are based on the idea that decisions should be centered upon an understanding of the biology and ecology of the aquatic plant to be controlled and the environmental

characteristics of the site. Integrated vegetation management planning is encouraged at all times to comprehensively address aquatic plant problems for a watercourse. Certain technical provisions shall be required depending upon the individual proposal and site specific characteristics. Additional special provisions may be included, as necessary to address site-specific conditions. Those provisions, where applicable, shall be contained in the HPA (pamphlet or individual), as necessary to protect fish life. HPAs shall have specific time limitations on project activities to protect fish life. Information concerning timing shall be included with the pamphlet HPA. Saltwater provisions may be applied to tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam where applicable.

NEW SECTION

WAC 220-110-332 Hand removal or control. A copy of the current *Aquatic Plants and Fish* pamphlet available from the department shall serve as an HPA, unless otherwise indicated, and be on the job site at all times. Hand removal or control of aquatic plants is useful for eradication of an aquatic noxious weed early infestation. Hand removal or control can be effective for small, confined areas. Hand removal or control of aquatic plants projects may incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to hand removal or control of both aquatic noxious weed and aquatic beneficial plant projects except where otherwise indicated:

(1) Due to potential impacts to sockeye spawning areas, prior authorization by the department shall be required for raking in Baker Lake and Lakes Osoyoos, Ozette, Pleasant, Quinault, Sammamish, Washington and Wenatchee. Authorization may or may not be given for raking, and if given, may require mitigation through a written agreement between the applicant and the department for impacts by raking to the spawning area.

(2) Work shall be restricted to the use of hand-pulling, hand-held tools or equipment, or equipment that is carried when used.

(3) Removal or control of aquatic beneficial plants to maintain an access for boating or swimming shall be allowed along a maximum length of 10 linear feet of the applicant's shoreline. Projects for boating and swimming access which cover a larger area shall require prior authorization by the department.

(4) Where possible, the entire plant shall be removed when using hand-pulling for aquatic noxious weeds.

(5) Removal of detached plants and plant fragments from the watercourse shall be as complete as possible when using hand removal to remove or control aquatic noxious weeds. Detached plants and plant fragments shall be disposed of at an upland site so as not to reenter state waters.

(6) Existing fish habitat components such as logs, stumps, and large boulders shall not be removed or disturbed.

(7) Work shall be conducted to minimize the release of sediment and sediment-laden water from the project site.

(8) Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid or other deleterious material from equipment used are allowed to enter or leach into the watercourse.

(9) If at any time as a result of project activities or water quality problems, fish life are observed in distress or a fish kill occurs, operations shall cease and both the department and the department of ecology shall be notified of the problem immediately. The project shall not resume until further approval is given by the department. Additional measures to mitigate impacts may be required.

(10) Every effort shall be made to avoid the spread of plant fragments through equipment contamination. Persons or firms using any equipment to remove or control aquatic plants shall thoroughly remove and properly dispose of all viable residual plants and viable plant parts from the equipment prior to the equipment's use in a body of water.

NEW SECTION

WAC 220-110-333 Bottom barriers or screens. A copy of the current *Aquatic Plants and Fish* pamphlet available from the department shall serve as an HPA, unless otherwise indicated, and be on the job site at all times. Bottom barriers or screens are useful for eradication of an aquatic noxious weed early infestation. Bottom barriers or screens are best used in small, confined areas where control of all plants is desirable. Bottom barrier or screen projects may incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to bottom barrier or screen projects for both aquatic noxious weed or aquatic beneficial plant control or removal except where otherwise indicated:

(1) Due to potential impacts to sockeye spawning areas, prior authorization by the department shall be required for activities in Baker Lake and Lakes Osoyoos, Ozette, Pleasant, Quinault, Sammamish, Washington, and Wenatchee. Authorization may or may not be given for the activity, and if given, may require mitigation through a written agreement between the applicant and the department for impacts by the activity to the spawning area.

(2) For removal and control of aquatic noxious weeds, bottom barrier or screen material shall not cover more than fifty percent of the length of the applicant's shoreline. Bottom barrier or screen projects covering a larger area shall require prior authorization by the department. Bottom barrier or screen and anchor material consisting of biodegradable material may be left in place. Bottom barrier or screen and anchor material that is not biodegradable shall be completely removed within two years of placement to encourage recolonization of aquatic beneficial plants unless otherwise approved by the department.

(3) To remove or control aquatic beneficial plants such that an access is maintained for boating or swimming, bottom barrier or screen and anchor material that is either biodegradable or nonbiodegradable may be installed along a maximum length of ten linear feet of the applicant's shoreline. Bottom barrier or screen projects for boating and swimming access which cover a larger area shall require prior authorization by the department.

(4) Bottom barrier or screen material shall be securely anchored with pea-gravel filled bags, rock or similar mechanism to prevent billowing and movement offsite.

(5) Bottom barrier or screen and anchors shall be regularly maintained while in place to ensure the barrier or screen and anchors are functioning properly. Barriers or screens that have moved or are billowing shall immediately be securely reinstalled or removed from the watercourse.

(6) Existing fish habitat components such as logs, stumps, and large boulders may be relocated within the watercourse if necessary to properly install the bottom barrier or screen. These habitat components shall not be removed from the watercourse.

(7) If at any time as a result of project activities or water quality problems, fish life are observed in distress or a fish kill occurs, operations shall cease and both the department and the department of ecology shall be notified of the problem immediately. The project shall not resume until further approval is given by the department. Additional measures to mitigate impacts may be required.

(8) Every effort shall be made to avoid the spread of plant fragments through equipment contamination. Persons or firms using any equipment to remove or control aquatic plants shall thoroughly remove and properly dispose of all viable residual plants and viable plant parts from the equipment prior to the equipment's use in a body of water.

NEW SECTION

WAC 220-110-334 Weed rolling. A copy of the current *Aquatic Plants and Fish* pamphlet available from the department shall serve as an HPA, unless otherwise indicated, and be on the job site at all times. Weed rollers are best used when control of all aquatic plants is desired. Weed rolling projects may incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to weed rolling projects for both aquatic noxious weed or aquatic beneficial plant control or removal except where otherwise indicated:

(1) Due to potential impacts to sockeye spawning areas, prior authorization by the department shall be required for activities in Baker Lake and Lakes Osoyoos, Ozette, Pleasant, Quinault, Sammamish, Washington, and Wenatchee. Authorization may or may not be given for the activity, and if given, may require mitigation through a written agreement between the applicant and the department for impacts by the activity to the spawning area.

(2) Weed rollers shall not be used to remove an aquatic noxious weed early infestation. To remove or control all other infestation levels of aquatic noxious weeds, weed rollers shall not cover an area of more than two thousand five hundred square feet. Weed roller projects covering a greater area shall require prior authorization by the department.

(3) Where the intent is to remove or control aquatic beneficial plants, prior authorization by the department shall be required.

(4) Removal of detached plants and plant fragments from the watercourse shall be as complete as possible when using weed rollers to remove or control aquatic noxious weeds. Detached plants and plant fragments shall be

disposed of at an upland site so as not to reenter state waters.

(5) Work shall be conducted to minimize the release of sediment and sediment-laden water from the project site.

(6) Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid or other deleterious material from equipment used are allowed to enter or leach into the watercourse.

(7) If at any time as a result of project activities or water quality problems, fish life are observed in distress or a fish kill occurs, operations shall cease and both the department and the department of ecology shall be notified of the problem immediately. The project shall not resume until further approval is given by the department. Additional measures to mitigate impacts may be required.

(8) Existing fish habitat components such as logs, stumps, and large boulders may be relocated within the watercourse if necessary to properly install the weed roller. These habitat components shall not be removed from the watercourse.

(9) Every effort shall be made to avoid the spread of plant fragments through equipment contamination. Persons or firms using any equipment to remove or control aquatic plants shall thoroughly remove and properly dispose of all viable residual plants and viable plant parts from the equipment prior to the equipment's use in a body of water.

NEW SECTION

WAC 220-110-335 Mechanical harvesting and cutting. A copy of the current *Aquatic Plants and Fish* pamphlet available from the department shall serve as an HPA, unless otherwise indicated, and be on the job site at all times. Mechanical harvesting and cutting projects may incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to mechanical harvesting and cutting projects for both aquatic noxious weed or aquatic beneficial plant control or removal except where otherwise indicated:

(1) Mechanical harvesters and cutters shall not be used to remove an aquatic noxious weed early infestation.

(2) If the intent of the project is to remove aquatic beneficial plants, prior authorization by the department shall be required.

(3) Removal of detached plants and plant fragments from the watercourse shall be as complete as possible when using mechanical harvesters or cutters to remove or control aquatic noxious weeds. Detached plants and plant fragments shall be disposed of at an upland site so as not to reenter state waters.

(4) Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid or other deleterious material from equipment used are allowed to enter or leach into the watercourse. Equipment shall be well-maintained and where practicable, food-grade oil in the hydraulic systems should be used.

(5) If at any time as a result of project activities or water quality problems, fish life are observed in distress or a fish kill occurs, operations shall cease and both the department and the department of ecology shall be notified of the problem immediately. The project shall not resume

until further approval is given by the department. Additional measures to mitigate impacts may be required.

(6) Existing fish habitat components such as logs, stumps, and large boulders may be relocated within the watercourse if necessary to operate the equipment. These habitat components shall not be removed from the watercourse.

(7) Mechanical harvester and cutter operations shall only be conducted in waters of sufficient depth to avoid bottom contact with the cutter blades.

(8) Mechanical harvesters and cutters shall be operated at all times to cause the least adverse impact to fish life.

(9) Fish life that may be entrained in the cut vegetation during mechanical harvester operations shall be immediately and safely returned to the watercourse.

(10) Every effort shall be made to avoid the spread of plant fragments through equipment contamination. Persons or firms using any equipment to remove or control aquatic plants shall thoroughly remove and properly dispose of all viable residual plants and viable plant parts from the equipment prior to the equipment's use in a body of water.

(11) Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to conduct the project. All disturbed areas shall be protected from erosion, within seven calendar days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. After authorization by the department, the requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors preclude them.

NEW SECTION

WAC 220-110-336 Rotovation. An individual HPA shall be required for rotovation projects. Rotovation projects shall incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to rotovation projects for both aquatic noxious weed or aquatic beneficial plant control or removal except where otherwise indicated:

(1) Rotovators shall not be used to remove an aquatic noxious weed early infestation.

(2) Removal of detached plants and plant fragments from the watercourse shall be as complete as possible when using rotovation to remove or control aquatic noxious weeds. Detached plants and plant fragments shall be disposed of at an upland site so as not to reenter state waters.

(3) Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid or other deleterious material from equipment used are allowed to enter or leach into the watercourse. Rotovators shall be well-maintained and where practicable, food-grade oil in the hydraulic systems should be used.

(4) If at any time, as a result of project activities or water quality problems, fish life are observed in distress or

a fish kill occurs, operations shall cease and both the department and the department of ecology shall be notified of the problem immediately. The project shall not resume until further approval is given by the department. Additional measures to mitigate impacts may be required.

(5) Existing fish habitat components such as logs, stumps, and large boulders may be relocated within the watercourse if necessary to operate the equipment. These habitat components shall not be removed from the watercourse.

(6) Rotovators shall be operated at all times to cause the least adverse impact to fish life.

(7) Every effort shall be made to avoid the spread of plant fragments through equipment contamination. Persons or firms using any equipment to remove or control aquatic plants shall thoroughly remove and properly dispose of all viable residual plants and viable plant parts from the equipment prior to the equipment's use in a body of water.

(8) Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to conduct the project. All disturbed areas shall be protected from erosion, within seven calendar days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. After authorization by the department, the requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors preclude them.

(9) Rotovation shall not occur in fish spawning areas unless approved by the department.

NEW SECTION

WAC 220-110-337 Aquatic plant dredging. A copy of the current *Aquatic Plants and Fish* pamphlet available from the department shall serve as an HPA for diver-operated dredging only, unless otherwise indicated, and shall be on the job site at all times. All other dredging for aquatic plant control or removal shall require an individual HPA. Dredging projects may incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to dredging projects for both aquatic noxious weed or aquatic beneficial plant control or removal except where otherwise indicated:

(1) All aquatic plant dredging projects.

(a) Due to potential impacts to sockeye spawning areas, prior authorization by the department shall be required for activities in Baker Lake and Lakes Osoyoos, Ozette, Pleasant, Quinault, Sammamish, Washington, and Wenatchee. Authorization may or may not be given for the activity, and if given, may require mitigation through a written agreement between the applicant and the department for impacts by the activity to the spawning area.

(b) Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid or other deleterious material from equipment used are allowed to enter or leach

into the watercourse. Equipment shall be well-maintained and where practicable, food-grade oil in the hydraulic systems should be used.

(c) If at any time as a result of project activities or water quality problems, fish life are observed in distress or a fish kill occurs, operations shall cease and both the department and the department of ecology shall be notified of the problem immediately. The project shall not resume until further approval is given by the department. Additional measures to mitigate impacts may be required.

(d) Existing fish habitat components such as logs, stumps, and large boulders may be relocated within the watercourse if necessary to operate the equipment. These habitat components shall not be removed from the watercourse.

(e) Dredging shall be conducted at all times with dredge types and methods that cause the least adverse impact to fish life.

(f) Every effort shall be made to avoid the spread of plant fragments through equipment contamination. Persons or firms using any equipment to remove or control aquatic plants shall thoroughly remove and properly dispose of all viable residual plants and viable plant parts from the equipment prior to the equipment's use in a body of water.

(g) Work shall be conducted to minimize the release of sediment and sediment-laden water from the project site.

(h) Upon completion of the dredging, the bed shall not contain pits, potholes, or large depressions to avoid stranding of fish.

(i) Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to conduct the project. All disturbed areas shall be protected from erosion, within seven calendar days of completion of the project, using vegetation or other means. The banks shall be revegetated within one year with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center), and maintained as necessary for three years to ensure eighty percent survival. Where proposed, planting densities and maintenance requirements for rooted stock will be determined on a site-specific basis. After prior authorization by the department, the requirement to plant woody vegetation may be waived for areas where the potential for natural revegetation is adequate, or where other engineering or safety factors preclude them.

(2) Diver-operated dredging only. The use of diver-operated dredging is useful to remove an aquatic noxious weed early infestation, and to assist in long-term maintenance following control or removal via other methods.

(a) Removal of plants and plant fragments from the watercourse shall be as complete as possible when using diver-operated dredging to remove or control aquatic noxious weeds. Plants and plant fragments shall be removed from the dredge slurry prior to its return to the watercourse. Dredged bed materials, including detached plants and plant fragments, shall be disposed of at an upland disposal site so as not to reenter state waters.

(b) An hydraulic dredge shall only be operated with the intake at or below the surface of the material being removed. The intake shall only be raised a maximum of three feet above the bed for brief periods of purging or flushing the intake system.

(c) If the intent of the project is to remove or control aquatic beneficial plants, prior authorization from the department shall be required.

(3) Dredging other than diver-operated dredging. *Except* for diver-operated dredging, an individual HPA shall be required for all dredging for aquatic plant control or removal projects.

(a) Dragline and clamshell dredges shall not be used to remove an aquatic noxious weed early infestation.

(b) Removal of plants and plant fragments from the watercourse shall be as complete as possible when using dredging to remove or control aquatic noxious weeds. Dredged bed materials, including detached plants and plant fragments, shall be disposed of at an upland disposal site so as not to reenter state waters.

(c) Dredging shall not be conducted in fish spawning areas unless approved by the department.

(d) An hydraulic dredge shall only be operated with the intake at or below the surface of the material being removed. The intake shall only be raised a maximum of three feet above the bed for brief periods of purging or flushing the intake system.

(e) If a dragline or clamshell is used, it shall be operated to minimize turbidity. During excavation, each pass with the clamshell or dragline bucket shall be complete. Dredged material shall not be stockpiled waterward of the ordinary high water line.

NEW SECTION

WAC 220-110-338 Water level manipulation. An individual HPA shall be required for water level manipulation. The use of water level manipulations (drawdowns) to remove or control aquatic noxious weeds or aquatic beneficial plants by exposing plants and root systems to extreme temperature and moisture conditions may be appropriate under specific circumstances. Accurate plant identification is important to ensuring any degree of success. Water level manipulation projects shall incorporate mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. The following technical provisions shall apply to water level manipulation projects for both aquatic noxious weed or aquatic beneficial plant control or removal except where otherwise indicated:

(1) If at any time as a result of project activities or water quality problems, fish life are observed in distress or a fish kill occurs, operations shall cease and both the department and the department of ecology shall be notified of the problem immediately. The project shall not resume until further approval is given by the department. Additional measures to mitigate impacts may be required.

(2) Water level manipulation shall be conducted to cause the least adverse impact to fish life.

(3) Water level manipulation shall occur gradually and in a controlled manner to prevent a sudden release of impounded water or sediments which may result in downstream bed and bank degradation, sedimentation, or flooding. Water levels shall be drawdown and brought back up at rates predetermined in consultation with and approved by the department. Instream flow requirements shall be maintained as water levels are brought back up.

(4) Disturbed bank areas shall be protected from erosion. Erosion control methods may include, but are not limited to, filter fabric and immediate mulching of exposed areas. Riprap, or other bank hardening/armoring method, shall not be allowed.

WSR 97-13-002
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Filed June 4, 1997, 4:40 p.m.]

Date of Adoption: June 4, 1997.

Purpose: The amendments to the rules require the department to notify alleged perpetrators of child abuse and neglect of the nature of allegations and the conclusions reached following investigation.

Citation of Existing Rules Affected by this Order: Amending WAC 388-330-035 and 388-15-134.

Statutory Authority for Adoption: RCW 74.15.030.

Adopted under notice filed as WSR 97-09-106 on April 23, 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 2, 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 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.

June 4, 1997

Merry A. Kogut, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 2773, filed 3/8/89)

WAC 388-15-134 Child protective services—Notification. (1) **Duty to notify.** The department shall notify the parent or legal custodian of a child when:

(a) The department is investigating a report alleging an act or acts of child abuse or neglect (CA/N); and

(i) Their child is alleged to be the victim; and/or

(ii) The department interviews a child alleged to be the victim of CA/N.

(b) The department takes a child into custody pursuant to a court order issued under RCW 13.34.050;

(c) The department receives custody of a child from law enforcement pursuant to RCW 26.44.050; and

(d) The department files a dependency petition.

(2) **Notification of noncustodial parents.**

(a) The department shall notify noncustodial parents when a child is taken into custody pursuant to RCW 26.44.050 or 13.34.050 and placed into the custody of the department, and

(b) Notification shall also occur when the department files a dependency petition.

(3) **Notification of alleged perpetrator.** The department shall notify the alleged perpetrator of the allegations of child abuse and neglect at the earliest point in the investigation that will not jeopardize the safety and protection of the child or the investigation process.

(4) **Notification contents.** Whenever a child is taken into custody under RCW 13.34.050 or 26.44.050, the notification required by this section shall comply with the requirement of RCW 26.44.120. The notification shall also include:

(a) A description of the department's action; and

(b) The reason or reasons for the department's actions.

~~((4))~~ (5) **Opportunity to review case information.** The department shall:

(a) Notify the person or persons legally responsible for the child of the address of the office where the case record information will be on file; and

(b) Provide them with the opportunity to read parts of the case record relating to the allegations, provided:

(i) They have requested access to the information, and

(ii) Such access is not otherwise prohibited by law.

~~((5))~~ (6) **Disclosure of case information.** The department shall not disclose case record information except as permitted under provisions of chapter 388-320 WAC and applicable statutes. The department shall not disclose the name and address of any ~~((referant))~~ referent who requests their identity be held in confidence. Even if disclosure is otherwise permissible, the department may refuse disclosure of the name and address of any victim.

~~((6))~~ (7) **Notification of CPS investigative findings.** Whenever the department completes an investigation of a child abuse or neglect report under chapter 26.44 RCW, the department shall notify the alleged perpetrator of the report and the department's investigative findings, whether founded, unfounded, or inconclusive. The notice shall also advise the person that:

(a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

(b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

(c) There is currently information in the department's record that may be considered in determining that the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

(d) A person who has demonstrated a good faith desire to work in a licensed agency may request an informal meeting with the department to have an opportunity to discuss and contest the information currently in the record, pursuant to WAC 388-330-035(1).

(8) **Method of notification.** The notification required by this section shall be made by regular mail to the person's last known address, with a copy of the notice placed in the case file.

(9) **Limits of duty to notify.** The duty of notification created by this section shall be subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

AMENDATORY SECTION (Amending Order 3974, filed 4/26/96, effective 5/27/96)

WAC 388-330-035 Appeal of disqualification. (1) Whenever a person in good faith desires employment in an agency licensed under chapter 74.15 RCW, the person, prior to applying for employment, upon request, shall promptly receive from the department an informal meeting on whether the person is disqualified from employment for not meeting the minimum requirements pursuant to chapter 74.15 RCW or rules promulgated thereunder.

(a) Prior to receiving an informal meeting under this subsection, it shall be the responsibility of a person requesting the meeting to demonstrate a good faith desire for employment in an agency licensed under chapter 74.15 RCW. Such demonstration of good faith shall include, but not be limited to, a showing of educational qualifications, employment history information, current employment, and plans for obtaining employment in a licensed agency in the near future. The department's determination regarding whether the person requesting the meeting has demonstrated a good faith desire for employment is final and not subject to a proceeding under chapter 34.05 RCW. The department shall notify such person promptly following the meeting of its determination in writing.

(b) If the department determines, subsequent to an informal meeting under this subsection, that a person is disqualified, the department shall give written notice of the disqualification to the person. The notice shall state what the person is disqualified from doing, the reasons for the disqualification, the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(2) If the department during employment or at the time of employment, determines that a person is disqualified from employment with a child care agency for not meeting minimum requirements under chapter 74.15 RCW or rules promulgated thereunder, the department shall give written notice of disqualification to the person. The notice shall state what the person is disqualified from doing, reasons for the disqualification, and the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(3) The procedures in RCW 43.20A.205 shall apply whenever the department issues a notice of disqualification to a person under this section. If the disqualified person requests an adjudicative proceeding, the department shall have the burden of proving disqualification by a preponderance of the evidence.

(4) A licensee under chapter 74.15 RCW may not allow a person disqualified under this section to be employed by or associate with the licensee's agency. Disqualification of a person may not be contested by a licensee.

(5) The provisions of this section do not preclude the department from taking any action against a licensee in

accordance with chapter 74.15 RCW or rules promulgated thereunder.

(6) ~~((If a notice of disqualification is based on a prior department finding of abuse or neglect, and))~~ If after a hearing under chapter 34.05 RCW it is determined that the allegations are not supported by a preponderance of the evidence, the department's records shall be supplemented to so state and the person and any employer shall be informed that there is nothing prohibiting the person from being employed by or associated with a licensed child care agency. If an employer is aware that the hearing has occurred, the employer shall additionally be informed that the department failed to prove the allegations at issue in the hearing.

(7) If at a hearing under chapter 34.05 RCW the appellant proves by clear, cogent and convincing evidence that the incident of abuse or neglect on which the notice of disqualification is based did not occur and that the allegation is false, the record shall be supplemented to so state, and the department shall restrict access to all such reports so that the reports will not thereafter be considered by the department in determining whether a person is disqualified.

(8) The department in accordance with WAC 388-330-030 may remove a disqualification based on conviction of a crime.

The department may remove a disqualification based on a reason other than conviction of a crime if the disqualified person demonstrates by clear, cogent, and convincing evidence that the person is sufficiently rehabilitated to warrant public trust and to comply with the requirements of chapter 74.15 RCW, and the rules promulgated thereunder.

WSR 97-13-005

PERMANENT RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 96-6—Filed June 5, 1997, 9:36 a.m.]

Date of Adoption: June 4, 1997.

Purpose: To establish minimum standards for the termination, limitation, or denial of personal injury protection (PIP) claims review in automobile liability insurance policies; and to establish the minimum standards for PIP arbitration clauses.

Statutory Authority for Adoption: RCW 48.02.060, 48.22.105, 48.30.010.

Adopted under notice filed as WSR 97-11-010 on May 9, 1997.

Changes Other than Editing from Proposed to Adopted Version: The requirements that an insurer provide for a reconsideration or appeal of a limitation of PIP benefits was not adopted.

Where an insurer reviews the treatment of multiple health care professionals, the review shall be completed by a professional with the same license as the principal prescribing or diagnosing provider.

When providing a written limitation of benefits the insurer shall provide the insured with copies of pertinent documents, if requested by the insured.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 4, 1997

Greg J. Scully

Chief Deputy

Insurance Commissioner

NEW SECTION

WAC 284-30-395 Standards for prompt, fair and equitable settlements applicable to automobile personal injury protection insurance. The commissioner finds that some insurers limit, terminate, or deny coverage for personal injury protection insurance without adequate disclosure to insureds of their bases for such actions. To eliminate unfair acts or practices in accord with RCW 48.30.010, the following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance specifically applicable to automobile personal injury protection insurance. The following standards apply to an insurer's consultation with health care professionals when reviewing the reasonableness or necessity of treatment of the insured claiming benefits under his or her automobile personal injury protection benefits in an automobile insurance policy, as those terms are defined in RCW 48.22.005 (1), (7), and (8), and as prescribed at RCW 48.22.085 through 48.22.100. This section applies only where the insurer relies on the medical opinion of health care professionals to deny, limit, or terminate medical and hospital benefit claims. When used in this section, the term "medical or health care professional" does not include an insurer's claim representatives, adjusters, or managers or any health care professional in the direct employ of the insurer.

(1) Within a reasonable time after receipt of actual notice of an insured's intent to file a personal injury protection medical and hospital benefits claim, and in every case prior to denying, limiting, or terminating an insured's medical and hospital benefits, an insurer shall provide an insured with a written explanation of the coverage provided by the policy, including a notice that the insurer may deny, limit, or terminate benefits if the insurer determines that the medical and hospital services:

- (a) Are not reasonable;
- (b) Are not necessary;
- (c) Are not related to the accident; or
- (d) Are not incurred within three years of the automobile accident.

These are the only grounds for denial, limitation, or termination of medical and hospital services permitted pursuant to RCW 48.22.005(7), 48.22.095, or 48.22.100.

(2) Within a reasonable time after an insurer concludes that it intends to deny, limit, or terminate an insured's medical and hospital benefits, the insurer shall provide an insured with a written explanation that describes the reasons for its action and copies of pertinent documents, if any, upon request of the insured. The insurer shall include the true and actual reason for its action as provided to the insurer by the medical or health care professional with whom the insurer consulted in clear and simple language, so that the insured will not need to resort to additional research to understand the reason for the action. A simple statement, for example, that the services are "not reasonable or necessary" is insufficient.

(3)(a) Health care professionals with whom the insurer will consult regarding its decision to deny, limit, or terminate an insured's medical and hospital benefits shall be currently licensed, certified, or registered to practice in the same health field or specialty as the health care professional that treated the insured.

(b) If the insured is being treated by more than one health care professional, the review shall be completed by a professional licensed, certified, or registered to practice in the same health field or specialty as the principal prescribing or diagnosing provider, unless otherwise agreed to by the insured and the insurer. This does not prohibit the insurer from providing additional reviews of other categories of professionals.

(4) To assist in any examination by the commissioner or the commissioner's delegatee, the insurer shall maintain in the insured's claim file sufficient information to verify the credentials of the health care professional with whom it consulted.

(5) An insurer shall not refuse to pay expenses related to a covered property damage loss arising out of an automobile accident solely because an insured failed to attend, or chose not to participate in, an independent medical examination requested under the insured's personal injury protection coverage.

(6) If an automobile liability insurance policy includes an arbitration provision, it shall conform to the following standards:

(a) The arbitration shall commence within a reasonable period of time after it is requested by an insured.

(b) The arbitration shall take place in the county in which the insured resides or the county where the insured resided at the time of the accident, unless the parties agree to another location.

(c) Relaxed rules of evidence shall apply, unless other rules of evidence are agreed to by the parties.

(d) The arbitration shall be conducted pursuant to arbitration rules similar to those of the American Arbitration Association, the Center for Public Resources, the Judicial Arbitration and Mediation Service, Washington Arbitration and Mediation Service, chapter 7.04 RCW, or any other rules of arbitration agreed to by the parties.

WSR 97-13-015
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed June 6, 1997, 4:11 p.m.]

Date of Adoption: May 22, 1997.

Purpose: Chapter 246-11 WAC, housekeeping changes to rules to change location of where documents are to be filed, name change for the office that serves orders and most references from "Office of Professional Standards" to "Adjudicative Clerk's Office." The new office will consolidate administrative tasks for service of orders and filing of orders and motions relating to adjudicative proceedings. This will result in uniform procedures for all professions benefiting licensees, applicants, boards/commissions, and defense attorneys.

Citation of Existing Rules Affected by this Order: Amending chapter 246-11 WAC.

Statutory Authority for Adoption: RCW 18.155.040.

Adopted under notice filed as WSR 97-08-092 on April 2, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 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 13, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 13, 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.

June 4, 1997

Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-010 Definitions. As used in these rules of practice and procedure, the following terms shall have the meaning set forth in this section unless the context clearly indicates otherwise. Other terms shall have their ordinary meaning unless defined elsewhere in this chapter.

"Adjudicative clerk office" shall mean the unit with responsibility for: Docketing; service of orders; and maintaining custody of the adjudicative proceeding record, whose address is:

Department of Health
Adjudicative Clerk Office
2413 Pacific Avenue
PO Box 47879
Olympia, WA 98504-7879

"Adjudicative proceeding" or "hearing" shall mean a proceeding required by statute or constitutional right and conducted under the rules of this chapter, which provides an

opportunity to be heard by the board prior to the entry of a final order under this chapter.

"Board" shall mean a disciplining authority under RCW 18.130.040 (2)(b) and (3).

"Brief adjudicative proceeding" shall mean an adjudicative proceeding or hearing, the scope or conduct of which is limited as provided in this chapter.

"Department" shall mean the Washington state department of health and, where appropriate, the secretary of the Washington state department of health or the secretary's designee.

"Docket" or "docketing" shall mean the list or calendar of causes set to be heard at a specified time, prepared by the adjudicative clerk office for the use of the department.

"Filing" shall mean receipt by the adjudicative clerk office (~~(of the board)~~).

"Initiating document" shall mean a written agency document which initiates action against a license holder or applicant for license and which creates the right to an adjudicative proceeding. It may be entitled a statement of charges, notice of intent to deny, or by any other designation indicating the action or proposed action to be taken.

"License" shall have the meaning set forth in RCW 34.05.010 and includes license to practice the profession for which the board is the disciplining authority and any approval of school or curriculum required by law or rule to be obtained from the board.

~~("Office of professional standards" shall mean the unit whose address is:~~

~~Department of Health
Office of Professional Standards
2413 Pacific Avenue
PO Box 47872
Olympia, WA 98504-7872)~~

"Presiding officer" shall mean the person who is assigned to conduct an adjudicative proceeding and who may either be a member of the board, an individual appointed pursuant to RCW 18.130.095(3), or an administrative law judge employed by the office of administrative hearings.

"Presiding officer for brief adjudicative proceedings" shall mean an employee of the department authorized by the board to conduct brief adjudicative proceedings.

"Program" shall mean the administrative unit within the department responsible for implementation of that chapter of Title 18 RCW establishing the board or its powers and responsibilities.

"Prompt adjudicative proceeding" or "prompt hearing" shall mean a hearing conducted at the request of the license holder or applicant for license following summary action taken in accord with this chapter against that license holder or applicant.

"Protective order" shall mean an order issued under this chapter which limits the use of, access to, or disclosure of information or evidence.

"Respondent" shall mean a license holder or applicant for license under the jurisdiction of the board who is named in an initiating document.

"Secretary" shall mean the secretary of the department of health or his/her designee.

"Summary action" shall mean an agency action to address an immediate danger to the public health, safety, or

welfare and shall include, but not be limited to, a cease and desist order, an order of summary suspension, and an order of summary restriction of a license.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-070 Representation. (1) License holders, applicants for license, and recipients of benefits may be represented subject to the following conditions:

(a) A license holder or applicant for license may represent himself/herself or may be represented by an attorney who has complied with the admission to practice rules of the supreme court of the state of Washington;

(b) Every attorney representing a license holder or applicant for license shall file a notice of appearance with the ~~((board))~~ adjudicative clerk office upon commencing representation, and shall file a notice of withdrawal of counsel with the ~~((board))~~ adjudicative clerk office upon terminating representation.

(c) No license holder or applicant may be represented in an adjudicative proceeding by an employee of the department.

(2) No current or former employee of the department may appear as an expert, character witness, or representative of any party other than the state of Washington if he/she took an active part in investigating or evaluating the case or represented the agency in the matter, unless written permission of the secretary is granted. No current or former member of the attorney general's office staff who participated personally and substantially in investigating or evaluating the matter at issue while so employed may represent a party or otherwise participate in a related proceeding without first having obtained the written consent of the attorney general's office.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-080 Service and filing. (1) A party filing a pleading, brief, or paper other than an initiating document or application for an adjudicative proceeding as required or permitted by these rules, shall serve a copy of the paper upon the opposing party or any designated representative of the opposing party prior to or simultaneous with filing.

(2) Unless otherwise provided by law, filing and service shall be made by personal service; first class, registered, or certified mail.

(3) Filing shall be complete upon actual receipt during normal business hours at the ~~((board's))~~ adjudicative clerk office, unless filing is directed in writing to be made to another address.

(4) Service shall be complete when personal service is made; mail is properly stamped, addressed, and deposited in the United States mail.

(5) Proof of service shall consist of filing as required by these rules, together with one of the following:

- (a) An acknowledgement of service;
- (b) A certificate of service including the date the papers were served, the parties upon whom served, the signature of the serving party, and a statement that service was completed by:

(i) Personal service; or

(ii) Mailing in the United States mail a copy properly addressed with postage and fees prepaid to each party and each designated representative.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-200 Notice to limited-English-speaking parties. When the program or the adjudicative clerk office ~~((of professional standards))~~ is notified or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal, shall either be in the primary language of the party or shall include a notice in the primary language of the party which describes the significance of the notice and how the party may receive assistance in understanding and, if necessary, responding to the notice.

AMENDATORY SECTION (Amending Order 347, filed 3/24/93, effective 4/24/93)

WAC 246-11-210 Interpreters. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defect cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) A "limited-English-speaking person" means a person who because of a non-English speaking cultural background cannot readily speak or understand the English language.

(3) If a hearing impaired person or a limited-English-speaking person is involved in an adjudicative proceeding and a need for an interpreter is made known to the adjudicative clerk office ~~((of professional standards))~~, the presiding officer shall appoint an interpreter who is acceptable to the parties or, if the parties are unable to agree on an interpreter, the presiding officer shall select and appoint an interpreter.

(4) Before beginning to interpret, an interpreter shall take an oath or make affirmation that:

(a) A true interpretation shall be made to the impaired person of all the proceedings in a language or in a manner the impaired person understands; and

(b) The interpreter shall repeat the statements of the impaired person to the presiding officer, in the English language, to the best of the interpreter's skill and judgment.

(5) When an interpreter is used in a proceeding:

(a) The interpreter shall translate all statements made by other participants in the proceeding;

(b) The presiding officer shall ensure sufficient extra time is provided to permit translation; and

(c) The presiding officer shall ensure that the interpreter translates the entire proceeding to the hearing impaired person or limited-English-speaking person to the extent that the person has the same opportunity to understand the statements made as would a person not requiring an interpreter.

(6) An interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The program shall pay the interpreter fee and expenses incurred for interpreters for license holders, applicants, or

PERMANENT

recipients of benefits. The party on whose behalf a witness requiring an interpreter appears shall pay for interpreter services for that witness.

(7) All proceedings shall be conducted consistent with chapters 2.42 and 2.43 RCW.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-270 Request for adjudicative proceeding. A respondent may respond to an initiating document by filing an application for an adjudicative proceeding or by waiving the opportunity for adjudicative proceeding.

(1) If the respondent wishes to file an application for an adjudicative proceeding:

(a) An application for adjudicative proceeding must be filed in accordance with the following time periods:

(i) For matters under chapter 18.130 RCW, the Uniform Disciplinary Act, within twenty days of service of the initiating documents unless an extension has been granted as provided in subsection (3) of this section; and

(ii) For all other matters, within twenty days of service of the initiating documents, unless otherwise provided by statute.

(b) The application for adjudicative proceeding shall be made on the Request for Adjudicative Proceeding form accompanying the initiating documents or by a written document including substantially the same information.

(c) By filing a request for adjudicative proceeding, the responding party agrees to appear personally at the adjudicative proceeding or, if otherwise approved by the presiding officer, by telephone, unless appearance is waived as authorized in WAC 246-11-130(4).

(d) The application for adjudicative proceeding shall contain a response to the initiating documents, indicating whether each charge is admitted, denied or not contested, and responses shall be subject to the following conditions:

(i) Once admitted or not contested, an allegation may not be denied; and

(ii) An allegation denied or not contested may later be admitted.

(e) When an allegation is admitted or not contested, it shall be conclusively deemed to be true for all further proceedings. No proof of the allegation need be submitted.

(f) The application for adjudicative proceeding shall specify the representative, if any, designated pursuant to WAC 246-11-070 and any request for interpreter. The responding party shall amend the name of the representative and need for interpreter immediately if circumstances change prior to the hearing.

(g) The application for adjudicative proceeding shall be filed at the ~~((board's))~~ adjudicative clerk office.

(2) A respondent may waive an adjudicative proceeding and submit a written statement and other documents in defense or in mitigation of the charges. Such waiver and documents shall be filed:

(a) In accordance with the timelines in subsection (1)(a) of this section; and

(b) At the address indicated in subsection (1)(g) of this section.

(3) For matters under RCW 18.130.180, if the twenty-day limit for filing an application for adjudicative proceeding

results in a hardship to the respondent, the respondent may request an extension of not more than sixty days upon a showing of good cause.

(a) The request for extension shall be filed within the twenty-day limit and shall include:

(i) The reason for the request and the number of days for which the extension is requested; and

(ii) Documentation of the circumstances creating the hardship.

(b) The request shall be granted for a period not to exceed sixty days upon showing of:

(i) Illness of the respondent; or

(ii) Absence of the respondent from the county of residence or employment; or

(iii) Emergency in the respondent's family; or

(iv) Other good cause as determined by the presiding officer.

(c) If a request for extension is denied, the respondent shall have ten days from service of the order denying the extension or twenty days from service of the initiating documents, whichever is longer, to file an application for adjudicative proceeding.

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

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-290 Scheduling orders. (1) Within thirty days after receipt of the application for adjudicative proceeding, the board or designee thereof, shall:

(a) Approve the application for full adjudicative procedure and issue and serve on the parties a scheduling order or other scheduling mechanism establishing timelines for discovery, settlement, and scheduled hearings; or

(b) Approve the application for a brief adjudicative procedure and issue and serve a notice of the date by which any additional written materials are to be submitted for consideration; or

(c) Deny the application according to RCW 34.05.416.

(2) If a scheduling order is issued:

(a) The scheduling order shall specify:

(i) The date, time, and place of a settlement conference, a prehearing conference, and the hearing;

(ii) The deadlines for completion of discovery and submission of prehearing motions; and

(iii) The name, address, and telephone number of the assistant attorney general or other department representative who will represent the state in the matter.

(b) The scheduling order may be modified by order of the presiding officer upon his/her own initiative or upon motion of a party. Any request for change of the scheduling mechanism or order shall be made by motion as provided in WAC 246-11-380.

(c) The presiding officer may waive establishing dates for the settlement conference, completion of discovery, submission of prehearing motions, and the prehearing conference, if, in the discretion of the presiding officer, those proceedings are not necessary or appropriate in a particular matter or type of case. However, either party may request by

motion to the presiding officer that any or all of the dates be set.

(d) Dates contained in the scheduling order may be changed by the adjudicative clerk office (~~(of the board)~~) upon written request of either party made within fifteen days of issuance of the first scheduling order. All other changes must be made by motion pursuant to WAC 246-11-380.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-11-380 Motions. (1) The presiding officer shall rule on motions. The presiding officer may rule on motions without oral argument or may request or permit the parties to argue the motion in person or by telephone. Oral argument may be limited in time at the discretion of the presiding officer.

(2) All prehearing motions, including discovery and evidentiary motions, shall be made in writing and filed prior to the dates set in the scheduling order. Filing shall be at the (~~board's~~) adjudicative clerk office, unless filing is directed in writing to be made at another address.

(3) Motions for continuance must be made in writing and filed prior to the dates set in the scheduling order. If the adjudicative proceeding is scheduled to take place fewer than twenty days from service of the scheduling order, motions for continuance must be made within ten days of service of the scheduling order, but in no event fewer than five days prior to the hearing. Continuances may be granted by the presiding officer for good cause.

(4) The presiding officer may grant a continuance when a motion for continuance is not submitted within the time limits contained in subsection (3) of this section for good cause.

(5) The following is the recommended format for motions:

(a) A succinct statement of the facts contended to be material;

(b) A concise statement of the issue, issues or law upon which the presiding officer is requested to rule;

(c) The specific relief requested by the moving party;

(d) If the motion requires the consideration of facts or evidence not appearing on the record, the moving party shall also serve and file copies of all affidavits and photographic or documentary evidence presented in support of the motion;

(e) The legal authority upon which the motion is based; and

(f) A proposed order may accompany the motion, and should contain findings of fact and conclusions of law.

(6) The moving party shall file the motion, and the accompanying affidavits and photographic or documentary evidence when necessary, with the board's office and with the presiding officer, and shall serve the motion, and the accompanying affidavits and photographic or documentary evidence when necessary, on all other parties.

(7) The opposing party shall file with the (~~board's~~) adjudicative clerk office (~~(and with the presiding officer)~~), and serve upon the moving party, a responsive memorandum, and accompanying affidavits and photographic or documentary evidence when necessary, no later than eleven days following service of the motion, unless otherwise ordered by the presiding officer.

(8) The moving party may file with the (~~board's~~) adjudicative clerk office (~~(and with the presiding officer)~~), and serve upon the opposing party, a reply memorandum no later than five days following service of the responsive memorandum, unless otherwise ordered by the presiding officer.

(9) Unless otherwise ordered by the presiding officer, all motions shall be decided without oral argument. A party requesting oral argument on a motion shall so indicate by typing "ORAL ARGUMENT REQUESTED" in the caption of the motion or the responsive memorandum. If a request for oral argument is granted, the presiding officer shall notify the parties of the date and time of the argument and whether the argument will be in person or by telephone conference.

(10) Motions to shorten time or emergency motions shall be exceptions to the rule, and a party may only make such motions in exigent or exceptional circumstances. When making such a motion, the moving party shall:

(a) Suggest a date and time when the moving party seeks to have the presiding officer hear the motion to shorten time, which should be at least forty-eight hours after filing;

(b) Suggest a date and time when the moving party seeks to have the presiding officer consider the merits of the underlying motion;

(c) Describe the exigent or exceptional circumstances justifying shortening of time in an affidavit or a memorandum accompanying the motion;

(d) Certify that the motion to shorten time and the underlying motion have been served on all other parties prior to the filing of the motion with the presiding officer. Any opposition to the motion to shorten time must be served and filed within twenty-four hours of the service of the motion. If the presiding officer grants the motion to shorten time, the presiding officer shall notify the parties of the date by which the responsive memorandum to the underlying motion shall be served and filed.

(11) All motions will be decided as soon as practical, but not more than thirty days following the filing of the motion. If the presiding officer will not decide the motion within this time, the presiding officer shall notify the parties in writing of the date by which the motion will be decided.

(12) If a party serves a motion or responsive memorandum by mail, pursuant to WAC 246-11-080, then three days shall be added to the time within which the opposing party must file and serve the responsive or reply memorandum. Service by electronic telefacsimile transmission (FAX) upon each party is permitted upon agreement of the parties, with proof of confirmation of service to be filed with the presiding officer.

(13) All computations of time shall be calculated pursuant to WAC 246-11-040.

(14) Departmental motions for summary actions are exempted from all requirements of this section.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-510 Issuance of final order. If the adjudicative proceeding is heard by the board or a panel of the board the presiding officer and board or panel of the board shall:

(1) Issue a final order containing findings of fact and conclusions of law and an order; and

(2) Cause the adjudicative clerk office to serve a copy of the order on each party and any designated representative of the party.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-540 Initial order. (1) If the adjudicative proceeding is not heard by the board or panel of the board the presiding officer shall:

(a) Issue an initial order containing proposed findings of fact, conclusions of law, and a proposed order;

(b) Cause the adjudicative clerk office to serve a copy of the initial order on each party and any designated representative of a party; and

(c) Forward the initial order and record of the adjudicative proceeding to the adjudicative clerk office (~~of the board~~).

(2) Initial orders on brief adjudicative proceedings shall become final orders as provided in WAC 246-11-540.

(3) Following receipt of initial orders in matters other than brief adjudicative proceedings, the board shall review the initial order and the record as provided in RCW 34.05.464, and issue a final order as provided in WAC 246-11-560.

AMENDATORY SECTION (Amending WSR 96-21-027, filed 10/7/96, effective 11/7/96)

WAC 246-11-550 Appeal from initial order. (1) Any party may file a written petition for administrative review of an initial order issued under WAC 246-11-430 or WAC 246-11-540 stating the specific grounds upon which exception is taken and the relief requested.

(2) Petitions for administrative review must be served upon the opposing party and filed with the adjudicative clerk office (~~of the board~~) within twenty-one days of service of the initial order.

(3) The opposing party may file a response to a petition for administrative review as provided in this section. The response shall be filed at the place specified in subsection (2) of this section. The party filing the response shall serve a copy of the response upon the party requesting administrative review. If the initial order was entered pursuant to WAC 246-11-430, the response will be filed within ten days of service of the petition. In all other matters, the response will be filed within twenty days of service of the petition.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-580 Reconsideration of final orders.

(1) Within ten days of service of a final order, either party may file a petition for reconsideration, stating the specific grounds upon which reconsideration is requested and the relief requested.

(2) Grounds for reconsideration shall be limited to:

(a) Specific errors of fact or law; or

(b) Implementation of the final order would require department activities inconsistent with current department practice; or

(c) Specific circumstances render the person requesting the reconsideration unable to comply with the terms of the order.

(3) Petitions for reconsideration must be served upon the opposing party and filed with the adjudicative clerk office (~~of the board~~) within ten days of service of the final order.

(4) If reconsideration is requested based on an error of fact, the request for reconsideration shall contain specific reference to the record. If reconsideration is requested based on testimony of record, the request for reconsideration shall contain specific reference to the testimony. The presiding officer may require that the party requesting reconsideration submit a copy of the transcript of the adjudicative proceeding and provide specific reference to the transcript.

(5) The petition for reconsideration is denied if, within twenty days of the date the petition is filed, the presiding officer:

(a) Denies the petition;

(b) Does not act upon the petition; or

(c) Does not serve the parties with notice of the date by which he/she will act on the petition.

(6) If the presiding officer determines to act upon the petition, the opposing party shall be provided at least ten days in which to file a response to the petition.

(7) Disposition of petitions for reconsideration shall be in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings.

AMENDATORY SECTION (Amending WSR 94-04-078, filed 1/31/94, effective 3/3/94)

WAC 246-11-610 Vacating an order for reason of default or withdrawal. (1) A party may petition to vacate a default order entered against that party for failing to attend an adjudicative proceeding requested by that party by:

(a) Specifying the grounds relied upon in the petition; and

(b) Filing the petition at the adjudicative clerk office (~~of professional standards~~) within seven days of service of the default order.

(2) The presiding officer shall consider the petition and shall:

(a) Grant the motion to vacate and reinstate the application for adjudicative proceeding, and may impose conditions on licensure pending final adjudication; or

(b) Deny the motion to vacate the default order.

WSR 97-13-045

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed June 13, 1997, 11:28 a.m., effective August 1, 1997]

Date of Adoption: June 12, 1997.

Purpose: These rule modifications are housekeeping in nature and remove duplicative language of a statute that was repealed.

Citation of Existing Rules Affected by this Order: Repealing WAC 251-12-270; and amending WAC 251-12-600 and 251-20-020.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 97-10-089 on May 7, 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 2, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 2, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 1.

Effective Date of Rule: August 1, 1997.

June 13, 1997

Dennis Karras

Secretary

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 251-12-270 Superior court appeals—
Grounds—Notice requirements.

AMENDATORY SECTION (Amending WSR 90-01-007, filed 12/7/89, effective 1/7/90)

WAC 251-12-600 Remedial action. (1) The director may take remedial action when it is determined that the following conditions exist.

(a) The hiring institution has made an appointment that does not comply with higher education personnel board rules.

(b) The employee has worked in one or more positions for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or October 1, 1989, whichever is later. (These hours do not include overtime or work time as described in WAC 251-04-040(2).)

(c) The position or positions are subject to civil service.

(d) The employee has not taken part in any willful failure to comply with these rules.

(2) Remedial action includes the power to confer permanent status, set salary, establish seniority, and determine benefits accrued from the seniority date. Remedial action also includes other actions the director may require to meet the highest personnel standards.

(3) If the institution has complied with WAC 251-19-122, the employee must:

(a) Submit any request for remedial action in writing; and

(b) File the request within thirty calendar days after the effective date of the alleged violation of the conditions of employment which are to be specified in the written notification of temporary appointment.

(4) The director's order for remedial action shall be final and binding unless exceptions are filed with the personnel appeals board within thirty calendar days of the date of service of the order. Exceptions must state the specific items of the order to which exception is taken. The personnel appeals board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order.

AMENDATORY SECTION (Amending WSR 84-16-067 (Order 119), filed 7/31/84)

WAC 251-20-020 Employee performance evaluation—Forms. (1) Standardized performance evaluation forms approved by the ((board)) director shall be used to record employee evaluations. The forms shall contain standard "rating factors" and shall provide for one or more "optional factors" developed by the institution, which reflect organizational requirements and specific job-related aspects of performance.

(2) The approved forms shall accommodate the provisions of WAC 251-20-040.

(3) The approved forms may be supplemented with other forms and/or information used by an institution to support the ratings recorded on the approved forms.

WSR 97-13-047

PERMANENT RULES

THE EVERGREEN STATE COLLEGE

[Filed June 13, 1997, 2:31 p.m.]

Date of Adoption: May 29, 1997.

Purpose: To revise, update, and repeal policies to comply with current statute.

Citation of Existing Rules Affected by this Order: Repealing chapter 174-122 WAC, Mid-contract termination with adequate cause and chapter 174-130 WAC, Tuition and fees; and amending chapter 174-276 WAC, Access to public records, chapter 174-133 WAC, Organization, and chapter 174-140 WAC, State Environmental Policy Act.

Statutory Authority for Adoption: RCW 28B.40.-120(12).

Adopted under notice filed as WSR 97-09-084 on April 22, 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 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, amended 7, repealed 13.

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.

June 12, 1997
D. Lee Hoemann
Executive Associate
to the President

**Chapter 174-276 WAC
ACCESS TO PUBLIC RECORDS**

NEW SECTION

WAC 174-276-005 Purpose. The purpose of this chapter is to provide rules for The Evergreen State College implementation of the provisions of chapter 42.17 RCW relating to public records.

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-010 Definition of public record. (1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by The Evergreen State College, regardless of the physical form or characteristics (~~(; provided, however, that in accordance with RCW 42.17.310, the following personal and other records are exempt from the definition of public record:~~ (1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers or parolees.

(2) Personal information in files maintained for employees, appointees or elected officials or any public agency to the extent that disclosure would violate their right to privacy.

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(4) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(5) Information revealing the identity of persons who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.

(6) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(7) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.

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

(9) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed

or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

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

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

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

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-040 Designation of public records officers. ((1) In accordance with the requirements of chapter 42.17 RCW, insofar as such chapter requires state agencies to adopt and enforce reasonable rules and regulations to provide full public access to official records while yet protecting the same from damage and to prevent excessive interference with essentials of the agency, all public records at the college shall be in the charge of persons holding positions as records officers.

(2) Overall responsibility for coordinating responses to requests for examination of public records shall be the responsibility of the person known as the "public records officer." The person holding such position will be headquartered in the Daniel J. Evans Library Building of the college; his or her exact location and name may be determined by inquiry at the office of the president of the college. The public records officer shall also be responsible for compiling and maintaining the index required by chapter 42.17 RCW.

(3) For purposes of this chapter, the custody of the college's records shall be divided into the following divisions:

- (a) Office of the president;
- (b) Office of the vice president and provost;
- (c) Office of the vice president for finance and administration;

(d) Office of the vice president for college advancement.

The heads of the above designated divisions shall be deemed custodian of the records in the possession or control of units and employees of his division and responsible for the care and custody of records within his division even though such person is not in actual possession or control of such records. The four persons mentioned above shall be known as the college "records custodians."

(4) In any cases where a question arises as to whether a given public record is a responsibility of one records custodian or another, the determination of such ministerial responsibility shall for the purposes of this chapter be made

~~by the public records officer, or the president of the college.)~~ The public records officer for the college shall be the executive associate to the president or the president's designee within the office of the president. The public records officer shall be responsible for insuring full public access to public records in accordance with chapter 42.17 RCW. The public records officer shall enforce the rules and regulations related to release of public records and coordinate such with the faculty, staff, and students of the college.

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-050 Availability for public inspection and copying of public records. Public records shall be available for inspection and copying during the customary office hours of the college. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the college, acting through the public records officer (~~or a records custodian~~), agree on a different time.

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-060 Requests for public records. In accordance with the requirements of chapter 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer or (~~any other of the persons designated by this chapter as a custodian of certain college records, per WAC 174-276-040~~) the president's designee. Such request shall include the following:

- (a) The name of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.
- (c) If the matter requested is referenced within the current index maintained by the college records officer, a reference to the requested record as it is described in such index.
- (d) If the requested matter is not identifiable by reference to the college records current index, a statement that succinctly describes the record requested.
- (e) A verification that the records requested shall not be used to compile a commercial sales list.
- (2) In all cases in which a member of the public is making a request, it shall be the obligation of the college person to whom the request is being made to assist the member of the public in succinctly identifying the public record requested.

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-080 Determination regarding exempt records. (1) The college reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of RCW 42.17.310. Such determination may be made in consultation with any of the records officers of the college, president of the college, or an assistant attorney general assigned to the college.

(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response occurs if the person requesting the public record is notified within (~~one~~) five business days as to whether her or his request for a public record will be honored.

(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or his or her designee, specifying the specific reasons therefor. The following nonexhaustive lists are examples of records exempted from public inspection and copying:

(a) Personal information in any files maintained for students in public schools; patients or clients of public institutions or public health agencies; welfare recipients; prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointed or elected officials, or any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax, if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(d) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.

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

(i) Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific

record shall not be exempt when publicly cited by an agency in connection with any agency action.

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

(k) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of information would:

(i) Be prohibited to such persons by RCW 82.32.330; or

(ii) Violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(l) Records, maps, or other information identifying the location of archeological sites in order to avoid the looting or depredation of such sites.

(m) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(n) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant.

(o) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers. RCW 51.36.120.

(p) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(q) Information that identifies a person who, while an agency employee:

(i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and

(ii) Requests his or her identity or any identifying information not be disclosed.

(r) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(s) Business related information protected from public inspection and copying under RCW 15.86.110.

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

(5) Prior to releasing personal information regarding an identifiable person or persons, the college must notify the affected person or persons in writing and provide them with a two-week opportunity to seek an injunction through Thurston County superior court preventing the release of the document or documents in question. The affected person or persons may waive the two-week notice requirement under this section by contacting the public records officer in writing of said waiver.

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-276-090 Review of denials for public records requests. (1) Any person who objects to the denial of a request for a public record shall petition for prompt review of such decision by tendering a written request for a review of such denial. Such written request by a person demanding prompt review shall specifically reference the written statement by the college denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person petitioning for prompt review of a decision denying a public record, the president of the college or any of her or his designees, which for the purposes of this section may include the public records officer (~~or the records custodians~~), shall consider such petition.

(3) During the course of the two business days in which the president or her or his designee reviews the decision of the public records officer denying the request for a public record, the president or (~~his~~) designee may conduct an informal hearing. During the course of such informal hearing, the president or (~~his~~) designee may require that the person requesting the public record appear in person at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record she or he is seeking. Failure by the person requesting the review hearing to appear at such informal hearing shall be deemed a waiver of that person's right to insist upon completion of the review of his request within two business days. If the petitioner requesting review does appear at such informal hearing, then the period for review by the college shall be extended to a period not exceeding twenty-four hours after such person requesting review has appeared before the president or (~~his~~) designee.

(4) During the course of the informal hearing conducted by the president or his or her designee under this section, the hearing officer shall consider the obligations of the college fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.250 insofar as it requires the college to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

(5) Administrative remedies shall not be considered exhausted until the college has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

NEW SECTION

WAC 174-276-095 Requests for review. As provided in RCW 42.17.325, "Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter."

AMENDATORY SECTION (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

WAC 174-133-020 Organization—Operation—Information. (1) **Organization.** The Evergreen State College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a seven-member board of trustees appointed by the governor. The board normally meets (~~once per calendar month~~) the second Wednesday of February, April, May, June, August, October and December. The meeting schedule is published in the Washington State Register maintained by the code reviser's office. The board establishes such divisions and units necessary to carry out the purpose of the college, provides the necessary property, facilities and equipment and promulgates such rules, regulations, and policies as are necessary to the administration of the college. The board employs a president and has delegated to the president the authority to employ members of the faculty and other employees. The president acts as the chief executive officer of the institution and establishes the structure of the administration.

(2) **Location.** The Evergreen State College is located on a campus in Thurston County, near the city of Olympia, Washington.

(3) **Operation.** The administrative office of The Evergreen State College is at the following address:

The Evergreen State College Campus
Olympia, WA 98505

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:

The Evergreen State College Campus
Olympia, WA 98505

TESC Tacoma Campus
1202 (~~South K Street~~)
Martin Luther King Jr. Way
Tacoma, WA 98405

(4) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Office of Admissions
The Evergreen State College Campus
Olympia, WA 98505

NEW SECTION

WAC 174-140-010 Implementation of State Environmental Policy Act. (1) It shall be the policy of The Evergreen State College that all actions taken by the college shall comply with the provisions of chapter 43.21C RCW (the State Environmental Policy Act) and chapter 197-11 WAC, as presently enacted or hereafter amended.

(2) The president of The Evergreen State College shall be responsible for administering and implementing this policy. The president shall designate the college personnel who will be responsible for carrying out the duties and functions of the college as set forth or incorporated herein.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 174-140-180	Introduction.
WAC 174-140-190	Consultation with environmental advisory committee.
WAC 174-140-200	State Environmental Policy Act compliance.
WAC 174-140-210	State Environmental Policy Act "responsible official."
WAC 174-140-220	Information center and register distribution.
WAC 174-140-230	Publication of notice of action.
WAC 174-140-240	Emergency procedures.

WSR 97-13-050 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(General Provisions)

[Filed June 13, 1997, 4:47 p.m.]

Date of Adoption: June 12, 1997.

Purpose: Amend chapter 440-22 WAC sections and add new sections necessary to redefine the terms chemical dependency (CD) counselor and CD intern and add requirement to obtain "certification of qualification" and "letter of enrollment" respectively. Amend chapter 440-22 WAC sections necessary to add the requirement for certified CD programs to adopt the patient placement criteria published by the American Society of Addiction Medicine (ASAM) as the standard for patient admissions, continuing care, transfers, and discharges. Amend WAC 440-22-005, 440-22-225, 440-22-230, and 440-22-335 to correct language or further explain the current regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 440-22-005, 440-22-180, 440-22-200, 440-22-220, 440-22-225, 440-22-230, 440-22-240, 440-22-250, 440-22-260, 440-22-280, 440-22-300, 440-22-320, 440-22-325, and 440-22-335.

Statutory Authority for Adoption: RCW 70.96A.040 and [70.96A.]090.

Adopted under notice filed as WSR 97-08-073 on April 2, 1997.

Changes Other than Editing from Proposed to Adopted Version: (1) Written suggestions were received from staff of the maternal and infant health section of the Department of Health (DOH) suggesting updated language for two terms in WAC 440-22-005 definitions section ("first steps" and "medical practitioner"). The reason was to make these definitions consistent with the same terms used by DOH. We have accepted the suggestions and have included them in the final text.

(2) We have dropped our proposed revision to WAC 440-22-310 upon advice from the Department of Social and Health Services, rules and policy unit that additional amendments to this section may be necessary.

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 3, amended 10, 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 4, 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.

June 12, 1997

Edith M. Rice, Chief
Administrative Services Division

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 97-14 issue of the Register.

WSR 97-13-051
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Institutions)

[Filed June 13, 1997, 4:49 p.m.]

Date of Adoption: June 12, 1997.

Purpose: Clarify and limit the use of state funds expended under the Division of Developmental Disabilities' family support program.

Citation of Existing Rules Affected by this Order: Repealing WAC 275-27-221; and amending WAC 275-27-023 Exemptions, 275-27-220 Family support services, and 275-27-223 Service need.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.040 and Title 71A RCW.

Adopted under notice filed as WSR 97-08-007 on March 24, 1997.

Changes Other than Editing from Proposed to Adopted Version: A one-year period was specified for the receipt of flexible funding. The process for granting exceptions was enlarged to include committee recommendations and regional administrator reasons for nonapproval. WAC 275-27-222 (1)(e) allows legislatively mandated vendor rate increases and included those granted last session.

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 4, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 4, 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.

June 12, 1997

Merry A. 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 services provided by a registered nurse or licensed practical nurse, that cannot be provided by an unlicensed caregiver, including but not limited to, ventilation, catheterization, insulin injections, etc., when not covered by another resource;

(d) Therapeutic services, provided these therapeutic services are not covered by another resource such as medic-aid, private insurance, public schools, or child development services funding, 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.

~~((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 WAC 275-27-222 may be used during a one year 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 premiums and deductibles of the client;

(e) Special formulas or specially prepared foods needed because of the disability of the client;

(f) Parent/family counseling dealing with a diagnosis, grief and loss issues, genetic counseling and behavior management;

(g) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(h) Specialized utility costs including extraordinary supplemental utility costs related to the client's disability or medical condition;

(i) 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;

(j) 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) Recommendations will be made to the regional administrator by a review committee. The regional administrator will approve or disapprove the request and will communicate reasons for denial to the committee.

(5) Payment for services specified in subsection (3), except (3)(a) and (h), shall cover only the portion of cost attributable to the client.

(6) Requests must be received by DDD no later than midway through the service authorization period unless circumstances exist justifying an emergency.

(7) 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))~~ (8) 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.

(9) 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))~~ (10) If the client becomes eligible and begins to receive Medicaid Personal Care services 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.

(11) If requested family support services are not authorized, such actions shall be deemed a denial of services.

~~((e))~~ (12) 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-teen 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.)~~

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 fifty-one dollars per month or two thousand three hundred forty-one 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 twenty-one dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than nine hundred fifty-one dollars additional family support can be authorized to bring the total to nine hundred fifty-one dollars.

(ii) Clients designated for service need level two may receive up to three hundred seventy-six 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 eleven dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than three hundred seventy-six dollars, additional family support can be authorized to bring the total to three hundred seventy-six dollars.

(iii) Clients designated for service need level three may receive up to two hundred eleven 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 six dollars per month; and

(iv) Clients designated for service level four may receive up to one hundred six 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;

(e) The amounts designated in subsection (1)(b)(i) through (iv) of this section are subject to periodic increase if vendor rate increases are mandated by the legislature.

(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 97-13-055
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed June 16, 1997, 10:55 a.m.]

Date of Adoption: April 12, 1997.

Purpose: These amendments are required as a part of the Department of Health's agreement state status with the Nuclear Regulatory Commission. The new rule ensures timely placement of the final radon barrier and requires verification of the radon flux through that barrier.

Citation of Existing Rules Affected by this Order: Amending WAC 246-252-010 and 246-252-030, radiation protection.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 96-24-099 on December 4, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 2, 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 2, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 14, 1997
 Bruce Miyahara
 Secretary

AMENDATORY SECTION (Amending Order 187, filed 8/7/91, effective 9/7/91)

WAC 246-252-010 Definitions. The following definitions apply to the specified terms as used in this chapter.

(1) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs. Any saturated zone created by uranium or thorium recovery operations would not be considered an aquifer unless the zone is, or potentially is (a) hydraulically interconnected to a natural aquifer, (b) capable of discharge to surface water, or (c) reasonably accessible because of migration beyond the vertical projection of the boundary of the land transferred to long-term government ownership and care in accordance with WAC 246-252-030(11).

(2) "As expeditiously as practicable considering technological feasibility," for the purposes of Criterion 6A, means as quickly as possible considering: The physical characteristics of the tailings and the site; the limits of available technology; the need for consistency with mandatory requirements of other regulatory programs; and factors beyond the control of the licensee. The phrase permits consideration of the cost of compliance only to the extent specifically provided for by use of the term "available technology."

(3) "Available technology" means technologies and methods for emplacing a final radon barrier on uranium mill tailings piles or impoundments. This term shall not be construed to include extraordinary measures or techniques that would impose costs that are grossly excessive as measured by practice within the industry (or one that is reasonably analogous), (such as, by way of illustration only, unreasonable overtime, staffing, or transportation requirements, etc., considering normal practice in the industry; laser fusion of soils, etc.), provided there is reasonable progress toward emplacement of the final radon barrier. To determine grossly excessive costs, the relevant baseline against which cost shall be compared is the cost estimate for tailings impoundment closure contained in the licensee's approved reclamation plan, but costs beyond these estimates shall not automatically be considered grossly excessive.

(4) "Closure" means the activities following operations to decontaminate and decommission the buildings and site used to produce by-product materials and reclaim the tailings and/or waste disposal area.

((3)) (5) "Closure plan" means the department approved plan to accomplish closure.

((4)) (6) "Compliance period" begins when the department sets secondary groundwater protection standards and ends when the owner or operator's license is terminated and the site is transferred to the state or federal agency for long-term care.

((5)) (7) "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

((6)) (8) "Disposal area" means the area containing by-product materials to which the requirements of Criterion 6 apply.

((7)) (9) "Existing portion" means that land surface area of an existing surface impoundment on which significant quantities of uranium or thorium by-product materials had been placed prior to September 30, 1983.

((8)) (10) "Factors beyond the control of the licensee" means factors proximately causing delay in meeting the schedule in the applicable reclamation plan for the timely emplacement of the final radon barrier notwithstanding the good faith efforts of the licensee to complete the barrier in compliance with paragraph (a) of Criterion 6A. These factors may include, but are not limited to:

- (a) Physical conditions at the site;
- (b) Inclement weather or climatic conditions;
- (c) An act of God;
- (d) An act of war;
- (e) A judicial or administrative order or decision, or change to the statutory, regulatory, or other legal requirements applicable to the licensee's facility that would pre-

PERMANENT

clude or delay the performance of activities required for compliance;

(f) Labor disturbances;

(g) Any modifications, cessation or delay ordered by state, federal, or local agencies;

(h) Delays beyond the time reasonably required in obtaining necessary government permits, licenses, approvals, or consent for activities described in the reclamation plan proposed by the licensee that result from agency failure to take final action after the licensee has made a good faith, timely effort to submit legally sufficient applications, responses to requests (including relevant data requested by the agencies), or other information, including approval of the reclamation plan; and

(i) An act or omission of any third party over whom the licensee has no control.

(11) "Final radon barrier" means the earthen cover (or approved alternative cover) over tailings or waste constructed to comply with Criterion 6 of WAC 246-252-030 (excluding erosion protection features).

(12) "Groundwater" means water below the land surface in a zone of saturation. For the purposes of this chapter, groundwater is the water contained within an aquifer as defined above.

~~((9))~~ (13) "Leachate" means any liquid, including any suspended or dissolved components in the liquid, that has percolated through or drained from the by-product material.

~~((10))~~ (14) "Licensed site" means the area contained within the boundary of a location under the control of persons generating or storing by-product materials under a department license.

~~((11))~~ (15) "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment which restricts the downward or lateral escape of by-product material, hazardous constituents, or leachate.

~~((12))~~ (16) "Milestone" means an action or event that is required to occur by an enforceable date.

(17) "Operation" means that a uranium or thorium mill tailings pile or impoundment is being used for the continued placement of by-product material or is in standby status for such placement. A pile or impoundment is in operation from the day that by-product material is first placed in the pile or impoundment until the day final closure begins.

(18) "Point of compliance" is the site specific location in the uppermost aquifer where the groundwater protection standard must be met.

~~((13))~~ (19) "Reclamation plan," for the purposes of Criterion 6A, means the plan detailing activities to accomplish reclamation of the tailings or waste disposal area in accordance with the technical criteria of WAC 246-252-030. The reclamation plan must include a schedule for reclamation milestones that are key to the completion of the final radon barrier including as appropriate, but not limited to, wind blown tailings retrieval and placement on the pile, interim stabilization (including dewatering or the removal of freestanding liquids and recontouring), and final radon barrier construction. (Reclamation of tailings must also be addressed in the closure plan; the detailed reclamation plan may be incorporated into the closure plan.)

(20) "Surface impoundment" means a natural topographic depression, man-made excavation, or diked area, which is

designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well.

~~((14))~~ (21) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-252-030 Criteria related to disposition of uranium mill tailings or wastes. As used in this section, the term "as low as reasonably achievable" has the same meaning as in WAC 246-220-007. The term by-product material means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

As required by WAC 246-235-110(6), each applicant for a license to possess and use source material in conjunction with uranium or thorium milling, or by-product material at sites formerly associated with such milling, is required to include in a license application proposed specifications relating to the milling operation and the disposition of tailings or waste resulting from such milling activities. This section establishes criteria relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located and site and by-product material ownership. Applications must clearly demonstrate how these criteria have been addressed. The specifications shall be developed considering the expected full capacity of tailings or waste systems and the lifetime of mill operations. Where later expansions of systems or operations may be likely, the amenability of the disposal system to accommodate increased capacities without degradation in long-term stability and other performance factors shall be evaluated.

Licensees or applicants may propose alternatives to the specific requirements in these criteria. The alternative proposals may take into account local or regional conditions, including geology, topography, hydrology, and meteorology. The department may find that the proposed alternatives meet the department's requirements if the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the requirements of the standards promulgated by the United States Environmental Protection Agency in 40 CFR 192, Subparts D and E.

(1) Criterion 1 - In selecting among alternative tailings disposal sites or judging the adequacy of existing tailings sites, the following site features which would contribute to meeting the broad objective of permanent isolation of the tailings and associated contaminants from man and the environment for one thousand years to the extent reasonably achievable, and in any case, for at least two hundred years without ongoing active maintenance shall be considered:

(a) Remoteness from populated areas;

(b) Hydrogeologic and other environmental conditions conducive to continued immobilization and isolation of contaminants from groundwater sources; and

(c) Potential for minimizing erosion, disturbance, and dispersion by natural forces over the long term.

The site selection process must be an optimization to the maximum extent reasonably achievable in terms of these features.

In the selection of disposal sites, primary emphasis shall be given to isolation of tailings or wastes, a matter having long-term impacts, as opposed to consideration only of short-term convenience or benefits, such as minimization of transportation or land acquisition costs. While isolation of tailings will be a function of both site characteristics and engineering design, overriding consideration shall be given to siting features given the long-term nature of the tailings hazards.

Tailings shall be disposed in a manner such that no active maintenance is required to preserve the condition of the site.

(2) Criterion 2 - To avoid proliferation of small waste disposal sites, by-product material from in-situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations shall be disposed at existing large mill tailings disposal sites; unless, considering the nature of the wastes, such as their volume and specific activity and the costs and environmental impacts of transporting the wastes to a large disposal site, such offsite disposal is demonstrated to be impracticable or the advantage of onsite burial clearly outweighs the benefits of reducing the perpetual surveillance obligations.

(3) Criterion 3 - The "prime option" for disposal of tailings is placement below grade, either in mines or specially excavated pits (that is, where the need for any specially constructed retention structure is eliminated).

The evaluation of alternative sites and disposal methods performed by mill operators in support of their proposed tailings disposal program (provided in applicants' environmental reports) shall reflect serious consideration of this disposal mode. In some instances, below grade disposal may not be the most environmentally sound approach, such as might be the case if a groundwater formation is relatively close to the surface or not very well isolated by overlying soils and rock. Also, geologic and topographic conditions might make full, below grade burial impracticable; for example, near-surface bedrock could create prominent excavation costs while more suitable alternate sites may be available. Where full below grade burial is not practicable, the size of the retention structures, and the size and steepness of slopes of associated exposed embankments, shall be minimized by excavation to the maximum extent reasonably achievable or appropriate, given the geologic and hydrogeologic conditions at a site. In these cases, it must be demonstrated that an above-grade disposal program will provide reasonably equivalent isolation of the tailings from natural erosional forces.

(4) Criterion 4 - The following site and design criteria shall be adhered to whether tailings or wastes are disposed of above or below grade:

(a) Upstream rainfall catchment areas must be minimized to decrease erosion potential and the size of the

probable maximum flood which could erode or wash out sections of the tailings disposal area.

(b) Topographic features shall provide good wind protection.

(c) Embankment and cover slopes shall be relatively flat after final stabilization to minimize erosion potential and to provide conservative factors of safety assuring long-term stability. The broad objective should be to contour final slopes to grades which are as close as possible to those which would be provided if tailings were disposed of below grade; this could, for example, lead to slopes of about ten horizontal to one vertical (10h:1v) or less steep. In general, slopes should not be steeper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impracticable should be provided, and compensating factors and conditions which make such slopes acceptable should be identified.

(d) A fully self-sustaining vegetative cover shall be established or rock cover employed to reduce wind and water erosion to negligible levels.

Where a full vegetative cover is not likely to be self-sustaining due to climatic conditions, such as in semi-arid and arid regions, rock cover shall be employed on slopes of the impoundment system. The NRC will consider relaxing this requirement for extremely gentle slopes such as those which may exist on the top of the pile.

The following factors shall be considered in establishing the final rock cover design to avoid displacement of rock particles by human and animal traffic or by natural processes, and to preclude undercutting and piping:

(i) Shape, size, composition, gradation of rock particles (excepting bedding material, average particle size shall be at least cobble size or greater);

(ii) Rock cover thickness and zoning of particles by size; and

(iii) Steepness of underlying slopes.

(e) Individual rock fragments shall be dense, sound, and resistant to abrasion, and free from defects that would tend to unduly increase their destruction by water and frost actions. Weak, friable, or laminated aggregate shall not be used. Shale, rock laminated with shale, and cherts shall not be used.

Rock covering of slopes may not be required where top covers are on the order of ten meters or greater; impoundment slopes are on the order of 10h:1v or less; bulk cover materials have inherently favorable erosion resistance characteristics; and there is negligible drainage catchment area upstream of the pile, and there is good wind protection as described in (a) and (b) of this subsection.

(f) Impoundment surfaces shall be contoured to avoid areas of concentrated surface runoff or abrupt or sharp changes in slope gradient. In addition to rock cover on slopes, areas toward which surface runoff might be directed shall be well protected with substantial rock cover (riprap). In addition to providing for stability of the impoundment systems itself, the overall stability, erosion potential, and geomorphology of surrounding terrain shall be evaluated to assure that there are no processes, such as gully erosion, which would lead to impoundment instability.

(g) The impoundment shall not be located near a capable fault that could cause a maximum credible earthquake larger than that which the impoundment could

reasonably be expected to withstand. As used in this criterion, the term "capable fault" has the same meaning as defined in Section III (g) of Appendix A of 10 CFR Part 100. The term "maximum credible earthquake" means that earthquake which would cause the maximum vibratory ground motion based upon an evaluation of earthquake potential considering the regional and local geology and seismology and specific characteristics of local subsurface material.

(h) The impoundment, where feasible, should be designed to incorporate features which will promote deposition of suspended particles. For example, design features which promote deposition of sediment suspended in any runoff which flows into the impoundment area might be utilized; the object of such a design feature would be to enhance the thickness of cover over time.

(5) Criterion 5 - Criteria 5(a) through 5(g) and new Criterion 13 incorporate the basic groundwater protection standards imposed by the United States Environmental Protection Agency in 40 CFR Part 192, Subparts D and E (48 FR 45926; October 7, 1983) which apply during operations and prior to the end of closure. Groundwater monitoring to comply with these standards is required by Criterion 7.

(a) The primary groundwater protection standard is a design standard for surface impoundments used to manage uranium and thorium by-product material. Surface impoundments (except for an existing portion) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, groundwater, or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil, groundwater, or surface water) during the active life of the facility, provided that impoundment closure includes removal or decontamination of all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate. For impoundments that will be closed with the liner material left in place, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility.

(b) The liner required by (a) of this subsection must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the wastes or leachate.

(c) The applicant or licensee will be exempted from the requirements of (a) of this subsection if the department finds, based on a demonstration by the applicant or licensee, that alternate design and operating practices, including the closure

plan, together with site characteristics will prevent the migration of any hazardous constituents into groundwater or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and groundwater or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

(d) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave actions; rainfall; run-on; from malfunctions of level controllers, alarms, and other equipment; and human error.

(e) When dikes are used to form the surface impoundment, the dikes must be designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the impoundment.

(f) Uranium and thorium by-product materials must be managed to conform to the following secondary groundwater protection standard: Hazardous constituents entering the groundwater from a licensed site must not exceed the specified concentration limits in the uppermost aquifer beyond the point of compliance during the compliance period. Hazardous constituents are those constituents identified by the department pursuant to (g) of this subsection. Specified concentration limits are those limits established by the department as indicated in (j) of this subsection. The department will also establish the point of compliance and compliance period on a site specific basis through license conditions and orders. The objective in selecting the point of compliance is to provide the earliest practicable warning that the impoundment is releasing hazardous constituents to the groundwater. The point of compliance must be selected to provide prompt indication of groundwater contamination on the hydraulically downgradient edge of the disposal area. The department must identify hazardous constituents, establish concentration limits, set the compliance period, and adjust the point of compliance, if needed, when the detection monitoring established under criterion 7 indicates leakage of hazardous constituents from the disposal area.

(g) A constituent becomes a hazardous constituent subject to (j) of this subsection when the constituent:

(i) Is reasonably expected to be in or derived from the by-product material in the disposal area;

(ii) Has been detected in the groundwater in the uppermost aquifer; and

(iii) Is listed in WAC 246-252-050 Appendix A.

(h) The department may exclude a detected constituent from the set of hazardous constituents on a site specific basis if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to exclude constituents, the department will consider the following:

(i) Potential adverse effect on groundwater quality, considering —

(A) The physical and chemical characteristics of the waste in the licensed site, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering —

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(i) In making any determinations under (h) and (k) of this subsection about the use of groundwater in the area around the facility, the department will consider any identification of underground sources of drinking water and exempted aquifers made by the United States Environmental Protection Agency.

(j) At the point of compliance, the concentration of a hazardous constituent must not exceed —

(i) The department approved background concentration of that constituent in the groundwater;

(ii) The respective value given in the table in subsection (5)(l) of this section if the constituent is listed in the table and if the background level of the constituent is below the value listed; or

(iii) An alternate concentration limit established by the department.

(k) Conceptually, background concentrations pose no incremental hazards and the drinking water limits in (j)(i) of this subsection state acceptable hazards but these two options may not be practically achievable at a specific site. Alternate concentration limits that present no significant hazard may be proposed by licensees for department consideration. Licensees must provide the basis for any proposed limits including consideration of practicable corrective actions, that limits are as low as reasonably achievable, and information on the factors the department must consider.

The department will establish a site specific alternate concentration limit for a hazardous constituent as provided in (j) of this subsection if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will apply its as low as reasonably achievable criterion in this chapter. The department will also consider the following factors:

(i) Potential adverse effects on groundwater quality, considering —

(A) The physical and chemical characteristics of the waste in the licensed site including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering —

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(I) MAXIMUM VALUES FOR GROUNDWATER PROTECTION:

Constituent or Property	Maximum Concentration
	Milligrams per liter
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7 -epoxy-1,4,4a,5,6,7,8,9a-octahydro-1, 4-endo, endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis(p-methoxyphenylethane)	0.1
Toxaphene (C ₁₀ H ₁₀ Cl ₆ , Technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01
	Picocuries per liter
Combined radium - 226 and radium - 228	5
Gross alpha - particle activity (excluding radon and uranium when producing uranium by-product material or thorium when producing thorium by-product material)	15

(m) If the groundwater protection standards established under (f) of this subsection are exceeded at a licensed site, a corrective action program must be put into operation as soon as is practicable, and in no event later than eighteen months after the department finds that the standards have been exceeded. The licensee shall submit the proposed corrective action program and supporting rationale for department approval prior to putting the program into operation, unless otherwise directed by the department. The objective of the program is to return hazardous constituent concentration levels in groundwater to the concentration limits set as standards. The licensee's proposed program must address removing the hazardous constituents that have entered the groundwater at the point of compliance or treating them in place. The program must also address removing or treating in place any hazardous constituents that exceed concentration limits in groundwater between the point of compliance and the downgradient facility property boundary. The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the groundwater protection standard. The department will determine when the licensee may terminate corrective action measures based on data from the groundwater monitoring program and other information that provide reasonable assurance that the groundwater protection standard will not be exceeded.

(n) In developing and conducting groundwater protection programs, applicants and licensees shall also consider the following:

(i) Installation of bottom liners (where synthetic liners are used, a leakage detection system must be installed immediately below the liner to ensure major failures are detected if they occur. This is in addition to the groundwater monitoring program conducted as provided in Criterion 7. Where clay liners are proposed or relatively thin, in-situ clay soils are to be relied upon for seepage control, tests must be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests must be run for a sufficient period of time to reveal any effects if they are going to occur (in some cases deterioration has been observed to occur rather rapidly after about nine months of exposure)).

(ii) Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment.

(iii) Dewatering of tailings by process devices and/or in-situ drainage systems (at new sites, tailings must be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head of seepage, unless tests show tailings are not amenable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom must be graded to assure that the drains are at a low point. The drains must be protected by suitable filter materials to assure that drains remain free running. The drainage system must also be adequately sized to assure good drainage).

(iv) Neutralization to promote immobilization of hazardous constituents.

(o) Where groundwater impacts are occurring at an existing site due to seepage, action must be taken to alleviate conditions that lead to excessive seepage impacts and restore groundwater quality. The specific seepage control and groundwater protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications must be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, must be established to assure the specifications are met.

(p) In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:

(i) The chemical and radioactive characteristics of the waste solutions.

(ii) The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and solutions. This includes detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be determined. This information must be gathered from borings and field survey methods taken within the proposed impoundment area and in surrounding areas where contaminants might migrate to groundwater. The information gathered on boreholes must include both geologic and geophysical logs in sufficient number and degree of sophistication to allow determining

PERMANENT

significant discontinuities, fractures, and channeled deposits of high hydraulic conductivity. If field survey methods are used, they should be in addition to and calibrated with borehole logging. Hydrologic parameters such as permeability may not be determined on the basis of laboratory analysis of samples alone; a sufficient amount of field testing (e.g., pump tests) must be conducted to assure actual field properties are adequately understood. Testing must be conducted to allow estimating chemi-sorption attenuation properties of underlying soil and rock.

(iii) Location, extent, quality, capacity and current uses of any groundwater at and near the site.

(q) Steps must be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable methods include lining and/or compaction of ore storage areas.

(6) Criterion 6 - ~~((a) In cases where waste by-product material is to be permanently disposed, an earthen cover shall be placed over tailings or wastes at the end of the milling operations and the waste disposal area shall be closed in accordance with a design¹ which shall provide reasonable assurance of control of radiological hazard to:~~

~~(i) Be effective for one thousand years, to the extent reasonably achievable, and, in any case, for at least two hundred years; and~~

~~(ii) Limit releases of Radon-222 from uranium by-product materials, and Radon-220 from thorium by-product materials, to the atmosphere so as to not exceed an average² release rate of twenty picocuries per square meter per second (pCi/m²s) to the extent practicable throughout the effective design life determined pursuant to (a)(i) of this subsection. In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances shall not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. The effects of any thin synthetic layer shall not be taken into account in determining the calculated radon exhalation level. If nonsoil materials are proposed as cover materials, it must be demonstrated that such materials will not crack or degrade by differential settlement, weathering, or other mechanism over long-term time intervals.~~

~~(b) Near surface materials (i.e., within the top three meters) shall not include mine waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding soils. This is to insure that surface radon exhalation is not significantly above background because of the cover material itself.~~

~~(e) The design requirements in this criterion for longevity and control of radon releases shall apply to any portion of a licensed and/or disposal site unless such portion contains a concentration of radium in land, averaged over areas of one hundred square meters, which, as a result of by-product material does not exceed the background level by more than:~~

~~(i) Five picocuries per gram (pCi/g) of Radium-226, or, in the case of thorium by-product material, Radium-228, averaged over the first fifteen centimeters below the surface; and~~

~~(ii) Fifteen pCi/g of Radium-226, or, in the case of thorium by-product material, Radium-228, averaged over fifteen centimeters thick layers more than fifteen centimeters below the surface.~~

~~(d) The licensee must also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.~~

Footnotes:

¹ The standard applies to design. Monitoring for radon after installation of an appropriately designed cover is not required.

² This average shall apply to the entire surface of each disposal area over periods of at least one year, but short compared to one hundred years. Radon will come from both uranium by-product materials and from covering material. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from by-product materials to the atmosphere.)

(a) In disposing of waste by-product material, licensees shall place an earthen cover (or approved alternative) over tailings or wastes at the end of milling operations and shall close the waste disposal area in accordance with a design¹ which provides reasonable assurance of control of radiological hazards to:

(i) Be effective for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years; and

(ii) Limit releases of Radon-222 from uranium by-product materials, and Radon-220 from thorium by-product materials, to the atmosphere so as not to exceed an average² release rate of 20 picocuries per square meter per second (pCi/m²s) to the extent practicable throughout the effective design life determined pursuant to (a)(i) of this subsection (this criterion). In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances may not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. The effects of any thin synthetic layer may not be taken into account in determining the calculated radon exhalation level. If nonsoil materials are proposed as cover materials, it must be demonstrated that these materials will not crack or degrade by differential settlement, weathering, or other mechanism, over long-term intervals.

(b) As soon as reasonably achievable after emplacement of the final cover to limit releases of Radon-222 from uranium by-product material and prior to placement of erosion protection barriers or other features necessary for long-term control of the tailings, the licensees shall verify through appropriate testing and analysis that the design and construction of the final radon barrier is effective in limiting releases of Radon-222 to a level not exceeding 20 pCi/m²s averaged over the entire pile or impoundment using the procedures described in 40 CFR part 61, appendix B, Method 115, or another method of verification approved by the Nuclear Regulatory Commission as being at least as effective in demonstrating the effectiveness of the final radon barrier.

(c) When phased emplacement of the final radon barrier is included in the applicable reclamation plan, the verification of Radon-222 release rates required in (b) of this

subsection (this criterion) must be conducted for each portion of the pile or impoundment as the final radon barrier for that portion is emplaced.

(d) Within ninety days of the completion of all testing and analysis relevant to the required verification in (b) and (c) of this subsection (this criterion), the uranium mill licensee shall report to the department the results detailing the actions taken to verify that levels of release of Radon-222 do not exceed 20 pCi/m²s when averaged over the entire pile or impoundment. The licensee shall maintain records until termination of the license documenting the source of input parameters including the results of all measurements on which they are based, the calculations and/or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. These records shall be kept in a form suitable for transfer to the custodial agency at the time of transfer of the site to DOE or a state for long-term care if requested.

(e) Near surface cover materials (i.e., within the top three meters) may not include waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils. This is to ensure that surface radon exhalation is not significantly above background because of the cover material itself.

(f) The design requirements in this criterion for longevity and control of radon releases apply to any portion of a licensed and/or disposal site unless such portion contains a concentration of radium in land, averaged over areas of 100 square meters, which, as a result of by-product material, does not exceed the background level by more than:

(i) 5 picocuries per gram (pCi/g) of radium-226, or, in the case of thorium by-product material, radium-228, averaged over the first 15 centimeters (cm) below the surface; and

(ii) 15 pCi/g of radium-226, or, in the case of thorium by-product material, radium-228, averaged over 15-cm thick layers more than 15 cm below the surface.

(g) The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

¹ In the case of thorium by-product materials, the standard applies only to design. Monitoring for radon emissions from thorium by-product materials after installation of an appropriately designed cover is not required.

² This average applies to the entire surface of each disposal area over a period of at least one year, but a period short compared to 100 years. Radon will come from both by-product materials and from covering materials. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from by-product materials to the atmosphere.

Criterion 6A - (a) For impoundments containing uranium by-product materials, the final radon barrier must be completed as expeditiously as practicable considering

technological feasibility after the pile or impoundment ceases operation in accordance with a written, department-approved reclamation plan. (The term as expeditiously as practicable considering technological feasibility as specifically defined in WAC 246-252-010 includes factors beyond the control of the licensee.) Deadlines for completion of the final radon barrier and, if applicable, the following interim milestones must be established as a condition of the individual license: Windblown tailings retrieval and placement on the pile and interim stabilization (including dewatering or the removal of freestanding liquids and recontouring). The placement of erosion protection barriers or other features necessary for long-term control of the tailings must also be completed in a timely manner in accordance with a written, approved reclamation plan.

(b) The department may approve a licensee's request to extend the time for performance of milestones related to emplacement of the final radon barrier if, after providing an opportunity for public participation, the department finds that the licensee has adequately demonstrated in the manner required in subsection (6)(b) of this section (Criterion 6) that releases of Radon-222 do not exceed an average of 20 pCi/m²s. If the delay is approved on the basis that the radon releases do not exceed 20 pCi/m²s, a verification of radon levels, as required by subsection (6)(b) of this section (Criterion 6), must be made annually during the period of delay. In addition, once the department has established the date in the reclamation plan for the milestone for completion of the final radon barrier, the department may extend that date based on cost if, after providing an opportunity for public participation, the department finds that the licensee is making good faith efforts to emplace the final radon barrier, the delay is consistent with the definitions of available technology, and the radon releases caused by the delay will not result in a significant incremental risk to the public health.

(c) The department may authorize by license amendment, upon licensee request, a portion of the impoundment to accept uranium by-product material or such materials that are similar in physical, chemical, and radiological characteristics to the uranium mill tailings and associated wastes already in the pile or impoundment from other sources, during the closure process. No such authorization will be made if it results in a delay or impediment to emplacement of the final radon barrier over the remainder of the impoundment in a manner that will achieve levels of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. The verification required in subsection (6)(b) of this section (Criterion 6) may be completed with a portion of the impoundment being used for further disposal if the department makes a final finding that the impoundment will continue to achieve a level of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. In this case, after the final radon barrier is complete except for the continuing disposal area:

(i) Only by-product material will be authorized for disposal;

(ii) The disposal will be limited to the specified existing disposal area; and

(iii) This authorization will only be made after providing opportunity for public participation.

Reclamation of the disposal area, as appropriate, must be completed in a timely manner after disposal operations cease in accordance with subsection (6)(a) of this section (Criterion 6); however, these actions are not required to be complete as part of meeting the deadline for final radon barrier construction.

(7) Criterion 7 - At least one full year prior to any major site construction, a preoperational monitoring program must be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program must be conducted to complete the following:

- (a) To measure or evaluate compliance with applicable standards and regulations;
- (b) To evaluate performance of control systems and procedures;
- (c) To evaluate environmental impacts of operation; and
- (d) To detect potential long-term effects.

The licensee shall establish a detection monitoring program needed for the department to set the site-specific groundwater protection standards in Criterion 5 of this section. For all monitoring under this paragraph, the licensee or applicant will propose for department approval as license conditions, which constituents are to be monitored on a site-specific basis. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under Criterion 5. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to Criterion 5, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in ground water continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

(8) Criterion 8 - Milling operations shall be conducted so that all airborne effluent releases are reduced to as low as is reasonably achievable. The primary means of accomplishing this shall be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that offsite exposure limits are met, but only after all practicable measures have been

taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of offsite radiation exposure (aside from radon exposure) are dusting from dry surfaces of the tailings disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations. During operations and prior to closure, radiation doses from radon emissions from surface impoundments shall be kept as low as is reasonably achievable. Checks shall be made and logged hourly of all parameters (e.g., differential pressure and scrubber water flow rate) which determine the efficiency of yellowcake stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action shall be taken when performance is outside of prescribed ranges. Effluent control devices shall be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack.

Drying and packaging operations shall terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable.

Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All such cessations, corrective actions, and restarts shall be reported to the department in writing, within ten days of the subsequent restart.

To control dusting from tailings, that portion not covered by standing liquids shall be wetted or chemically stabilized to prevent or minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be relaxed if tailings are effectively sheltered from wind, such as may be the case where they are disposed of below grade and the tailings surface is not exposed to wind. Consideration shall be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments since this will help in controlling particulate and radon emissions during operation. To control dustings from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators shall develop written operating procedures specifying the methods of control which will be utilized.

Milling operations producing or involving thorium by-product material shall be conducted in such a manner as to provide reasonable assurance that the annual dose equivalent does not exceed twenty-five millirems to the whole body, seventy-five millirems to the thyroid, and twenty-five millirems to any other organ of any member of the public as a result of exposures to the planned discharge of radioactive materials, Radon-220 and its daughters excepted, to the general environment.

Uranium and thorium by-product materials shall be managed so as to conform to the applicable provisions of Title 40 of the Code of Federal Regulations, Part 440, Ore

Mining and Dressing Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards, Subpart C, Uranium, Radium, and Vanadium Ores Subcategory, as codified on January 1, 1983.

The licensee shall establish a detection monitoring program needed to establish the groundwater protection standards in subsection (5)(f) of this section. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under subsection (5)(f) of this section. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to subsection (5)(f) of this section, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in groundwater continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The department must be immediately notified of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

(9) Criterion 9 - (a) Pursuant to chapter 70.121 RCW, and except as otherwise provided, financial surety arrangements for site reclamation and long-term surveillance and control which may consist of surety bonds, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, or any combination of the above, or other arrangements approved by the department, milling operations shall be established for source material to ensure the protection of the public health and safety in the event of abandonment, default, or other inability of the licensee to meet the requirements of the act and these regulations.

(i) The amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates.

(ii) Self-insurance, or any arrangement which essentially constitutes self-insurance (e.g., a contract with a state or federal agency), will not satisfy the surety requirement, since this provides no additional assurance other than that which already exists through license requirements.

(b) The arrangements required in (a) of this subsection shall be established prior to commencement of operations to assure that sufficient funds will be available to carry out decontamination and decommissioning of the facility.

(c) Amendments to licenses in effect on the effective date of this regulation may be issued, providing that the required surety arrangements are established within ninety days after the effective date of this subsection.

(d) For source material milling operations, the amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates in an approved plan for (i) decontamination and decommissioning of mill buildings and the milling site to levels which would allow unrestricted use of these areas upon decommissioning, and (ii) the reclamation of tailings and/or waste disposal areas in accordance with the technical criteria delineated in this section. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. In addition, the surety shall cover the payment of the charge for long-term surveillance and control required by the department. In establishing specific surety arrangements, the licensee's cost estimates shall take into account total costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. In order to avoid unnecessary duplication and expense, the department may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other federal or state agencies and/or local governing bodies for such decommissioning, decontamination, reclamation, and long-term site surveillance, provided such arrangements are considered adequate to satisfy these requirements and that portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge is clearly identified and committed for use in accomplishing these activities. The licensee's surety mechanism will be reviewed annually by the department to assure that sufficient funds will be available for completion of the reclamation plan if the work had to be performed by an independent contractor. The amount of surety liability should be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, and any other conditions affecting costs. Regardless of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability shall be retained until final compliance with the reclamation plan is determined. This will yield a surety that is at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be

demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety instrument which is written for a specific period of time (e.g., five years), yet which must be automatically renewed unless the surety notifies the beneficiary (the state regulatory agency) and the principal (the licensee) some reasonable time (e.g., ninety days) prior to the renewal date of their intention not to renew. In such a situation, the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief period of time to allow at least sixty days for the department to collect.

Proof of forfeiture must not be necessary to collect the surety so that in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not open-ended and must be agreed to by all parties.

Long-term care requirements. Pursuant to chapter 70.121 RCW, and as otherwise provided in WAC 246-235-080 (6)(d), a long-term care trust fund shall be established by source material milling licensees prior to the issuance of the license.

(10) Criterion 10 - (a) A minimum charge of two hundred fifty thousand dollars (1978 United States dollars) accrued as specified in WAC 246-235-080 (6)(d) to cover the costs of long-term surveillance shall be paid by each mill operator to the agency prior to the termination of a uranium or thorium mill license. If site surveillance or control requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in (a) of this subsection (e.g., if fencing is determined to be necessary), variance in funding requirements may be specified by the department. The total charge to cover the costs of long-term surveillance shall be such that, with an assumed one percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover the annual costs of site surveillance. The charge will be adjusted annually prior to actual payments to recognize inflation. The inflation rate to be used is that indicated by the change in the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics. Contributions by a licensee to the long-term care trust fund pursuant to chapter 70.121 RCW shall be transferred to cover the costs assessed under this criterion.

(11) Criterion 11 - These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

Any uranium or thorium milling license or tailings license shall contain such terms and conditions as the United States Nuclear Regulatory Commission determines necessary to assure that prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

Title to the by-product material licensed pursuant to WAC 246-252-030 and land, including any interests therein (other than land owned by the United States or by the state of Washington) which is used for the disposal of any such by-product material, or is essential to ensure the long-term stability of such disposal site, shall be transferred to the

United States or the state of Washington. In view of the fact that physical isolation must be the primary means of long term control, and government land ownership is a desirable supplementary measure, ownership of certain severable subsurface interests (for example, mineral rights) may be determined to be unnecessary to protect the public health and safety and the environment. In any case, the applicant/operator must demonstrate a serious effort to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either a United States Nuclear Regulatory Commission general or specific license prohibiting the disruption and disturbance of the tailings. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived. For licenses issued before November 8, 1981, the United States Nuclear Regulatory Commission may take into account the status of the ownership of such land, and interests therein, and the ability of a licensee to transfer title and custody thereof to the United States or the state. If the United States Nuclear Regulatory Commission, subsequent to title transfer, determines that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a state will not endanger the public health, safety, welfare or environment, the United States Nuclear Regulatory Commission may permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions provided in these criteria. If the United States Nuclear Regulatory Commission permits such use of such land, it will provide the person who transferred such land with the right of first refusal with respect to such use of such land.

Material and land transferred to the United States or a state in accordance with this criterion must be transferred without cost to the United States or a state other than administrative and legal costs incurred in carrying out such transfer.

The provisions of this part, respecting transfer of title and custody to land and tailings and wastes, do not apply in the case of lands held in trust by the United States for any Indian tribe, or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in this section, the licensee shall enter into arrangements with the United States Nuclear Regulatory Commission as may be appropriate to assure the long-term surveillance of such lands by the United States.

(12) Criterion 12 - The final disposition of tailings or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation. As a minimum, annual site inspections must be conducted by the government agency retaining ultimate custody of the site where tailings or wastes are stored, to confirm the integrity of the stabilized tailings or waste systems, and to determine the need, if any, for maintenance and/or monitoring. Results of the inspection must be reported to the United States Nuclear Regulatory Commission within sixty days following each inspection. The United States Nuclear Regulatory Commission may require more frequent site inspections if, on the basis of a site-specific evaluation, such a need

appears necessary, due to the features of a particular tailings or waste disposal system.

(13) Criterion 13 - Secondary groundwater protection standards required by Criterion 5 of this section are concentration limits for individual hazardous constituents. The list of constituents found in Appendix A of this chapter, chapter 246-252 WAC, identifies the constituents for which standards must be set and complied with if the specific constituent is reasonably expected to be in or derived from the by-product material and has been detected in groundwater. For purposes of this criterion, the property of gross alpha activity will be treated as if it is a hazardous constituent. Thus, when setting standards under subsection (5)(j) of this section, the department will also set a limit for gross alpha activity.

**WSR 97-13-064
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT**

[Filed June 17, 1997, 11:29 a.m.]

Date of Adoption: June 10, 1997.

Purpose: Establish state paydates for 1998.

Citation of Existing Rules Affected by this Order: Amending WAC 82-50-021.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Adopted under notice filed as WSR 97-10-079 on May 6, 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 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing. June 16, 1997

Richard J. Thompson
Director

AMENDATORY SECTION (Amending WSR 96-15-039, filed 7/11/96, effective 8/11/96)

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years (~~(1996)~~ 1997 and (~~(1997)~~ 1998):

((CALENDAR YEAR 1996	CALENDAR YEAR 1997
Wednesday, January 10, 1996	Friday, January 10, 1997
Thursday, January 25, 1996	Friday, January 24, 1997
Friday, February 9, 1996	Monday, February 10, 1997
Monday, February 26, 1996	Tuesday, February 25, 1997
Monday, March 11, 1996	Monday, March 10, 1997
Monday, March 25, 1996	Tuesday, March 25, 1997
Wednesday, April 10, 1996	Thursday, April 10, 1997
Thursday, April 25, 1996	Friday, April 25, 1997
Friday, May 10, 1996	Friday, May 9, 1997
Friday, May 24, 1996	Friday, May 23, 1997
Monday, June 10, 1996	Tuesday, June 10, 1997
Tuesday, June 25, 1996	Wednesday, June 25, 1997
Wednesday, July 10, 1996	Thursday, July 10, 1997
Thursday, July 25, 1996	Friday, July 25, 1997
Friday, August 9, 1996	Monday, August 11, 1997
Monday, August 26, 1996	Monday, August 25, 1997
Tuesday, September 10, 1996	Wednesday, September 10, 1997
Wednesday, September 25, 1996	Thursday, September 25, 1997
Thursday, October 10, 1996	Friday, October 10, 1997
Friday, October 25, 1996	Friday, October 24, 1997
Friday, November 8, 1996	Monday, November 10, 1997
Monday, November 25, 1996	Tuesday, November 25, 1997
Tuesday, December 10, 1996	Wednesday, December 10, 1997
Tuesday, December 24, 1996	Wednesday, December 24, 1997))

CALENDAR YEAR 1997

- Friday, January 10, 1997
- Friday, January 24, 1997
- Monday, February 10, 1997
- Tuesday, February 25, 1997
- Monday, March 10, 1997
- Tuesday, March 25, 1997
- Thursday, April 10, 1997
- Friday, April 25, 1997
- Friday, May 9, 1997
- Friday, May 23, 1997
- Tuesday, June 10, 1997
- Wednesday, June 25, 1997
- Thursday, July 10, 1997
- Friday, July 25, 1997
- Monday, August 11, 1997
- Monday, August 25, 1997
- Wednesday, September 10, 1997
- Thursday, September 25, 1997
- Friday, October 10, 1997
- Friday, October 24, 1997
- Monday, November 10, 1997
- Tuesday, November 25, 1997
- Wednesday, December 10, 1997
- Wednesday, December 24, 1997

CALENDAR YEAR 1998

- Friday, January 9, 1998
- Monday, January 26, 1998
- Tuesday, February 10, 1998
- Wednesday, February 25, 1998
- Tuesday, March 10, 1998
- Wednesday, March 25, 1998
- Friday, April 10, 1998
- Friday, April 24, 1998
- Monday, May 11, 1998
- Friday, May 22, 1998
- Wednesday, June 10, 1998
- Thursday, June 25, 1998
- Friday, July 10, 1998
- Friday, July 24, 1998
- Monday, August 10, 1998
- Tuesday, August 25, 1998
- Thursday, September 10, 1998
- Friday, September 25, 1998
- Friday, October 9, 1998
- Monday, October 26, 1998
- Tuesday, November 10, 1998
- Wednesday, November 25, 1998
- Thursday, December 10, 1998
- Thursday, December 24, 1998

**WSR 97-13-069
PERMANENT RULES
COMMISSION ON
JUDICIAL CONDUCT**

[Filed June 18, 1997, 8:45 a.m.]

Date of Adoption: June 6, 1997.

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

Citation of Existing Rules Affected by this Order: Amending WAC 292-09-010.

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

Adopted under notice filed as WSR 97-05-022 on February 10, 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

PERMANENT

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 6, 1997

Margo T. Keller
Commission Chair

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

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

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

**WSR 97-13-075
PERMANENT RULES
COMMISSION ON
JUDICIAL CONDUCT**
[Filed June 18, 1997, 9:30 a.m.]

Date of Adoption: June 6, 1997.

Purpose: To provide rules regarding the definition of "measurable expenditure of public funds" pursuant to RCW 42.52.180 (2)(b).

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

Other Authority: RCW 42.52.370.

Adopted under notice filed as WSR 97-05-023 on February 10, 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 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 2, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 6, 1997

Margo T. Keller
Commission Chair

**Chapter 292-11 WAC
AGENCY SUBSTANTIVE RULES**

NEW SECTION

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

NEW SECTION

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

(2) As used herein, the term "de minimis cost and value" shall refer to a cost and/or value of the actual use of public resources that is sufficiently small to be reasonably disregarded as negligible or trifling.

**WSR 97-13-078
PERMANENT RULES
OLYMPIC AIR POLLUTION
CONTROL AUTHORITY**
[Filed June 18, 1997, 9:50 a.m.]

Date of Adoption: June 11, 1997.

Purpose: To amend OAPCA Regulation 1, Section 8.09 to conform with changes to chapter 70.94 RCW under SHB 1053 as passed by the 53rd legislature in 1995.

Citation of Existing Rules Affected by this Order: Amending OAPCA Regulation 1, Section 8.09.

Statutory Authority for Adoption: RCW 70.94.141.

Adopted under notice filed as WSR 97-09-101 on April 23, 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 1, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 18, 1997

John T. Kelly

Air Quality Specialist

AMENDED SECTION

SECTION 8.09 CURTAILMENT

(a) Whenever the Authority has declared an Impaired Air Quality Stage 1 for a geographic area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device, unless the solid fuel burning device is one of the following:

- (1) The solid fuel burning device is certified; or
- (2) A nonaffected pellet stove.

(b) Whenever the Authority has declared an Impaired Air Quality Stage 2 for a geographic area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device.

(c) The affected geographic area of a declared Impaired Air Quality shall be determined by the Control Officer.

~~(d) (If, on or after July 1, 1995, the Thurston County nonattainment area is not in attainment with national ambient air quality standards for particulate matter as specified in Title 40, Section 50.6 of the Code of Federal Regulations, any person in a residence or commercial establishment within the nonattainment areas shall not, at any time, burn solid fuel in any solid fuel burning device, except:)~~ For the sole purpose of a contingency measure to meet the requirements of section 172 (c)(9) of the federal clean air act, the use of solid fuel burning devices, except fireplaces as defined in RCW 70.94.453(3), wood stoves meeting the standards set forth in RCW 70.94.457 or pellet stoves either certified or issued an exemption by the EPA in accordance with Title 40, Part 60 of the Code of Federal Regulations will be prohibited if the EPA, in consultation with Ecology and the Authority, makes written findings that:

~~((1) Fireplaces as defined in RCW 70.94.453(3);) (1) The area has failed to make reasonable further progress or attain or maintain a national ambient air quality standard; and~~

~~((2) certified woodstoves;) (2) Emissions from solid fuel burning devices from a particular geographic area are a contributing factor to such failure to make reasonable further progress or attain or maintain a national ambient air quality standard.~~

~~((3) nonaffected pellet stoves;) A prohibition issued under this subsection shall not apply to a person in a residence or commercial establishment that does not have an adequate source of heat without burning wood.~~

(e) The nonattainment area is to consist of all areas within the city limits of Lacey, Olympia, and Tumwater, and unincorporated areas of Thurston County lying within or between the municipal boundaries.

~~((f) Low income exemption;))~~

~~((1) A person who demonstrates an economic need to burn solid fuel for residential space heating purposes by qualifying for the low income energy assistance program as administered by the Thurston County Community Action Council is eligible for a written solid fuel burning device special need exemption issued by the Authority.))~~

~~((2) Application for a solid fuel burning device special need exemption may be made to the Authority at any time. Exemptions shall be valid for one (1) year and may be renewed provided that the applicant qualifies for the low income energy assistance program at the time of renewal application. Special need exemptions are nontransferable and are valid only at the residence location and for the person to whom the exemption is issued. Exemptions shall be issued at no cost to the applicant.))~~

~~((g) Impaired Air Quality;))~~

~~((1) On or after July 1, 1995, if the Authority has limited the use of solid fuel burning devices in the nonattainment area, a single stage of Impaired Air Quality shall apply in this geographical area and is reached when particulates 10 micron and smaller in diameter are at an ambient level of 90 micrograms per cubic meter of air as measured by a federal reference method specified in Title 40 Part 50, Appendix J of the Code of Federal Regulations or a more timely ambient measurement method accepted and approved by Ecology in accordance with WAC 173-433-140 (4)(a)(ii).))~~

~~((2) When a single stage of impaired air is reached, no person in a residence or commercial establishment which has an adequate source of heat without burning wood shall burn wood in any solid fuel burning device.))~~

~~((h)) (f) A person responsible for an applicable solid fuel burning device already in operation at the time Impaired Air Quality is declared shall withhold new solid fuel for the duration of the Impaired Air Quality. Smoke visible from a chimney, flue, or exhaust duct after three hours has elapsed from the declaration of the Impaired Air Quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by a solid fuel burning device.~~

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 97-13-091
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)
(Public Assistance)

[Filed June 18, 1997, 10:48 a.m.]

Date of Adoption: June 12, 1997.

PERMANENT

Purpose: This WAC establishes the conditions under which the Department of Social and Health Services may pay contracted protective payee vendors.

Citation of Existing Rules Affected by this Order: Amending WAC 388-265-1750 Protective payee fees.

Statutory Authority for Adoption: RCW 74.08.090, 74.08.280.

Adopted under notice filed as WSR 97-10-039 on April 30, 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 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 12, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3858, filed 5/24/95, effective 6/24/95)

WAC 388-265-1750 Protective payee fees. (1) The department may authorize a fee to cover approved administrative costs of the protective payee under the following conditions:

(a) The person serving as protective payee is not a (~~friend, relative, or~~) department employee; and

(b) The client is eligible for:

(i) GA-U;

(ii) (~~(AFDC)~~) TANF when the department has determined a client is unable to manage the client's assistance funds; (~~or~~)

(iii) TANF when the department has determined a client is under sanction due to failure, without good cause, to participate in the jobs opportunity and basic skills training (JOBS) program; or

(iv) GA or (~~(AFDC)~~) TANF and is a pregnant or parenting minor, and protective payment established under RCW 74.04.0052 or RCW 71.12.255.

(2) The department shall not allow the protective payee to withhold money from the client's grant for payment of the protective payee's costs or services.

(3) "Administrative costs fee" means a fixed amount per assistance recipient, as set forth in the contract between the protective payee and the department.

WSR 97-13-092
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed June 18, 1997, 10:55 a.m.]

Date of Adoption: June 17, 1997.

Purpose: Amendments and new sections in chapter 388-14 WAC to provide clarity, to conform with amendments to RCW 26.19.080(3), to clarify procedures under UIFSA (chapter 26.21 RCW), and to provide for oral requests for hearing.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-14-400, 388-14-405, 388-14-425 and 388-14-430; and amending WAC 388-14-020, 388-14-260, 388-14-270, 388-14-300, 388-14-385, 388-14-390, 388-14-415, 388-14-420, 388-14-435, 388-14-440, 388-14-445, 388-14-450, and 388-14-460.

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.310, 26.23.035.

Adopted under notice filed as WSR 97-09-020 on April 8, 1997.

Changes Other than Editing from Proposed to Adopted Version: (1) Withdrew changes to WAC 388-14-030 and (2) added to new section WAC 388-14-495 a provision that, if the responsible parent requests a hearing on the issue of registration of a foreign support order, the physical custodian shall be a party to the hearing.

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 8, amended 13, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, amended 13, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 17, 1997

Merry A. 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 97-15 issue of the Register:

WSR 97-13-095
PERMANENT RULES
DEPARTMENT OF LICENSING
(Business and Professions Division)
[Filed June 18, 1997, 11:02 a.m.]

Date of Adoption: June 18, 1997.

Purpose: WAC 308-12-326 Architect fees, informs interested persons of the fees charged by the Department of Licensing for services and licensing provided. The fees are adopted in administrative code to provide for public involvement in setting the amount and types of fees.

Citation of Existing Rules Affected by this Order: Amending WAC 308-12-326 Architect fees.

Statutory Authority for Adoption: RCW 43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule.

Adopted under notice filed as WSR 97-10-080 on May 6, 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 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.
June 18, 1997
Linda Bremer
Assistant Director

AMENDATORY SECTION (Amending WSR 97-06-064, filed 2/27/97, effective 3/30/97)

WAC 308-12-326 Architect fees. The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Examination application	\$100.00
Reciprocity application	((350.00)) <u>364.00</u>
Initial registration	((135.00)) <u>140.00</u>
Oral examination	50.00
Registration renewal (3 years)	((135.00)) <u>140.00</u>
Late renewal	((45.00)) <u>46.00</u>
Certificate replacement	15.00
Duplicate license	15.00
Certification	((25.00)) <u>26.00</u>
Corporations:	
Certificate of authorization	((250.00)) <u>260.00</u>
Certificate of authorization renewal	((125.00)) <u>130.00</u>

WSR 97-13-100
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed June 18, 1997, 11:59 a.m.]

Date of Adoption: April 25, 1997.

Purpose: In July 1994 the RN and LPN boards were combined into a single commission. The new commission decided they would combine the two sets of WACs, chapters 246-838 and 246-839 WAC, into chapter 246-840 WAC. Staff and public have found that it is very confusing to have our WACs spread throughout two WAC chapters.

Citation of Existing Rules Affected by this Order: Repealing chapters 246-838 and 246-839 WAC.

Statutory Authority for Adoption: Chapter 18.79 RCW. Adopted under notice filed as WSR 97-07-074 on March 19, 1997.

Changes Other than Editing from Proposed to Adopted Version: Minor changes were requested to WAC 246-840-860. They will be discussed at a future public hearing. A supplemental CR-102 will be filed to establish the future public hearing date.

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 61, amended 0, repealed 79.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 61, amended 0, repealed 79.

Number of Sections Adopted using Negotiated Rule Making: New 61, amended 0, repealed 79; 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.
June 9, 1997
Patty Hayes
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 246-838-010	Definitions.
WAC 246-838-020	Functions of a licensed practical nurse.
WAC 246-838-026	Mandatory reporting.
WAC 246-838-030	Standards of conduct for discipline.
WAC 246-838-050	Licensing examination.
WAC 246-838-060	Release of results of examination.
WAC 246-838-070	Filing of application for licensing examination.
WAC 246-838-080	Failures—Repeat examination.
WAC 246-838-090	Licensure of graduates of foreign schools of nursing.
WAC 246-838-100	Licensure by interstate endorsement.
WAC 246-838-110	Documents which indicate authorization to practice.
WAC 246-838-120	Renewal of licenses.

PERMANENT

WAC 246-838-121	Responsibility for maintaining mailing address.	WAC 246-839-305	Criteria for formal advanced nursing education meeting the requirement for ARNP licensure.
WAC 246-838-130	Return to active status from inactive or lapsed status.	WAC 246-839-310	Use of nomenclature.
WAC 246-838-250	AIDS education and training.	WAC 246-839-315	Clinical specialist in psychiatric/mental health nursing.
WAC 246-838-260	Standards/competencies.	WAC 246-839-320	Certification and certification program.
WAC 246-838-270	Criteria for approved refresher course.	WAC 246-839-330	Board approval of certification programs.
WAC 246-838-280	Scope of practice—Advisory opinions.	WAC 246-839-340	Application requirements for ARNP.
WAC 246-838-290	Terms used in WAC 246-838-290 through 246-838-310.	WAC 246-839-345	ARNP designation in more than one area of specialty.
WAC 246-838-300	Approval of substance abuse monitoring programs.	WAC 246-839-350	Application requirements for ARNP interim permit.
WAC 246-838-310	Participation in approved monitoring program.	WAC 246-839-360	Renewal of ARNP designation.
WAC 246-838-330	Impaired practical nurse program—Content—License surcharge.	WAC 246-839-365	Return to active ARNP status from inactive or lapsed status.
WAC 246-838-340	Executive secretary qualifications.	WAC 246-839-370	Termination of ARNP designation by the board.
WAC 246-838-350	Appearance and practice before agency—Standards of ethical conduct.	WAC 246-839-400	ARNP with prescriptive authorization.
WAC 246-838-360	Adjudicative proceedings procedural rules.	WAC 246-839-410	Application requirements for ARNP with prescriptive authority.
		WAC 246-839-420	Authorized prescriptions by the ARNP with prescriptive authority.
		WAC 246-839-430	Termination of ARNP prescriptive authorization.
		WAC 246-839-440	Prescriptive authorization period.
		WAC 246-839-450	Renewal.
		WAC 246-839-700	Standards of nursing conduct or practice.
		WAC 246-839-710	Violations of standards of nursing conduct or practice.
		WAC 246-839-720	Mitigating circumstances.
		WAC 246-839-730	Mandatory reporting defined.
		WAC 246-839-740	Violations considered for disciplinary purposes only.
		WAC 246-839-745	Adjudicative proceedings.
		WAC 246-839-750	Philosophy governing voluntary substance abuse monitoring programs.
		WAC 246-839-760	Terms used in WAC 246-839-750 through 246-839-780.
		WAC 246-839-770	Approval of substance abuse monitoring programs.
		WAC 246-839-780	Participation in approved substance abuse monitoring program.
		WAC 246-839-800	Scope of practice—Advisory opinions.
		WAC 246-839-810	Provision for continuity of drug therapy for residents.
		WAC 246-839-820	Provision for clean, intermittent catheterization in schools.
		WAC 246-839-830	Determination and pronouncement of death.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-839-010	Definitions.
WAC 246-839-020	Documents which indicate authorization to practice registered nursing in Washington.
WAC 246-839-040	Filing of application for licensing examination.
WAC 246-839-050	Licensing examination.
WAC 246-839-060	Release of results of examination.
WAC 246-839-070	Failures—Repeat examination.
WAC 246-839-080	Applicants previously licensed in a foreign country.
WAC 246-839-090	Licensure by interstate endorsement.
WAC 246-839-100	AIDS education and training.
WAC 246-839-105	Brief adjudicative proceedings—Denials based on failure to meet education, experience, or examination prerequisites for licensure.
WAC 246-839-110	Renewal of licenses.
WAC 246-839-115	Responsibility for maintaining mailing address on file with the board.
WAC 246-839-120	Return to active status from inactive or lapsed status.
WAC 246-839-130	Criteria for approved refresher course.
WAC 246-839-300	Advanced registered nurse practitioner.

WAC 246-839-840	Nursing technician.
WAC 246-839-850	Use of nomenclature.
WAC 246-839-870	Functions of the nursing technician.
WAC 246-839-880	Functions of the registered nurse supervising the nursing technician.
WAC 246-839-890	Responsibilities of the employing facility.
WAC 246-839-900	Responsibilities of the nurse administrator.

NEW SECTION

WAC 246-840-010 Definitions. (1) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illnesses as defined by the commission of health by rule.

(2) "Auxiliary services" are all nursing services provided to patients by persons other than the licensed practical nurse, the registered nurse and the nursing student.

(3) "Beginning practitioner" means a newly licensed nurse beginning to function in the nurse role.

(4) "Behavioral objectives" means the measurable outcomes of specific content.

(5) "Client" means the person who receives the services of the practical nurse or registered nurse.

(6) "Client advocate" means a supporter of client rights and choices.

(7) "Commission" means the Washington state nursing care quality assurance commission.

(8) "Competencies" means the tasks necessary to perform the standards.

(9) "Conceptual framework" means the theoretical base around which the curriculum is developed.

(10) "Conditional approval" of a school of nursing is the approval given a school of nursing that has failed to meet the requirements of the law and the rules and regulations of the commission, and it specifies conditions that must be met within a designated time to rectify the failure.

(11) "Delegation" means the licensed practical nurse or registered nurse transfers the performance of selected nursing tasks to competent individuals in selected situations. The licensed practical nurse or registered nurse delegating the task retains the responsibility and accountability for the nursing care of the client. The licensed practical nurse or registered nurse delegating the task supervises the performance of the unlicensed person;

(a) Nursing acts delegated by the licensed practical nurse or registered nurse shall:

(i) Be within the area of responsibility of the licensed practical nurse or registered nurse delegating the act;

(ii) Be such that, in the opinion of the licensed practical nurse or registered nurse, it can be properly and safely performed by the person without jeopardizing the patient welfare;

(iii) Be acts that a reasonable and prudent licensed practical nurse or registered nurse would find are within the scope of sound nursing judgment.

(b) Nursing acts delegated by the licensed practical nurse or registered nurse shall not require the unlicensed person to exercise nursing judgment nor perform acts which

must only be performed by a licensed practical nurse or registered nurse, except in an emergency situation (RCW 18.79.240 (1)(b) and (2)(b)).

(c) When delegating a nursing act to an unlicensed person it is the registered nurse who shall:

(i) Make an assessment of the patient's nursing care need before delegating the task;

(ii) Instruct the unlicensed person in the delegated task or verify competency to perform or be assured that the person is competent to perform the nursing task as a result of the systems in place by the health care agency;

(iii) Recognize that some nursing interventions require nursing knowledge, judgment, and skill and therefore may not lawfully be delegated to unlicensed persons.

(12) Direction and Supervision:

(a) "Supervision" of licensed or unlicensed nursing personnel means the provision of guidance and evaluation for the accomplishment of a nursing task or activity with the initial direction of the task or activity; periodic inspection of the actual act of accomplishing the task or activity; and the authority to require corrective action.

(b) "Consulting capacity" shall mean the recommendations to a professional entity, employed at that facility, which may be accepted, rejected, or modified. These recommendations shall not be held out as providing nursing services by the consulting nurse to the patient or public.

(c) "Direct supervision" shall mean the licensed registered nurse is on the premises, is quickly and easily available and the patient has been assessed by the licensed registered nurse prior to the delegation of the duties to any caregiver.

(d) "Immediate supervision" shall mean the registered nurse is on the premises and is within audible and visual range of the patient and the patient has been assessed by the registered nurse prior to the delegation of duties to any caregiver.

(e) "Indirect supervision" shall mean the registered nurse is not on the premises but has given either written or oral instructions for the care and treatment of the patient and the patient has been assessed by the registered nurse prior to the delegation of duties to any caregiver.

(13) "Extended learning sites" refers to any area external to the parent organization selected by faculty for student learning experiences.

(14) "Faculty" means persons who are responsible for the educational program of the school of nursing and who hold faculty appointment in the school.

(15) "Full approval" of a school of nursing is the approval given a school of nursing that meets the requirements of the law and the rules and regulations of the commission.

(16) "Minor nursing services." The techniques and procedures used by the nursing profession are extremely difficult to categorize as major or minor nursing services. The important factor with which this law is concerned is the determination of which nursing person and at what level of preparation that person may perform said technique or procedure in relation to the condition of a given patient, and this kind of determination rests with the registered nurse.

(17) "Minimum standards of competency" means the functions that are expected of the beginning level nurse.

(18) "Nurse administrator" is an individual who meets the qualifications contained in WAC 246-840-555 and who

has been designated as the person primarily responsible for the direction of the program in nursing. Titles for this position may include, among others, dean, director, coordinator or chairperson.

(19) The phrase "nursing aide" used in RCW 18.79.240 (1)(c) shall mean a "nursing technician." "Nursing technician" is a nursing student currently enrolled in a commission or state board of nursing approved nursing education program and employed for the purpose of giving help, assistance and support in the performance of those services which constitute the practice of registered nursing. The nursing student shall use the title "nursing technician" while employed.

(20) "Nursing student" is a person currently enrolled in an approved school of nursing.

(21) "Office on AIDS" means that section within the department of social and health services or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

(22) "Philosophy" means the beliefs and principles upon which the curriculum is based.

(23) "Program" means a division or department within a state supported educational institution, or other institution of higher learning charged with the responsibility of preparing persons to qualify for the licensing examination.

(24) "Provisional approval" of schools of nursing is the approval given a new school of nursing based on its proposed program prior to the admission of its first class.

(25) "Registered nurse" as used in these rules shall mean a nurse as defined by RCW 18.79.030(1).

(26) "School" means an educational unit charged with the responsibility of preparing persons to practice as practical nurses or registered nurses. Three types of basic schools of nursing are distinguished by the certificate awarded to the graduate. Schools of nursing within colleges and universities award the associate degree or baccalaureate degree. Schools of nursing sponsored by a hospital award a diploma.

(27) "Standards" means the overall behavior which is the desired outcome.

(28) "Terminal objectives" means the statements of goals which reflect the philosophy and are the measurable outcomes of the total curriculum.

(29) An "unapproved school of nursing" is a school of nursing that has been removed from the list of approved schools for failure to meet the requirements of the law and the rules and regulations of the commission or a school that has never been approved by the commission.

NEW SECTION

WAC 246-840-020 Documents which indicate authorization to practice nursing in Washington. The following documents are the only documents that indicate legal authorization to practice as a licensed practical nurse or registered nurse in Washington.

(1) Active license. A license is issued upon completion of all requirements for licensure, confers the right to use the title licensed practical nurse or licensed registered nurse and the use of its abbreviation, L.P.N. or R.N., and to practice as a licensed practical nurse or registered nurse in the state of Washington.

A student who has graduated from a basic professional nursing course and who is pursuing a baccalaureate degree in nursing, an advanced degree in nursing or an advanced certification in nursing shall hold an active Washington RN license before participating in the practice of nursing as required to fulfill the learning objectives in a clinical course.

Exception to this requirement may be granted by the commission on an individual basis upon a petition submitted by the dean or director of a school of nursing, on a case-by-case basis.

(a) The exception allows the student to practice in a clinical setting only under the direct supervision of an RN faculty member. The commission requires that any RN faculty member supervising these students meet the requirements of direct supervision as defined in WAC 246-840-010 (13)(c)(ii) and, in addition, that supervising faculty document that all clients under the care of the student be assessed by the RN faculty each clinical day.

(b) The dean or director of the school of nursing shall ensure that each faculty member who supervises these students be provided a copy of these rules and be assigned in a manner that allows for direct supervision.

(c) Nursing students who participate in clinical courses under this section are not eligible for the nursing technician role.

(2) Inactive license. A license issued to a person previously holding an active license in this state who desires to retire temporarily from the practice of nursing in this state. The holder of an inactive license shall not practice nursing in this state.

(3) Limited educational license. A limited educational license may be issued to a person who has been on inactive or lapsed status for three years or more and who wishes to return to active status.

(4) Advanced registered nurse practitioner (ARNP) recognition document. An ARNP recognition document may be issued to any person who meets the requirements of the commission as contained in WAC 246-840-300. Only persons holding this recognition document shall have the right to use the title "advanced registered nurse practitioner" or the abbreviation "ARNP" or any title or abbreviation which may indicate that the person is entitled to practice at an advanced and specialized level as a nurse practitioner, a specialized nurse practitioner, a nurse midwife, or a nurse anesthetist. This document authorizes the ARNP to engage in the scope of practice allowed for his or her specialty area and is valid only with a current registered nurse license.

(5) ARNP interim permit. An interim permit may be issued following satisfactory completion of an advanced formal education program, registration for the first certification examination of an approved program following completion of the education and filing of an application, fee and requested documentation. If the applicant passes the examination the department shall grant advanced registered nurse practitioner status. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable.

(6) ARNP prescriptive authorization. A notation of prescriptive authorization may be placed on the ARNP recognition document issued to any person who meets the requirements of the commission as contained in WAC 246-840-410. This authorizes the ARNP to prescribe drugs

within his or her scope of practice and is valid only with a current registered nurse license.

NEW SECTION

WAC 246-840-040 Filing of application for licensing examination. (1) All applicants shall file with the Washington state nursing commission a completed application, with the required fee sixty days prior to the anticipated date of examination. The fee is not refundable.

(2) Applicants shall request the school of nursing to send an official transcript directly to the Washington state nursing commission. The transcript shall contain adequate documentation to verify that statutory requirements are met and shall include course names and credits accepted from other programs.

(3) Applicants shall also file an examination application, along with the required fee directly with the testing service.

(4) Applicants who have filed the required applications and met all qualifications will be notified of their eligibility, and only such applicants will be admitted to the examination.

(5) Applicants shall submit with the application one recent U.S. passport identification photograph of the applicant unmounted and signed by the applicant across the front.

(6) Persons applying for licensure shall submit, in addition to the other requirements, evidence to show compliance with the AIDS education requirements of WAC 246-840-100.

NEW SECTION

WAC 246-840-050 Licensing examination. (1) The current series of the National Council of the State Boards of Nursing Registered Nurse or Practical Nurse Licensing Examination (NCLEX-RN or NCLEX-PN) Computerized Adaptive Test (NCLEX CAT) shall be the official examinations for nurse licensure. In order to be licensed in this state, all nurse applicants shall take and pass the National Council Licensure Examination (NCLEX-RN or NCLEX-PN).

(2) The NCLEX will consist of a Computerized Adaptive Test that will be individualized with the score for the examination reported as either pass or fail. Specific parameters of the exam will be as prescribed by contract with National Council of State Boards of Nursing, Inc. (NCSBN).

(3) Examinations shall be conducted throughout the year.

(4) The executive director of the commission shall negotiate with NCSBN for the use of the NCLEX CAT.

(5) The examination shall be administered in accord with the NCSBN security measures and contract. All appeals of examination results shall be managed in accord with policies in the NCSBN contract.

NEW SECTION

WAC 246-840-060 Release of results of examination. (1) Candidates shall be notified regarding the examination results by mail only.

(2) Candidates who pass shall receive a license to practice as a licensed practical nurse or registered nurse provided all other requirements are met.

(3) Candidates who fail shall receive a letter of notification regarding their eligibility to rewrite the examination.

(4) The candidate's examination results will be maintained in his/her application file in the health professions quality assurance division, department of health.

NEW SECTION

WAC 246-840-070 Failures—Repeat examination. (1) The retest may be scheduled no sooner than ninety days following the date of the last exam taken.

(2) Request to retake the exam must be submitted to the commission no less than forty-five days prior to the anticipated test date.

(3) Candidates who fail the examination will be permitted to retake the examination three times within the two-year period from the month of first examination taken.

(4) Candidates who fail to pass the examination within the time period specified in subsection (3) of this section shall be required to complete a program of study approved by the commission. Upon successful completion of the approved program, the candidate shall be required to take the examination.

NEW SECTION

WAC 246-840-080 Licensure of graduates of foreign schools of nursing. (1) Applicants for licensure educated in a country outside the United States or its territories shall meet the following requirements for licensure:

(a) Satisfactory completion of a basic nursing education program approved in the country of original licensure.

(i) The nursing education program shall be equivalent to the minimum standards prevailing for commission or state board approved schools of nursing in Washington at the time of graduation.

(ii) Any deficiencies in the nursing program (theory and clinical practice in medical, psychiatric, obstetric, surgical and pediatric nursing) shall be satisfactorily completed in a state board approved school of nursing.

(b) Screening exams:

FOR PRACTICAL NURSES:

Satisfactory passage of the test of English as a foreign language (TOEFL). All applicants with nursing educations obtained in countries outside of the United States and never before licensed in another jurisdiction or territory of the United States, shall be required to take the TOEFL and attain a minimum score of fifty in each section. Once an applicant obtains a score of fifty in a section, the board will require reexamination and passage only in the section(s) failed. Passage of all sections of the TOEFL must be attained and the applicant must cause TOEFL services to forward directly to the board a copy of the official examinee's score record. These results must be timely received with the individual's application before the NCLEX can be taken. Exceptions may be made, in the commission's discretion and for good cause, to this requirement.

FOR REGISTERED NURSES:

Satisfactory passage of the screening examination for foreign nurses. As of May 1, 1981, all applicants from countries outside the United States, and never before licensed in one of the United States jurisdictions shall have passed the commission on graduates of foreign nursing schools (CGFNS) qualifying examination.

(c) Applicants licensed under the laws of a country outside the United States or its territories shall be required to take the current series of the National Council of State Boards of Nursing Licensing exam for Practical or Registered Nurse (NCLEX-PN or NCLEX-RN) as provided in WAC 246-840-050: Provided, That those persons meeting the requirements of WAC 246-840-090(7) are exempt from this requirement; or show evidence of having already successfully passed the state board licensing examination for practical or registered nurses in another jurisdiction or territory of the United States with the passing standard required in Washington.

(d) All other requirements of the statute and regulation shall be met.

(2) Applicants for examination shall:

(a) File with the nursing commission a completed license application with the required fee sixty days prior to the anticipated date of the examination. The fees are not refundable.

(b) Request the school of nursing to submit an official transcript directly to the health professions quality assurance division of department of health. The transcript shall contain the date of graduation and the credential conferred, and shall be in English or accompanied by an official English translation notarized as a true and correct copy.

(c) Applicants shall also file an examination application, along with the required fee directly with the testing service.

(d) Persons applying for licensure shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of WAC 246-840-100.

(e) Request the licensing agency in the country of original license to submit evidence of licensure.

(f) Submit a notarized copy of the certificate issued by the CGFNS or results of TOEFL exam.

(g) If the applicant's original documents (education and licensing) are on file in another state or with the CGFNS, the applicant may request that the state board or the CGFNS send notarized copies in lieu of the originals.

(h) Submit one recent passport sized photograph of the applicant unmounted and signed by the applicant across the front.

NEW SECTION

WAC 246-840-090 Licensure by interstate endorsement. A license to practice as a nurse in Washington may be issued without examination provided the applicant meets all of the following requirements:

FOR PRACTICAL NURSE PROGRAMS:

(1) The applicant has graduated and holds a credential from:

(a) A commission or state board approved program preparing candidates for licensure as a practical nurse; or

(b) Its equivalent as determined by the commission, which program must fulfill the minimum requirement for commission or state board approved practical nursing programs in Washington at the time of graduation.

(2) Applicants shall have passed a state board constructed test, the SBTPE (state board test pool examination), or NCLEX in their original state of licensure.

(3) The applicant held or currently holds a license to practice as a practical nurse in another state or territory. If the license is lapsed or inactive for three years or more, the applicant must successfully complete a commission approved refresher course before an active Washington license is issued.

(4) That grounds do not exist for denial under chapter 18.130 RCW.

(5) The applicant shall:

(a) Submit a completed application with the required fee. The fee is not refundable.

(b) Submit, in addition to the other requirements, evidence to show compliance with the education requirements of WAC 246-840-100.

FOR REGISTERED NURSE PROGRAMS:

(6) The applicant has graduated and holds a degree/diploma from a commission or state board approved school of nursing preparing candidates for licensure as a registered nurse provided such nursing program is equivalent to the minimum nursing educational standards prevailing for commission or state board approved schools of nursing in Washington at the time of the applicant's graduation.

(a) Applicants who were licensed prior to January 1, 1953, shall have scored at least seventy-five percent on the commission or state board examination in the state of original licensure.

(i) Applicants licensed after January 1, 1953, but before June 1, 1982, shall have passed the state board test pool examination for registered nurse licensure with a minimum standard score of 350 in each test.

(ii) Applicants licensed after July 1, 1982, shall have passed with a minimum standard score as established by contract with the National Council of State Boards of Nursing.

(b) The applicant holds a valid current license to practice as a registered nurse in another state or territory.

(c) The applicant complies with the education requirements of WAC 246-840-100.

(d) The application shall be completed and notarized, the fee must be filed with the application. The fee is not refundable. A notarized copy of a valid current license shall be filed with the application.

(e) Verification of licensure by examination shall be obtained from the state or territory of original licensure. Any fee for verification required by the state or territory of original license shall be paid by the applicant.

(7) Applicants from countries outside the United States who were granted a license in another United States jurisdiction or territory prior to December 31, 1971, and who were not required to pass the state board test pool examination shall meet the following requirements:

(a) The nursing education program shall meet the minimum approved standards prevailing for schools of

nursing in Washington at the time of the applicant's graduation.

(b) The applicant holds a valid current license to practice as a registered nurse in another United States jurisdiction or territory.

(c) The applicant shall submit to the commission:

(i) A complete notarized application. The nonrefundable fee must be filed with the application.

(ii) Verification of original licensure obtained in the United States jurisdiction or territory.

(iii) Notarized copies of educational preparation and licensure by examination submitted directly from the country of original licensure or from the state commission or territory of original United States licensure.

(iv) Verification of current nursing practice for three years prior to application for Washington licensure.

(v) Evidence to show compliance with the education requirements of WAC 246-840-100.

(d) The applicant shall meet all requirements of chapter 18.79 RCW and regulations of the commission.

NEW SECTION

WAC 246-840-100 AIDS education and training. (1) Acceptable education and training. The commission will accept education and training that is consistent with the model curriculum available from the office on AIDS. Such education and training shall be a minimum of seven hours and shall include, but is not limited to, the following: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(2) Implementation. The requirement for licensure application, renewal, or reinstatement of any license on lapsed, inactive, or disciplinary status shall include completion of AIDS education and training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of subsection (1) of this section.

(3) Documentation. The licensee shall:

(a) Certify, on forms provided, that the minimum education and training has been completed;

(b) Keep records for two years documenting attendance and description of the learning; and

(c) Be prepared to validate, through submission of these records, that education and training has taken place.

NEW SECTION

WAC 246-840-105 Brief adjudicative proceedings—Denials based on failure to meet education, experience, or examination prerequisites for licensure. The commission adopts RCW 34.05.482 and 34.05.485 through 34.05.494 for adjudicative proceedings requested by applicants, who are denied a license under chapter 18.79 RCW or chapter 246-840 WAC for failure to meet the education, experience, or examination prerequisites for licensure. The sole issue at the adjudicative proceeding shall be whether the applicant meets the education, experience, and examination prerequisites for the issuance of a license.

NEW SECTION

WAC 246-840-110 Renewal of licenses. (1) Individuals making application, and meeting all educational and testing requirements, will be issued a license, to expire on their birth anniversary date.

(2) Licensees may renew their licenses, at the current renewal fee rate. Before the expiration date of the individual's license, the secretary shall mail a notice for renewal of license to every person holding a current license. The licensee must return such notice along with current renewal fees and surcharges prior to the expiration of said license. Failure of any licensee to receive such notice shall not relieve or exempt such licensee from the requirements of this section.

(3) The late payment penalty provision will be applied as follows: Any renewal that is postmarked or presented to the department after midnight on the expiration date is late and subject to a late renewal penalty fee.

(4) A license, active or inactive, that is not renewed is considered lapsed. If the licensee fails to renew his or her license within one year from expiration thereof, such individual must apply for licensing under the statutory conditions then in force. If the licensee fails to renew the license within three years from the expiration date, the individual must also meet the requirements of WAC 246-840-120.

(5) Illegal practice: Any person practicing as a licensed practical nurse or registered nurse during the time that such individual's license is inactive or has lapsed shall be considered an illegal practitioner and shall be subjected to all the penalties provided for violators under the provisions of RCW 18.130.190.

NEW SECTION

WAC 246-840-113 Impaired practical nurse program—Content—License surcharge. (1) To implement an impaired practical nurse program as authorized by RCW 18.130.175, the nursing commission shall enter into a contract with a voluntary substance abuse monitoring program. The impaired practical nurse program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired practical nurses to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired practical nurses including those ordered by the board;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired practical nurses; and

(g) Performing other related activities as determined by the board.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to four dollars on each active license renewal to be collected by the department of health from each practical nurse licensed under chapter 18.79 RCW. These moneys shall be placed in

the health professions account to be used solely for the implementation of the impaired practical nurse program.

NEW SECTION

WAC 246-840-115 Responsibility for maintaining mailing address. It is the responsibility of each licensee to maintain a current mailing address on file with the commission. The mailing address on file with the commission shall be used for mailing of all official matters from the commission to the licensee. If charges against the licensee are mailed by certified mail to the address on file with the commission and returned unclaimed or are unable to be delivered for any reason, then the commission may proceed against the licensee by default under RCW 34.05.440.

NEW SECTION

WAC 246-840-120 Return to active status from inactive or lapsed status. Persons on inactive and/or lapsed status for three years or more, who do not hold a current active license in any other United States jurisdiction and who wish to return to active status shall be issued a limited educational license to enroll in a commission approved refresher course. Upon successful completion of the course, the individual's license shall be returned to active status. The limited educational license is valid only while working under the direct supervision of a preceptor and is not valid for employment as a licensed practical or registered nurse. Upon successful completion of the course, the individual's license shall be returned to active status.

NEW SECTION

WAC 246-840-130 Criteria for approved refresher course. (1) Philosophy, purpose and objectives.

(a) Philosophy, purpose and objectives of the course shall be clearly stated and available in written form. They shall be consistent with the definition of nursing as outlined in chapter 18.79 RCW.

(b) Objectives reflecting the philosophy shall be stated in behavioral terms and describe the capabilities and competencies of the graduate.

(2) Faculty.

(a) All nurse faculty shall hold a current license to practice as a registered nurse in the state of Washington.

(b) All faculty shall be qualified academically and professionally for their respective areas of responsibility.

(c) All faculty shall be qualified to develop and implement the program of study.

(d) Faculty shall be sufficient in number to achieve the stated program objectives.

(e) The maximum faculty to student ratio in the clinical area shall be 1 to 12. Exceptions shall be justified to and approved by the commission.

(3) Course content.

(a) The course content, length, methods of instruction and learning experiences shall be consistent with the philosophy and objectives of the course. Outlines and descriptions of all learning experiences shall be available in writing.

FOR PRACTICAL NURSE PROGRAMS:

(b) The course content shall consist of a minimum of sixty hours of theory content and one hundred twenty hours of clinical practice.

(c) The theory course content shall include, but not be limited to, a minimum of sixty hours in current basic concepts of:

(i) Nursing process;

(ii) Pharmacology;

(iii) Review of the concepts in the areas of:

(A) Practical nursing today including legal expectations;

(B) Basic communications and observational practices needed for identification, reporting, and recording patient needs; and

(C) Basic physical, biological, and social sciences necessary for practice; and

(iv) Review and updating of practical nursing knowledge and skills to include, but not be limited to, concepts of fundamentals, medical/surgical, parent/child, geriatric, and mental health nursing.

(d) The clinical course content shall include a minimum of one hundred twenty hours of clinical practice in the area(s) listed in (c) of this subsection. Exceptions shall be justified to and approved by the commission.

FOR REGISTERED NURSE PROGRAMS:

(e) The course content shall consist of a minimum of forty hours core course content, forty hours of specialty course content, and one hundred sixty hours of clinical practice in the specialty area.

(f) The core course content shall include, but not be limited to, a minimum of forty hours of theory in current basic concepts of:

(i) Nursing process;

(ii) Pharmacology;

(iii) Review of the concepts in the areas of:

(A) Professional nursing today including legal expectations;

(B) Basic communications and observational practices needed for identification, reporting, and recording patient needs; and

(C) Basic physical, biological and social sciences necessary for practice; and

(iv) Review and updating of basic nursing knowledge.

(g) The specialty course content shall include, but not be limited to, a minimum of forty hours of theory in current specialty nursing practice concepts of basic nursing related to the special area of interest such as surgical; pediatrics; obstetrics; psychiatric; acute, intensive, or extended care nursing; or community health nursing.

(h) The clinical course content shall include a minimum of one hundred sixty hours of clinical practice in the specialty area(s) listed in (c) and (d) of this subsection. Exceptions shall be justified to and approved by the commission.

FOR BOTH REGISTERED NURSE AND PRACTICAL NURSE PROGRAMS:

(4) Evaluation.

(a) Evaluation methods shall be used to measure the student's achievement of the stated theory and clinical objectives.

(b) The course shall be periodically evaluated by faculty and students.

(5) Admission requirements.

(a) Any person holding an inactive practical or registered nurse license in another state may apply for a limited educational license provided that the applicant meets the requirements of WAC 246-840-120.

(b) Requirements for admission shall be available in writing.

(c) All students shall hold a current valid license or hold (apply and be eligible for) a limited educational license approved by the commission.

(6) Records.

(a) Evidence that the student has successfully completed the course and met the stated objectives shall be kept on file.

(b) The refresher course provider shall submit a certification of successful completion of the course to the commission office.

(7) Refresher courses taken outside of the state of Washington shall be reviewed individually for approval by the commission prior to starting the course.

ADVANCED PRACTICE

NEW SECTION

WAC 246-840-300 Advanced registered nurse practitioner. An advanced registered nurse practitioner is a registered nurse prepared in a formal educational program to assume an expanded role in providing health care services. Advanced registered nurse practitioners function within the scope of practice reviewed and approved by the commission. Those scopes reviewed are the statements of scope accepted by the certifying bodies as the basis for their test plan and selection of test items. Advanced registered nurse practitioners are qualified to assume primary responsibility for the care of their patients. This practice incorporates the use of independent judgment as well as collaborative interaction with other health care professionals when indicated in the assessment and management of wellness and conditions as appropriate to the ARNP's area of specialization. An advanced registered nurse practitioner shall:

(1) Hold a current license to practice as a registered nurse in Washington; and

(2) Have completed a formal advanced nursing education meeting the requirements of WAC 246-840-305; and

(3) Present documentation of initial certification credential for specialized and advanced nursing practice granted by a national certifying body whose certification program is approved by the commission, and subsequently maintain currency and competency as defined by the certifying body; and

(4) Be held accountable to scope of practice and the standards of care established for the specialty as reviewed and approved by the commission.

NEW SECTION

WAC 246-840-305 Criteria for formal advanced nursing education meeting the requirement for ARNP licensure. (1) The college or university graduate education program which prepares the registered nurse for advanced nursing practice as an ARNP shall have as its primary purpose the preparation of nurses for the expanded nursing role as an advanced registered nurse practitioner. Documentation that may be requested to substantiate preparation for the ARNP role may include, but shall not be limited to:

(a) The philosophy, purpose, and objectives of the program, which are clearly defined and available in written form.

(b) The objectives reflecting the philosophy which are written in outcomes that describe the competencies of the graduate.

(c) Administrative policies of the program, which include:

(i) Clearly stated admission criteria, available in written form.

(ii) Provision of official evidence that the student has completed the program successfully.

(iii) Documentation that the program is conducted by an accredited college or university.

(d) Evidence that faculty meet the following requirements:

(i) Inclusion of faculty who are currently authorized to assume primary responsibility for patient care in the given specialty.

(ii) Only medical faculty who are authorized to practice.

(iii) The number of qualified faculty in the specialty area available to develop and implement the program is adequate.

(iv) Preceptors participate in teaching, supervising, and evaluating students. Criteria are in place for selection and functioning of preceptors. Preceptors guide students and communicate with faculty regarding student progress.

(e) Curriculum of the advanced nursing practice program which reflects:

(i) Course content that is consistent with the philosophy and objectives of the program.

(ii) Theory and clinical experience relevant to the specialized area of advanced practice and leading to achievement of the defined outcome competencies. These shall include content in biological, behavioral, nursing, medical, pharmacological, and regulation of the advanced practice role.

(iii) Before January 1, 1995, content that requires a minimum of one academic year for completion.

(iv) After January 1, 1995, content that culminates in a graduate degree with a concentration in advanced nursing practice.

(v) If the educational program to prepare for the advanced nursing practice role is taken after completion of the graduate degree, the candidate must submit evidence that the practitioner preparation program, as stated in (e)(ii) of this subsection, is equivalent to that leading to a graduate degree in advanced practice specialty.

(f) Outlines and descriptions of curriculum content which are available in written form.

(2) The commission will review educational programs that an applicant is considering for preparation for advanced practice to assist in selection of a program that meets requirements. All requests for review must be in writing. Written response will be provided to all applicants in this category and maintained in applicant's file at the board of nursing.

NEW SECTION

WAC 246-840-310 Use of nomenclature. Any person who qualifies under WAC 246-840-300 and whose application for advanced registered nurse practitioner designation has been approved by the commission shall be designated as an advanced registered nurse practitioner and shall have the right to use the title "advanced registered nurse practitioner" or nurse practitioner and the abbreviation following the nurse's name shall read "ARNP" and the title or abbreviation designated by the approved national certifying body. No other initials or abbreviations shall legally denote advanced nursing practice. No other person shall assume such title or use such abbreviation. No other person shall use any other title, words, letters, signs or figures to indicate that the person using same is recognized as an advanced registered nurse practitioner and:

- (1) Family nurse practitioner, FNP; or
- (2) Women's health care nurse practitioner; or
- (3) Pediatric nurse practitioner/associate, PNP/PNA; or
- (4) Adult nurse practitioner, ANP; or
- (5) Geriatric nurse practitioner, GNP; or
- (6) Certified nurse midwife/nurse midwife, CNM; or
- (7) Certified registered nurse anesthetist, CRNA; or
- (8) School nurse practitioner, SNP; or
- (9) Neonatal nurse practitioner, NNP.

NEW SECTION

WAC 246-840-315 Clinical specialist in psychiatric/mental health nursing. Clinical specialist in psychiatric/mental health nursing is an advanced practice specialty which may qualify for ARNP licensure as delineated in WAC 246-840-305. Clinical specialist in psychiatric/mental health is a title which may be used by persons certified by the national credentialing body, but who are not ARNP's.

NEW SECTION

WAC 246-840-320 Certification and certification program. (1) Certification is a form of credentialing, under sponsorship of a national certifying body that recognizes specialized and advanced nursing practice.

(2) A certification program is used by a national certifying body to grant the certification credential. A certification program shall be based on:

(a) A scope of practice statement as identified in WAC 246-840-300 shall denote the dimension and boundary, the focus, and the standards of specialized and advanced nursing practice in the area of certification.

(b) A formal program of study requirement in the area of certification which shall:

(i) Be based on measurable objectives that relate directly to the scope of practice;

(ii) Include theoretical and clinical content directed to the objectives; and

(iii) Be equivalent to at least one academic year. A preceptorship which is part of the formal program shall be included as part of the academic year. Current practice in the area of certification will not be accepted as a substitute for the formal program of study.

(c) An examination in the area of certification which shall:

(i) Measure the theoretical and clinical content denoted in the scope of practice;

(ii) Be developed in accordance with generally accepted standards of validity and reliability; and

(iii) Be open only to registered nurses who have successfully completed the program of study referred to in (b) of this subsection.

NEW SECTION

WAC 246-840-330 Commission approval of certification programs. (1) A licensee may request that a certification program be considered for approval and shall submit documentation showing that the program meets the requirements of WAC 246-840-320(2).

(2) The commission shall periodically review each certification program and may discontinue approval in the event that a certification program no longer meets the requirements of WAC 246-840-320(2).

(3) The commission shall notify licensees of pending review and may request that further information be provided regarding continued compliance with the provisions of WAC 246-840-320(2).

NEW SECTION

WAC 246-840-340 Application requirements for ARNP. A registered nurse applicant for licensure as an ARNP shall:

(1) Submit a completed application and nonrefundable fee as specified in WAC 246-840-990.

(2) Meet the requirements of WAC 246-840-300 and 246-840-305. The following documents shall be submitted as evidence to these requirements:

(a) An official transcript received by the commission directly from the formal advanced nursing education program showing all courses, grades, degree or certificate granted, official seal and appropriate registrar or program director's signature.

(b) Program objectives and course descriptions.

(c) Documentation from program director or faculty specifying the area of specialty, unless such is clearly indicated on the official transcript.

(3) Have graduated from an advanced nursing education program, as defined in WAC 246-840-300, within five years of application; if longer than five years have practiced a minimum of one thousand five hundred hours in an expanded specialty role within five years immediately preceding application.

(4) Submit evidence of certification by a certification program approved by the commission.

(5) Persons not meeting the educational requirements in subsection (2) of this section may be licensed if:

(a) Certified prior to December 31, 1994, by a national certifying organization recognized by the commission at the time certification was granted; and

(b) Recognized as an advanced registered nurse practitioner by another jurisdiction prior to December 31, 1994; and

(c) Completed an advanced registered nurse practitioner program equivalent to one academic year.

(6) Persons not meeting the requirements in subsection (3) of this section may be licensed following successful completion of five hundred hours of clinical practice supervised by an advanced registered nurse practitioner or a physician (licensed under chapter 18.71 or 18.57 RCW) in the same specialty area. Following completion of the supervised practice, the supervisor shall submit an evaluation to the commission and verify that the applicant's knowledge and skills are at a safe and appropriate level.

NEW SECTION

WAC 246-840-345 ARNP designation in more than one area of specialty. (1) An applicant who wishes to be recognized in more than one ARNP area of specialization and title shall be required to submit separate application and nonrefundable fee for each area.

(2) All requirements in WAC 246-840-300 through 246-840-370 must be met for each area of specialization.

NEW SECTION

WAC 246-840-350 Application requirements for ARNP interim permit. A registered nurse who has completed advanced formal education and registered for a commission approved national certification examination may be issued an interim permit to practice specialized and advanced nursing pending notification of the results of the first certification examination. The holder of an ARNP permit shall use the title graduate registered nurse practitioner (GRNP).

(1) An applicant for ARNP interim permit shall:

(a) Submit a completed application on a form provided by the commission accompanied by a nonrefundable fee as specified in WAC 246-840-990; and

(b) Submit documentation of completion of advanced formal education in the area of specialty; and

(c) Submit documentation of registration for the first certification examination administered by an approved certification program following completion of advanced formal education; and

(d) Hold a current license to practice as a registered nurse in Washington.

(2) The permit expires when advanced registered nurse practitioner status is granted. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable.

(3) An applicant who does not write the examination on the date scheduled shall immediately return the permit to the department of health.

(4) The interim permit authorizes the holder to perform the functions of advanced and specialized nursing practice as described in this section.

NEW SECTION

WAC 246-840-360 Renewal of ARNP designation. ARNP designation shall be renewed every two years on the ARNP's birthday. The applicant shall:

(1) Maintain a current registered nurse license in Washington.

(2) Submit evidence of current certification by her/his certifying body.

(3) Provide documentation of thirty contact hours (a contact hour is fifty minutes) of continuing education during the renewal period in the area of certification derived from any combination of the following approved by the commission:

(a) Formal academic study;

(b) Continuing education offerings.

(4) Attest, on forms provided by the commission, to having a minimum of two hundred fifty hours of specialized and advanced nursing practice within the preceding biennium providing direct patient care services. The commission may perform random audits of licensee's attestations.

(5) Submit a nonrefundable fee as specified. If the licensee fails to renew his or her ARNP designation prior to the expiration date, then the individual is subject to the late renewal fee specified in WAC 246-840-990.

NEW SECTION

WAC 246-840-365 Return to active ARNP status from inactive or lapsed status. Persons on inactive or lapsed status who do not hold a current active license in any other United States jurisdiction and who wish to return to active status shall apply for reinstatement of ARNP licensure. This requires:

(1) Current RN license in the state of Washington.

(2) Evidence of current certification by his/her certifying body.

(3) Documentation of thirty contact hours of continuing education in the area of specialty during the last two years.

(4) Two hundred fifty hours of precepted/supervised advanced clinical practice supervised by an ARNP or physician in the same specialty within the last year.

During the time of the preceptorship, the nurse will be practicing under RN license and will not use the designation ARNP.

ARNP licensure must be reinstated before reapplying for prescriptive authority. At that time the CE requirement will be the same as if applying for prescriptive authority for the first time, as in WAC 246-840-410.

NEW SECTION

WAC 246-840-370 Termination of ARNP designation by the commission. ARNP designation may be terminated by the commission when the ARNP has:

(1) Practiced outside the scope of practice denoted for the area of certification; or

(2) Been found in violation of any provision of RCW 18.79.250 or 18.130.180.

NEW SECTION

WAC 246-840-400 ARNP with prescriptive authorization. An advanced registered nurse practitioner licensed under chapter 18.79 RCW when authorized by the nursing commission may prescribe drugs pursuant to applicable state and federal laws. The ARNP when exercising prescriptive authority is accountable for competency in:

- (1) Patient selection;
- (2) Problem identification through appropriate assessment;
- (3) Medication and/or device selection;
- (4) Patient education for use of therapeutics;
- (5) Knowledge of interactions of therapeutics, if any;
- (6) Evaluation of outcome; and
- (7) Recognition and management of complications and untoward reactions.

NEW SECTION

WAC 246-840-410 Application requirements for ARNP with prescriptive authority. An advanced registered nurse practitioner who applies for authorization to prescribe drugs shall:

- (1) Be currently designated as an advanced registered nurse practitioner in Washington.
- (2) Be designated by their national certifying body as:
 - (a) A family nurse practitioner; or
 - (b) A women's health care nurse practitioner; or
 - (c) A pediatric nurse practitioner/associate; or
 - (d) An adult nurse practitioner; or
 - (e) A geriatric nurse practitioner; or
 - (f) A nurse midwife; or
 - (g) A nurse anesthetist; or
 - (h) A school nurse practitioner; or
 - (i) A clinical specialist in psychiatric and mental health nursing; or
 - (j) A neonatal nurse practitioner.
- (3) Provide evidence of completion of thirty contact hours of education in pharmacotherapeutics related to the applicant's scope of specialized and advanced practice and:
 - (a) Include pharmacokinetic principles and their clinical application and the use of pharmacological agents in the prevention of illness, restoration, and maintenance of health.
 - (b) Are obtained within a two-year time period immediately prior to the date of application for prescriptive authority.

(c) Are obtained from the following:

- (i) Study within the advanced formal educational program; and/or

(ii) Continuing education programs.

Exceptions shall be justified to and approved by the commission.

- (4) Submit a completed, notarized application on a form provided by the commission accompanied by a nonrefundable fee as specified in WAC 246-840-990.

NEW SECTION

WAC 246-840-420 Authorized prescriptions by the ARNP with prescriptive authority. (1) Prescriptions for drugs shall comply with all applicable state and federal laws.

(2) Prescriptions shall be signed by the prescriber with the initials ARNP.

(3) Prescriptions for controlled substances in Schedules I through IV are prohibited by RCW 18.79.240 (1)(r).

(4) Any ARNP with prescriptive authorization who prescribes Schedule V controlled substances shall register with the drug enforcement administration.

NEW SECTION

WAC 246-840-430 Termination of ARNP prescriptive authorization. Prescriptive authorization may be terminated by the commission when the ARNP with prescriptive authority has:

- (1) Not maintained current designation as an ARNP in the area of certification; or
- (2) Prescribed outside the ARNP scope of practice or for other than therapeutic purposes; or
- (3) Violated provisions of RCW 18.79.250; or
- (4) Violated any state or federal law or regulations applicable to prescriptions.

NEW SECTION

WAC 246-840-440 Prescriptive authorization period.

(1) Prescriptive authorization shall be for a period of two years.

(2) Initial authorization shall expire on the applicant's renewal date for ARNP designation.

(3) Authorization shall be renewed after the applicant meets the requirements of WAC 246-840-450.

NEW SECTION

WAC 246-840-450 Renewal. ARNP with prescriptive authorization shall be renewed every two years. For renewal of ARNP with prescriptive authorization, the licensee shall:

(1) Meet the requirements of WAC 246-840-360 (1), (2), and (3).

(2) Provide documentation of fifteen additional contact hours of continuing education during the renewal period in pharmacotherapeutics related to licensee's scope of practice. This continuing education shall meet the requirements of WAC 246-840-410 (3)(a).

(3) Submit a completed and notarized renewal application with a nonrefundable fee as specified in WAC 246-840-990. If the licensee fails to renew his or her prescriptive authorization prior to the expiration date, then the individual is subject to the late renewal fee specified in WAC 246-840-990.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-540 Appeal of commission decisions. A nursing education program deeming itself aggrieved by a decision of the commission affecting its approval status shall have the right to appeal the commission's decision in accordance with the provisions of chapter ((18-88)) 18.79 RCW and the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 95-21-072, filed 10/16/95, effective 11/16/95)

WAC 246-840-565 Students in approved nursing education programs. (1) The approved nursing education program shall:

(a) Provide in writing policies and procedures for selection, admission, progression, graduation, withdrawal, and dismissal. These policies shall be consistent with the policies of the governing institution. Where necessary, policies specific to nursing students may be adopted if justified by the nature and purposes of the nursing program.

(b) Maintain a system of student records.

(c) Provide a written statement of student rights and responsibilities.

(d) Require that students who seek admission by transfer from another approved nursing education program, or readmission for completion of the program, shall meet the equivalent of the program's current standards.

(2) The nursing education program shall provide the student in an ADN or BSN program with information on the legal definition and parameters of the nursing technician role, as in WAC ((~~246-839-010(10)~~ and ~~246-839-840~~) 246-840-010(19) and 246-840-840. Such information shall be provided prior to the time of completion of the first clinical course and shall clearly advise the student of their responsibilities, should they choose to be employed as a nursing technician.

NEW SECTION

WAC 246-840-700 Standards of nursing conduct or practice. The purpose of defining standards of nursing conduct or practice through WAC 246-840-700 and 246-840-710 is to identify responsibilities of the nurse in health care settings and as provided in the Nursing Practice Act, chapter 18.79 RCW. Violation of these standards may be grounds for disciplinary action pursuant to chapter 18.130 RCW. Each individual, upon entering the practice of nursing, assumes a measure of responsibility and public trust and the corresponding obligation to adhere to the standards of nursing practice. The nurse shall be responsible and accountable for the quality of nursing care given to clients. This responsibility cannot be avoided by accepting the orders or directions of another person. The standards of nursing conduct or practice include, but are not limited to the following:

FOR REGISTERED NURSES:

(1) Nursing process:

(a) The registered nurse shall collect pertinent objective and subjective data regarding the health status of the client.

(b) The registered nurse shall plan and implement nursing care which will assist the client to maintain or return to a state of health or will support a dignified death.

(c) The registered nurse shall communicate significant changes in the client's status to appropriate members of the health care team. This communication shall take place in a time period consistent with the client's need for care.

(d) The registered nurse shall document, on essential client records, the nursing care given and the client's response to that care.

(2) Delegation and supervision: The registered nurse shall be accountable for the safety of clients receiving nursing service by:

(a) Delegating selected nursing functions to others in accordance with their education, credentials, and demonstrated competence.

(b) Supervising others to whom he/she has delegated nursing functions.

(3) Other responsibilities:

(a) The registered nurse shall have knowledge and understanding of the laws and rules regulating nursing and shall function within the legal scope of nursing practice.

(b) The registered nurse shall be responsible and accountable for practice based on and limited to the scope of her/his education, demonstrated competence, and nursing experience.

(c) The registered nurse shall obtain instruction, supervision, and consultation as necessary before implementing new or unfamiliar techniques or practices.

(d) The registered nurse shall be responsible for maintaining current knowledge in his/her field of practice.

(e) The registered nurse shall conduct nursing practice without discrimination.

(f) The registered nurse shall respect the client's right to privacy by protecting confidential information.

(g) The registered nurse shall report unsafe nursing acts and practices, and illegal acts as defined in WAC 246-840-730.

FOR PRACTICAL NURSES:

(4) The licensed practical nurse, functioning under the direction and supervision of other licensed health care professionals as provided in RCW 18.79.060, shall be responsible and accountable for his or her own nursing judgments, actions and competence.

(5) The licensed practical nurse shall practice practical nursing in the state of Washington only with a current Washington license.

(6) The licensed practical nurse shall not permit his or her license to be used by another person for any purpose.

(7) The licensed practical nurse shall have knowledge of the statutes and rules governing licensed practical nurse practice and shall function within the legal scope of licensed practical nurse practice.

(8) The licensed practical nurse shall not aid, abet or assist any other person in violating or circumventing the laws or rules pertaining to the conduct and practice of licensed practical nursing.

(9) The licensed practical nurse shall not disclose the contents of any licensing examination or solicit, accept or compile information regarding the contents of any examination before, during or after its administration.

(10) The licensed practical nurse shall delegate activities only to persons who are competent and qualified to undertake and perform the delegated activities, and shall not delegate to unlicensed persons those functions that are to be performed only by licensed nurses.

(11) The licensed practical nurse, in delegating functions, shall supervise the persons to whom the functions have been delegated.

(12) The licensed practical nurse shall act to safeguard clients from unsafe practices or conditions, abusive acts, and neglect.

(13) The licensed practical nurse shall report unsafe acts and practices, unsafe practice conditions, and illegal acts to the appropriate supervisory personnel or to the appropriate state disciplinary board or commission.

(14) The licensed practical nurse shall respect the client's privacy by protecting confidential information, unless required by law to disclose such information.

(15) The licensed practical nurse shall make accurate, intelligible entries into records required by law, employment or customary practice of nursing, and shall not falsify, destroy, alter or knowingly make incorrect or unintelligible entries into client's records or employer or employee records.

(16) The licensed practical nurse shall not sign any record attesting to the wastage of controlled substances unless the wastage was personally witnessed.

(17) The licensed practical nurse shall observe and record the conditions of a client, and report significant changes to appropriate persons.

(18) The licensed practical nurse may withhold or modify client care which has been authorized by an appropriate health care provider, only after receiving directions from an appropriate person, unless in a life threatening situation.

(19) The licensed practical nurse shall leave a nursing assignment only after properly reporting to and notifying appropriate persons and shall not abandon clients.

(20) The licensed practical nurse shall not misrepresent his or her education and ability to perform nursing procedures safely.

(21) The licensed practical nurse shall respect the property of the client and employer and shall not take equipment, materials, property or drugs for his or her own use or benefit nor shall the licensed practical nurse solicit or borrow money, materials or property from clients.

(22) The licensed practical nurse shall not obtain, possess, distribute or administer legend drugs or controlled substances to any person, including self, except as directed by a person authorized by law to prescribe drugs.

(23) The licensed practical nurse shall not practice nursing while affected by alcohol or drugs, or by a mental, physical or emotional condition to the extent that there is an undue risk that he or she, as a licensed practical nurse, would cause harm to him or herself or other persons.

(24) It is inconsistent for a licensed practical nurse to perform functions below the minimum standards of competency as expressed in WAC 246-840-715.

NEW SECTION

WAC 246-840-705 Functions of a licensed practical nurse. A licensed practical nurse is one who has met the requirements of the Washington state Nurse Practice Act, chapter 18.79 RCW. The licensed practical nurse recognizes and is able to meet the basic needs of the client, and gives nursing care under the direction and supervision of the registered nurse or licensed physician to clients in routine nursing situations. In more complex situations the licensed practical nurse functions as an assistant to the registered

nurse and carries out selected aspects of the designated nursing regimen.

A routine nursing situation is one that is relatively free of scientific complexity. The clinical and behavioral state of the client is relatively stable and requires abilities based upon a comparatively fixed and limited body of knowledge.

In complex situations, the licensed practical nurse facilitates client care by meeting specific nursing requirements to assist the registered nurse in the performance of nursing care.

The functions of the licensed practical nurse makes practical nursing a distinct occupation within the profession of nursing. The licensed practical nurse has specific roles in nursing in direct relation to the length, scope and depth of his or her formal education and experience. In the basic program of practical nursing education, the emphasis is on direct client care.

With additional preparation, through continuing education and practice, the licensed practical nurse prepares to assume progressively more complex nursing responsibilities.

NEW SECTION

WAC 246-840-710 Violations of standards of nursing conduct or practice. The following will serve as a guideline for the nurse as to the acts, practices, or omissions that are inconsistent with generally accepted standards of nursing conduct or practice. Such conduct or practice may be grounds for action with regard to the license to practice nursing pursuant to chapter 18.79 RCW and the Uniform Disciplinary Act, chapter 18.130 RCW. Such conduct or practice includes, but is not limited to the following:

(1) Failure to adhere to the standards enumerated in WAC 246-840-700(1) which may include:

(a) Failing to assess and evaluate a client's status or failing to institute nursing intervention as required by the client's condition.

(b) Willfully or repeatedly failing to report or document a client's symptoms, responses, progress, medication, or other nursing care accurately and/or intelligibly.

(c) Willfully or repeatedly failing to make entries, altering entries, destroying entries, making incorrect or illegible entries and/or making false entries in records pertaining to the giving of medication, treatments, or other nursing care.

(d) Willfully or repeatedly failing to administer medications and/or treatments in accordance with policy and procedure.

(e) Willfully or repeatedly failing to follow the policy and procedure for the wastage of medications where the nurse is employed or working.

(f) Willfully causing or contributing to physical or emotional abuse to the client.

(2) Failure to adhere to the standards enumerated in WAC 246-840-700(2) which may include:

(a) Delegating nursing care function or responsibilities to a person who the nurse knows or has reason to know lacks the ability or knowledge to perform the function or responsibility, or delegating to unlicensed persons those functions or responsibilities the nurse knows or has reason to know are to be performed only by licensed persons. This

section should not be construed as prohibiting delegation to family members and other caregivers exempted by RCW 18.79.040(3), 18.79.050, 18.79.060 or 18.79.240.

(b) Failure to supervise those to whom nursing activities have been delegated. Such supervision shall be adequate to prevent an unreasonable risk of harm to clients.

(3) Failure to adhere to the standards enumerated in WAC 246-840-700(3) which may include:

(a) Performing or attempting to perform nursing techniques and/or procedures for which the nurse lacks the appropriate knowledge, experience, and education and/or failing to obtain instruction, supervision and/or consultation for client safety.

(b) Violating the confidentiality of information or knowledge concerning the client, except where required by law or for the protection of the client.

(c) Writing prescriptions for drugs unless authorized to do so by the board.

(4) Other violations:

(a) Appropriating for personal use medication, supplies, equipment, or personal items of the client, agency, or institution.

(b) Practicing nursing while impaired by any mental, physical and/or emotional condition to the extent that the person may be unable to practice with reasonable skill and safety.

(c) Willfully abandoning clients by leaving a nursing assignment without transferring responsibilities to appropriate personnel or caregiver when continued nursing care is required by the condition of the client(s).

(d) Practicing nursing while impaired by alcohol and/or drugs.

(e) Conviction of a crime involving physical abuse or sexual abuse relating to the practice of nursing.

NEW SECTION

WAC 246-840-715 Standards/competencies. Minimum standards of competency expected of beginning licensed practical nurses include the following:

(1) **Standard I** - The practical nurse assists in implementing the nursing process. The nursing process is defined as a systematic approach to nursing care which has the goal of facilitating an optimal level of functioning for the client, recognizing cultural and religious diversity.

The components of the nursing process are assessing, planning, implementing and evaluating. Written and verbal communication is essential to the nursing process.

Competencies:

(a) Assessment - Makes observations, gathers data and assists in identification of needs and problems relevant to the client.

(i) Makes basic observations of clients' safety and comfort needs.

(ii) Identifies physical discomfort and environmental threats to client safety.

(iii) Identifies basic physiological, emotional, sociological, cultural, economic, and spiritual needs.

(iv) Collects specific data as directed.

(v) Identifies major deviation from normal.

(vi) Selects data from established sources relevant to client's needs or problems.

(vii) Collaborates in organizing data.

(viii) Assists in formulating the list of clients' needs or problems.

(ix) Identifies major short-term and long-term needs of clients.

(b) Planning - Contributes to the development of approaches to meet the needs of clients and families.

(i) Develops client care plans, utilizing a standardized nursing care plan.

(ii) Assists in setting priorities for nursing care.

(iii) Participates in client care conferences.

(c) Implementation - Carries out planned approaches to client care.

(i) Carries out nursing actions developed in care plan to ensure safe and effective nursing care.

(ii) Performs common therapeutic nursing techniques.

(iii) Administers medications safely and accurately, within institutional policies and procedures, and with knowledge of the medication being administered.

(d) Evaluation - Utilizing a standard plan for nursing care, appraises the effectiveness of client care.

(i) Collaborates in data collection relevant to outcome of care.

(ii) Assists in comparing outcome of care to formulated objective.

(iii) Assists with adjustments in care.

(iv) Reports outcome of care given.

(2) **Standard II.** The practical nurse uses communication skills effectively in order to function as a member of the nursing team. Communication is defined as a process by which information is exchanged between individuals through a common system of symbols, signs, or behaviors that serves as both a means of gathering information and of influencing the behavior and feelings of others.

Competencies:

Applies beginning skills in verbal, nonverbal and written communication, recognizing and respecting cultural diversity and respecting the spiritual beliefs of individual clients.

(a) Uses common medical terminology and abbreviations.

(b) Interprets common medical terminology and abbreviations.

(c) Reports pertinent client communications regarding his/her physical and psycho-social welfare.

(d) Develops a working relationship with the client, family, and health team members.

(e) Interviews clients to collect specific data with or without a structured tool.

(f) Identifies possible communication blocks.

(g) Recognizes that communication can be facilitated by certain responses.

(h) Interacts appropriately in a one-to-one relationship and in a group setting.

(i) Modifies own communication pattern.

(j) Documents observations and actions correctly in the chart.

(k) Demonstrates the ability to communicate effectively in the work setting.

(3) **Standard III.** In a structured setting the practical nurse demonstrates responsibility for own actions by using common techniques of problem solving and decision making to plan and organize own assignment. Problem solving and

decision making include utilization of available resources to secure a desired result.

Competencies:

- (a) Participates in self-assessment.
 - (i) Identifies own strengths and weaknesses.
 - (ii) Maintains personal health.
 - (iii) Maintains appropriate appearance.
 - (iv) Seeks assistance as needed.
 - (v) Requests recommendations for improvements.
 - (vi) Incorporates new and appropriate behaviors in nursing action.
 - (vii) Evaluates completion of assigned duties.
- (b) Seeks learning opportunities that will foster growth.
 - (i) Plans goals for self improvement of performance with help of a supervisor.
 - (ii) Seeks opportunities for personal vocational growth.
 - (iii) Utilizes new knowledge and skills.
 - (iv) Participates in staff development.
 - (v) Demonstrates knowledge of professional organization and other contributors to past and present nursing advancement.
- (c) Applies knowledge of ethical and legal principles and responsibilities pertinent to self, clients, and others.
 - (i) Identifies scope and limitations of own role.
 - (ii) Functions within the law regulating the practice of practical nursing.
 - (iii) Demonstrates ethical practice in providing client care.
 - (iv) Respects and maintains the client's privacy interests.
 - (d) Practices conservation of available resources.
 - (i) Demonstrates an understanding of hospital and client costs by economical use of supplies and equipment.
 - (ii) Participates in nursing audit.
 - (e) Follows employer rules and regulations.
 - (i) Functions according to the job description, recognizing employer/employee expectations.
 - (ii) Explains employer rules and regulations as they apply to client and family.
- (4) **Standard IV.** The practical nurse assists in the health teaching of clients recognizing individual differences. Health teaching is defined as facilitating learning and instructing clients and significant others in preventive and therapeutic measures.

Competencies:

- (a) Health teaching - Assists in the development of teaching plans for the individual client.
 - (i) Identifies major health education needs and problems of clients.
 - (ii) Communicates observation of health and learning needs.
 - (iii) Assists in individualizing the teaching plan to include others when appropriate.
 - (b) Implements teaching of basic health information according to the appropriate teaching plan.
 - (c) Communicates client's request for information to appropriate team member.
 - (d) Documents client teaching on the appropriate records.
- (5) **Standard V.** The practical nurse demonstrates an understanding of own role in the health care delivery system. Health care delivery systems are defined as the voluntary and governmental organizations and institutions at interna-

tional, national, state, and local levels that influence health policy and encompass comprehensive services.

Competencies:

- (a) Functions as a practical nurse within the health care delivery system. (See chapter 18.79 RCW.)
 - (i) Functions within the role of the practical nurse.
 - (ii) Identifies the basic functions of members of the health care delivery team.
 - (b) Recognizes functions of health care delivery systems.
 - (i) Identifies supportive services in client care settings.
 - (ii) Identifies community resources.
 - (iii) Identifies the need for assistance from other agencies.
 - (iv) Demonstrates ability to obtain information about health care agencies.
 - (c) Acts as client advocate in health maintenance and clinical care.
 - (i) Recognizes the rights of individuals to control their own health needs and make decisions about health services.
 - (ii) Provides client education concerning health care delivery systems.
 - (6) **Standard VI.** The practical nurse recognizes the need for change in a structured health care setting and demonstrates willingness to participate in effecting change. Change is defined as a systematic process which includes careful assessment and acceptance of responsibility for own actions, resulting in a significant alteration.
- Competencies:**
- Recognizes need to adjust functions to comply with the accepted practical nurse role and assists in assessing effectiveness of current nursing practices in a given health care delivery system.
 - (a) Recognizes problems and the need for change in current nursing practice.
 - (b) Communicates needs for further change through appropriate channels.
 - (c) Identifies personal factors which influence response to change. Adapts own behavior.
 - (d) Accepts potential risks with instituting change.

NEW SECTION

WAC 246-840-720 Mitigating circumstances. The commission recognizes that there may be circumstances inherent to various practice settings that may affect the commission's decision whether to issue a statement of charges, to make a finding of unprofessional conduct, or to determine a sanction.

NEW SECTION

WAC 246-840-730 Mandatory reporting defined. The nursing commission does not intend to cause every nursing error to be reported or that mandatory reporting take away the disciplinary ability and responsibility from the employer of the licensed practical nurse or registered nurse.

FOR PRACTICAL NURSES:

- (1) Any person, including health care facilities and agencies and state or local government, who is aware of a conviction or has made a determination or finding that a practical nurse has committed an act constituting unprofes-

sional conduct as defined in RCW 18.130.180, including violation of chapter 246-840 WAC, shall report such conviction, determination or finding to the commission.

(2) Any person, including health care facilities and agencies and state or local government, who has information that a practical nurse may not be able to practice with reasonable skill and safety as a result of a mental or physical condition, shall report such information to the commission.

FOR REGISTERED NURSES:

(3) Any person, including nurses, health care facilities and agencies, and state or local government agencies, who has knowledge or concern that a registered nurse has committed an act which constitutes unprofessional conduct as provided in RCW 18.130.180, including violations of chapter 246-840 WAC, or failed to meet accepted standards for the level at which the registered nurse is licensed, or is unable to practice with reasonable skill or safety as the result of a physical or mental condition shall report or cause a report to be made to the commission. Failure of any nurse to comply with the reporting requirements may in itself constitute a violation of nursing standards.

(4) The decision to report a suspected violation of chapter 18.130 or 18.79 RCW or the rules adopted thereunder shall be based on, but not limited to the following:

(a) The past history of the registered nurse's performance.

(b) A demonstrated pattern of unsafe practice or conduct in violation of the standards of nursing.

(c) The magnitude of any single occurrence for actual or potential harm to the public health and safety.

(5) The following shall always be reported to the nursing commission:

(a) A nurse impostor. As used herein "nurse impostor" means an individual who is ineligible for registered nursing licensure or advanced registered nurse practitioner licensure and who practices or offers to practice registered nursing or advanced nursing or uses any title, abbreviation, card, or device to indicate that the individual is licensed to practice in Washington.

(b) A person who is practicing registered nursing when the license has become void due to nonpayment of fees.

(c) A person who is practicing registered nursing as defined in chapter 18.79 RCW unless licensed as a registered nurse or practical nurse, or a person who is practicing as a nurse practitioner as defined in WAC 246-840-300 while not licensed as an advanced registered nurse practitioner.

(d) A registered nurse who has been convicted of a crime which relates to the practice of nursing.

(e) A registered nurse who has been dismissed from employment due to unsafe practice or conduct in violation of the standards of nursing.

(f) Client abuse by a registered nurse.

(g) A demonstrated pattern of conduct in violation of the standards of nursing as defined by the rules of the commission or a single occurrence that creates serious harm or risk to the client.

(h) Any violation of a disciplinary sanction imposed on a registered nurse's license by the commission.

(i) Substance abuse as defined in RCW 18.130.180 (6) and (23). Nursing professionals counseling impaired registered nurses for substance abuse are exempt from the

reporting requirements except as provided in chapter 5.62 RCW.

(j) Any other cause for discipline as defined in RCW 18.130.170 and 18.130.180.

NEW SECTION

WAC 246-840-745 Adjudicative proceedings. The commission adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

NEW SECTION

WAC 246-840-747 Appearance and practice before agency—Standards of ethical conduct. All persons appearing in proceedings before the commission in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the commission may decline to permit such person to appear in a representative capacity in any proceeding before it.

NEW SECTION

WAC 246-840-750 Philosophy governing voluntary substance abuse monitoring programs. The commission recognizes the need to establish a means of proactively providing early recognition and treatment options for licensed practical nurses or registered nurses whose competency may be impaired due to the abuse of drugs or alcohol. The commission intends that such nurses be treated and their treatment monitored so that they can return to or continue to practice their profession in a way which safeguards the public. To accomplish this the commission shall approve voluntary substance abuse monitoring programs and shall refer licensed practical nurses or registered nurses impaired by substance abuse to approved programs as an alternative to instituting disciplinary proceedings as defined in RCW 18.130.160.

NEW SECTION

WAC 246-840-760 Terms used in WAC 246-840-750 through 246-840-780. (1) "Approved substance abuse monitoring program" or "approved monitoring program" is a program the commission has determined meets the requirements of the law and the criteria established by the commission in WAC 246-840-770 which enters into a contract with nurses who have substance abuse problems regarding the required components of the nurse's recovery activity and oversees the nurse's compliance with these requirements. Substance abuse monitoring programs do not provide evaluation or treatment to participating nurses.

(2) "Contract" is a comprehensive, structured agreement between the recovering nurse and the approved monitoring program wherein the nurse consents to comply with the monitoring program and its required components of the nurse's recovery activity.

(3) "Approved treatment facility" is a facility approved by the bureau of alcohol and substance abuse, department of social and health services according to chapter 70.96A RCW

or RCW 69.54.030 to provide concentrated alcoholism or drug treatment if located within Washington state. Drug and alcohol treatment programs located out-of-state must be equivalent to the standards required for approval under chapter 70.96A RCW or RCW 69.54.030.

(4) "Substance abuse" means the impairment, as determined by the commission, of a nurse's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(5) "Aftercare" is that period of time after intensive treatment that provides the nurse and the nurse's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups and ongoing continued support of treatment program staff.

(6) "Nurse support group" is a group of nurses meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced nurse facilitator in which nurses may safely discuss drug diversion, licensure issues, return to work and other professional issues related to recovery.

(7) "Twelve-step groups" are groups such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, peer group association, and self-help.

(8) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse in body fluids which are performed at irregular intervals not known in advance by the person to be tested.

NEW SECTION

WAC 246-840-770 Approval of substance abuse monitoring programs. The commission will approve the monitoring program(s) which will participate in the commission's substance abuse monitoring program. A monitoring program approved by the commission may be contracted with an entity outside the department but within the state, out-of-state, or a separate structure within the department.

(1) The approved monitoring program will not provide evaluation or treatment to the participating nurses.

(2) The approved monitoring program staff must have the qualifications and knowledge of both substance abuse and the practice of nursing as defined in this chapter to be able to evaluate:

- (a) Clinical laboratories;
- (b) Laboratory results;
- (c) Providers of substance abuse treatment, both individuals and facilities;
- (d) Nurses' support groups;
- (e) The nursing work environment; and
- (f) The ability of the nurse to practice with reasonable skill and safety.

(3) The approved monitoring program will enter into a contract with the nurse and the commission to oversee the nurse's compliance with the requirements of the program.

(4) The approved monitoring program may make exceptions to individual components of the contract on an individual basis.

(5) The approved monitoring program staff will determine, on an individual basis, whether a nurse will be

prohibited from engaging in the practice of nursing for a period of time and restrictions, if any, or the nurse's access to controlled substances in the work place.

(6) The approved monitoring program shall maintain records on participants.

(7) The approved monitoring program will be responsible for providing feedback to the nurse as to the acceptability of treatment progress.

(8) The approved monitoring program shall report to the commission any nurse who fails to comply with the requirements of the monitoring program.

(9) The approved monitoring program shall provide the commission with a statistical report on the program, including progress of participants, at least annually.

(10) The approved monitoring program shall receive from the commission guidelines on treatment, monitoring, and limitations on the practice of nursing for those participating in the program.

NEW SECTION

WAC 246-840-780 Participants entering the approved substance abuse monitoring program must agree to the following conditions. (1)(a) The nurse shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The nurse shall enter into a contract with the commission and the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The nurse will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The nurse will agree to remain free of all mind-altering substances including alcohol except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101.

(iii) The nurse must complete the prescribed aftercare, which may include individual and/or group psychotherapy.

(iv) The nurse must cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis and goals.

(v) The nurse will submit to random drug screening as specified by the approved monitoring program.

(vi) The nurse will attend nurses' support groups facilitated by a nurse and/or twelve-step group meetings as specified by the contract.

(vii) The nurse will comply with specified employment conditions and restrictions as defined by the contract.

(viii) The nurse shall sign a waiver allowing the approved monitoring program to release information to the commission if the nurse does not comply with the requirements of this contract.

(c) The nurse is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, and random drug screens.

(d) The nurse may be subject to disciplinary action under RCW 18.130.160 if the nurse does not participate in

the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.

(2) A nurse who is not being investigated by the commission or subject to current disciplinary action or currently being monitored by the commission for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the commission.

(a) The nurse shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The nurse shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The nurse will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The nurse will agree to remain free of all mind-altering substances including alcohol except for medications prescribed by an authorized prescriber as defined in RCW 69.41.030 and 69.50.101.

(iii) The nurse must complete the prescribed aftercare program of the intensive treatment facility, which may include individual and/or group psychotherapy.

(iv) The nurse must cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis and goals.

(v) The nurse will submit to random drug screening as specified by the approved monitoring program.

(vi) The nurse will attend nurses' support groups facilitated by a nurse and/or twelve-step group meetings as specified by the contract.

(vii) The nurse will comply with employment conditions and restrictions as defined by the contract.

(viii) The nurse shall sign a waiver allowing the approved monitoring program to release information to the commission if the nurse does not comply with the requirements of this contract.

(c) The nurse is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment and random drug screens.

(3) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in subsections (1) and (2) of this section. Records held by the commission under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

NEW SECTION

WAC 246-840-800 Scope of practice—Advisory opinions. (1) The commission may issue advisory opinions in response to questions put to it by professional health associations, nursing practitioners and consumers concerning the authority of various categories of nursing personnel to perform particular acts. Such questions must be presented in writing to the department staff.

(2) Questions may be referred to a committee of the commission. Upon such referral, the committee shall develop a draft response which shall be presented to the full commission at a public meeting for ratification, rejection or modification. The committee may, at its discretion, consult with health care practitioners for assistance in developing its draft response.

(3) If the commission issues an opinion on a given issue, such opinion shall be provided to the requesting party and shall be included in the commission minutes.

(4) Each opinion issued shall include a clear statement to the effect that:

(a) The opinion is advisory and intended for the guidance of the requesting party only; and

(b) The opinion is not legally binding and does not have the force and effect of a duly promulgated regulation or a declaratory ruling by the commission.

(5) In no event shall this section be construed to supersede the authority of the commission to adopt rules related to the scope of practice nor shall it be construed to restrict the ability of any person to propose a rule or to seek a declaratory judgment from the commission.

NEW SECTION

WAC 246-840-810 Provision for continuity of drug therapy for residents. When a resident of a long-term care facility has the opportunity for an unscheduled therapeutic leave that would be precluded by the lack of an available pharmacist to dispense drugs prescribed by an authorized practitioner, a registered nurse designated by the facility and its consultant or staff pharmacist and who agrees to such designation, may provide the resident or a responsible person with up to a seventy-two-hour supply of a prescribed drug or drugs for use during that leave from the resident's previously dispensed package of such drugs. The drugs shall only be provided in accordance with protocols developed by the pharmaceutical services committee and shall be available for inspection. These protocols shall include the following:

(1) Criteria as to what constitutes an unscheduled therapeutic leave requiring the provision of drugs by the registered nurse;

(2) Procedures for repackaging and labeling the limited supply of previously dispensed drugs by the designated registered nurse that comply with all state and federal laws concerning the packaging and labeling of drugs;

(3) Provision to assure that none of the medication provided to the resident or responsible person may be returned to the resident's previously dispensed package of such drug or to the facility's stock.

(4) Assurance that the RN informs the resident or responsible person of:

- (a) The name, strength and quantity of drug provided;
- (b) The proper administration of the drug;

- (c) Potential adverse responses to the drug; and
- (d) What actions to take should adverse responses occur.
- (5) Provision for documenting by the RN in the resident's health record:
 - (a) Date and time of unscheduled leave;
 - (b) Name, strength and quantity of drug provided;
 - (c) Name of person to whom the drug was given and by whom it was given; and
 - (d) Confirmation that information described in subsection (2) of this section was provided.

See WAC 246-865-070 for related regulations regarding this practice.

NEW SECTION

WAC 246-840-820 Provision for clean, intermittent catheterization in schools. Public school districts and private schools that offer classes for any of the grades kindergarten through twelve may provide for clean, intermittent catheterization of students or assisted self-catheterization of students who are in the custody of the school district at the time in accordance with the following rules:

- (1) The student's file shall contain a written request from the parent(s) or guardian for the clean, intermittent catheterization of the student.
- (2) The student's file shall contain written permission from the parent(s) or guardian for the performance of the clean, intermittent catheterization procedure by the nonlicensed school employee.
- (3) The student's file shall contain a current written order for clean, intermittent catheterization from the student's physician and shall include written instructions for the procedure. The order shall be reviewed and/or revised each school year.
- (4) The student's file shall contain written, current, and unexpired instructions from a registered nurse licensed under chapter 18.79 RCW regarding catheterization which include:
 - (a) A designation of the school district or private school employee or employees who may provide for the catheterization; and
 - (b) A description of the nature and extent of any required supervision.
- (5) The service shall be offered to all handicapped students and may be offered to the nonhandicapped students, at the discretion of the school board.
- (6) The registered nurse shall develop instructions specific to the needs of the student. These shall be made available to the nonlicensed school employee and shall be updated each school year.
- (7) The supervision of the self-catheterizing student shall be based on the needs of the student and the skill of the nonlicensed school employee.
- (8) The registered nurse, designated by the school board, shall be responsible for the training of the nonlicensed school employees who are assigned to perform clean, intermittent catheterization of the students.
- (9) The training of the nonlicensed school employee shall include but not be limited to:
 - (a) An initial in-service training, length determined by the registered nurse.
 - (b) An update of the instructions and a review of the procedure each school year.

(c) Anatomy, physiology, and pathophysiology of the urinary system including common anomalies for the appropriate age group served.

- (d) Techniques common to the urinary catheterization procedure.
- (e) Identification and care of the required equipment.
- (f) Common signs and symptoms of infection and recommended procedures to prevent the development of infections.
- (g) Identification of the psychosocial needs of the parent/guardian and the students with emphasis on the needs for privacy and confidentiality.
- (h) Documentation requirements.
- (i) Communication skills including the requirements for reporting to the registered nurse or the physician.
- (j) Medications commonly prescribed for the clean, intermittent catheterization patient and their side effects.
- (k) Contraindications for clean, intermittent catheterization and the procedure to be followed if the nonlicensed school employee is unable to catheterize the student.
- (l) Training in catheterization specific to the student's needs.
- (m) Developmental growth patterns of the appropriate age group served.
- (n) Utilization of a teaching model to demonstrate catheterization techniques with return demonstration performed by the nonlicensed school employee, if a model is available.
- (10) The training of the nonlicensed school employee shall be documented in the employee's permanent file.

NEW SECTION

WAC 246-840-830 Determination and pronouncement of death by a licensed registered nurse. A registered nurse may determine and pronounce death, but shall not certify death as defined in RCW 70.58.160 unless the registered nurse is an ARNP-certified nurse midwife as defined in WAC 246-840-300.

- (1) A registered nurse may assume responsibility for the determination and pronouncement of death only if there are written policies and procedures relating to the determination and pronouncement of death in the organization with which the registered nurse is associated as an employee or by contract, provided:
 - (a) The decedent was under the care of a health care practitioner qualified to certify cause of death; and
 - (b) The decedent was a patient of the organization with which the registered nurse is associated; and
 - (c) There is a "do not resuscitate order" in the patient's record when the decedent was assisted by mechanical life support systems at the time of determination and pronouncement of death.
- (2) A registered nurse who assumes responsibility for the determination and pronouncement of death shall be knowledgeable of the laws and regulations regarding death and human remains which affect the registered nurse's practice of this responsibility.
- (3) A registered nurse who assumes responsibility for the determination and pronouncement of death shall:
 - (a) Perform a physical assessment of the patient's condition;

(b) Insure that family and physician and other caregivers are notified of the death; and

(c) Document the findings of the assessment and notification in all appropriate records.

NEW SECTION

WAC 246-840-840 Nursing technician. The purpose of the role of nursing technician is to provide opportunity for students enrolled in an ADN or BSN program to gain work experience within the limits of their education, but not limited to the scope of functions of nursing assistant - certified.

(1) The nursing technician is as defined in WAC 246-840-010(19).

(2) The nursing technician shall have knowledge and understanding of the laws and rules regulating the nursing technician and shall function within the legal scope of nursing practice.

(3) The nursing technician shall be responsible and accountable for practicing within the scope and guidelines of policies defined by the employing agency.

(4) The nursing technician shall not be employed by a temporary agency.

NEW SECTION

WAC 246-840-850 Use of nomenclature. (1) Any person who meets the qualifications under WAC 246-840-010(19) and 246-840-860 shall use the title nursing technician and this title shall not be abbreviated.

(2) No other person shall assume such title.

NEW SECTION

WAC 246-840-870 Functions of the nursing technician. The nursing technician:

(1) Shall function only under the supervision of the registered nurse.

(2) May gather information about patients and administer care to patients.

(3) Shall not be responsible for performing the ongoing assessment, planning, implementation, and evaluation of the care of patients.

(4) Shall never function as an independent practitioner, as a team leader, charge nurse, or in a supervisory capacity.

(5) May administer medications only under the direct supervision of a registered nurse and within the limits described in this section. "Direct supervision" means that the registered nurse is on the premises, is quickly and easily available, and that the patients have been assessed by the registered nurse prior to the delegation of the medication duties to the nursing technician. The nursing technician shall not administer chemotherapy, blood or blood products, intravenous medications, scheduled drugs, nor carry out procedures on central lines.

There shall be written documentation from the nursing education program attesting to the nursing technician's preparation in the procedures of medication administration.

NEW SECTION

WAC 246-840-880 Functions of the registered nurse supervising the nursing technician. The registered nurse:

(1) Is accountable at all times for the client's safety and well-being.

(2) Is responsible at all times for the nursing process as delineated in WAC 246-840-700 and this responsibility cannot be delegated.

(3) Shall maintain at all times an awareness of the care activities of the nursing technician and of the current assessment of the patient.

(4) Shall be available at all times to the nursing technician and shall be physically present within the health care facility.

NEW SECTION

WAC 246-840-890 Responsibilities of the employing facility. The employer of the nursing technician shall:

(1) Verify the nursing technician's enrollment in a nursing education program approved by the state board of nursing or commission in the state in which the program is located.

(2) Verify satisfactory completion of each academic term (semester or quarter) within two weeks of completion date.

(3) Obtain written documentation from the approved nursing education program of the nursing technician's current level of education preparation and his/her knowledge and skills.

(4) Assign the nursing technician to perform only to the level identified in subsection (3) of this section.

(5) Provide the nursing technician from an educational program approved by a state board of nursing or commission other than the Washington nursing commission with board authorized information on the legal definition and parameters of the nursing technician role, as in WAC 246-840-010(19) and 246-840-840 through 246-840-870. Such information shall be provided prior to the commencement of patient care activities by the nursing technician. The facility shall obtain written verification from the nursing technician of receipt and review of this information and the facility shall retain the written verification for a minimum of three years from the last date of employment.

(6) Advise the commission of the names and addresses of the nursing technician and the name and address of the nursing education program for any and all nursing technicians employed at the facility.

(7) Identify the student nurse as a "nursing technician."

NEW SECTION

WAC 246-840-900 Responsibilities of the nurse administrator. The nursing administrator or designee shall:

(1) Ensure that the nursing technician has been thoroughly oriented to the facility.

(2) Ensure that WAC 246-840-890 (3), (4), (5), (6), and (7) are accomplished prior to patient care assignments.

(3) Observe, evaluate, and document the skill level of the nursing technician in the administration of oral, intermuscular, and subcutaneous medication and nursing care skills.

(4) Convey in writing to all facility departments the scope within which the nursing technician may practice.

(5) Provide the supervising licensed registered nurse a written job description for the nursing technician.

AMENDATORY SECTION (Amending WSR 96-05-060, filed 2/19/96, effective 3/21/96)

WAC 246-840-930 Criteria for delegation. Before delegating a nursing task, the licensed registered nurse must determine that it is appropriate to delegate based on the following criteria:

(1) Determine that the setting allows delegation because it is a certified community residential program for the developmentally disabled, a licensed adult family home, or a licensed boarding home contracted to provide assisted living services.

(2) Determine that the task to be delegated is within the nurse's area of responsibility and that it is a specific care task that has been approved for delegation.

(3) Determine that the task to be delegated can be properly and safely performed by the nursing assistant-certified or nursing assistant-registered. The registered nurse shall assess the potential risk of harm for the individual patient. Potential harm may include, but is not limited to, infection, hemorrhage, hypoxemia, nerve damage, physical injury, or psychological distress.

(4) Assess the patient's nursing care needs and determine that the patient is in a stable and predictable condition.

(5) Analyze the complexity of the nursing task and determine the required training or additional training needed by the nursing assistant to competently accomplish the task. The registered nurse shall consider the psychomotor and cognitive skills required to perform the nursing task. More complex tasks may require additional training and supervision for the nursing assistant. The nurse must identify and facilitate any additional training of the nursing assistant that is needed prior to delegation. The nurse must ensure that the task to be delegated can be properly and safely performed by the nursing assistant.

(6) Assess the level of interaction required, considering language or cultural diversity that may affect communication or the ability to accomplish the task to be delegated, as well as methods to facilitate the interaction.

(7) Verify that the nursing assistant:

(a) Is currently registered or certified as a nursing assistant in Washington state and is in good standing without restriction;

(b) Has a certificate of completion issued by the department of social and health services indicating completion of core delegation training for nursing assistants; and

(c) Is willing to perform the task in the absence of direct or immediate nurse supervision and accept responsibility for their actions.

(8) Assess the ability of the nursing assistant to competently perform the delegated nursing task in the absence of direct or immediate nurse supervision to ensure that the nursing task can be properly and safely performed by the nursing assistant.

(9) Discuss the delegation with the patient or authorized representative, including the level of training of the nursing assistant delivering care. The patient, or authorized repre-

sentative, must give written, informed consent to the delegation under chapter 7.70 RCW.

(10) Document in the patient's record the rationale for delegating or not delegating nursing tasks.

(11) Discuss the process for continuing, rescinding, or adding medications to the delegation list when the ((physician)) health care provider changes medication orders:

(a) The registered nurse must verify the change in medication or a new medication order with the ((physician)) health care provider;

(b) If a change is made in the medication dosage or if a change is made in the type of medication for the same problem (i.e., one medication is deleted by the ((physician)) health care provider and another is substituted) and the patient remains in a stable and predictable condition, delegation can continue at the registered nurse's discretion; and

(c) If a new medication is added, the registered nurse must review the criteria and process for delegation prior to delegating the administration of the new medication to the nursing assistant. The registered nurse maintains the authority to decide if the new medication can be added to the delegated task list immediately, if a site visit is warranted prior to delegation, or if delegation is no longer appropriate. If delegation is to be rescinded, the nurse must initiate and participate in developing an alternative plan to assure the needs of the patient are met.

AMENDATORY SECTION (Amending WSR 96-05-060, filed 2/19/96, effective 3/21/96)

WAC 246-840-940 Process for delegation. If the registered nurse determines delegation is appropriate, the nurse must:

(1) Obtain the written informed consent of the patient or authorized representative under chapter 7.70 RCW, the delegating nurse, and the nursing assistant.

(2) Delegation requires the nurse teach the nursing assistant how to perform the task, including return demonstration under observation. The nurse shall observe the nursing assistant performing the delegated task to verify their competency to properly perform the task safely and accurately.

(3) Provide specific, written delegation instructions to the nursing assistant with a copy maintained in the patient's record that include:

(a) The rationale for delegating the nursing task;

(b) That the delegated nursing task is specific to one patient and is not transferable to another patient;

(c) That the delegated nursing task is specific to one nursing assistant and is not transferable to another nursing assistant;

(d) The nature of the condition requiring treatment and purpose of the delegated nursing task;

(e) A clear description of the procedure or steps to follow to perform the task;

(f) The predictable outcomes of the nursing task and how to effectively deal with them;

(g) The risks of the treatment;

(h) The interactions of prescribed medications;

(i) How to observe and report side effects, complications, or unexpected outcomes and appropriate actions to

deal with them, including specific parameters for notifying the delegating registered nurse, ~~((physician))~~ health care provider, or emergency services;

(j) The action to take in situations where medications are altered by ~~((physician))~~ health care provider orders, including:

(i) How to notify the registered nurse of the change;

(ii) The process the registered nurse will use to obtain verification from the ~~((physician))~~ health care provider of the medication change; and

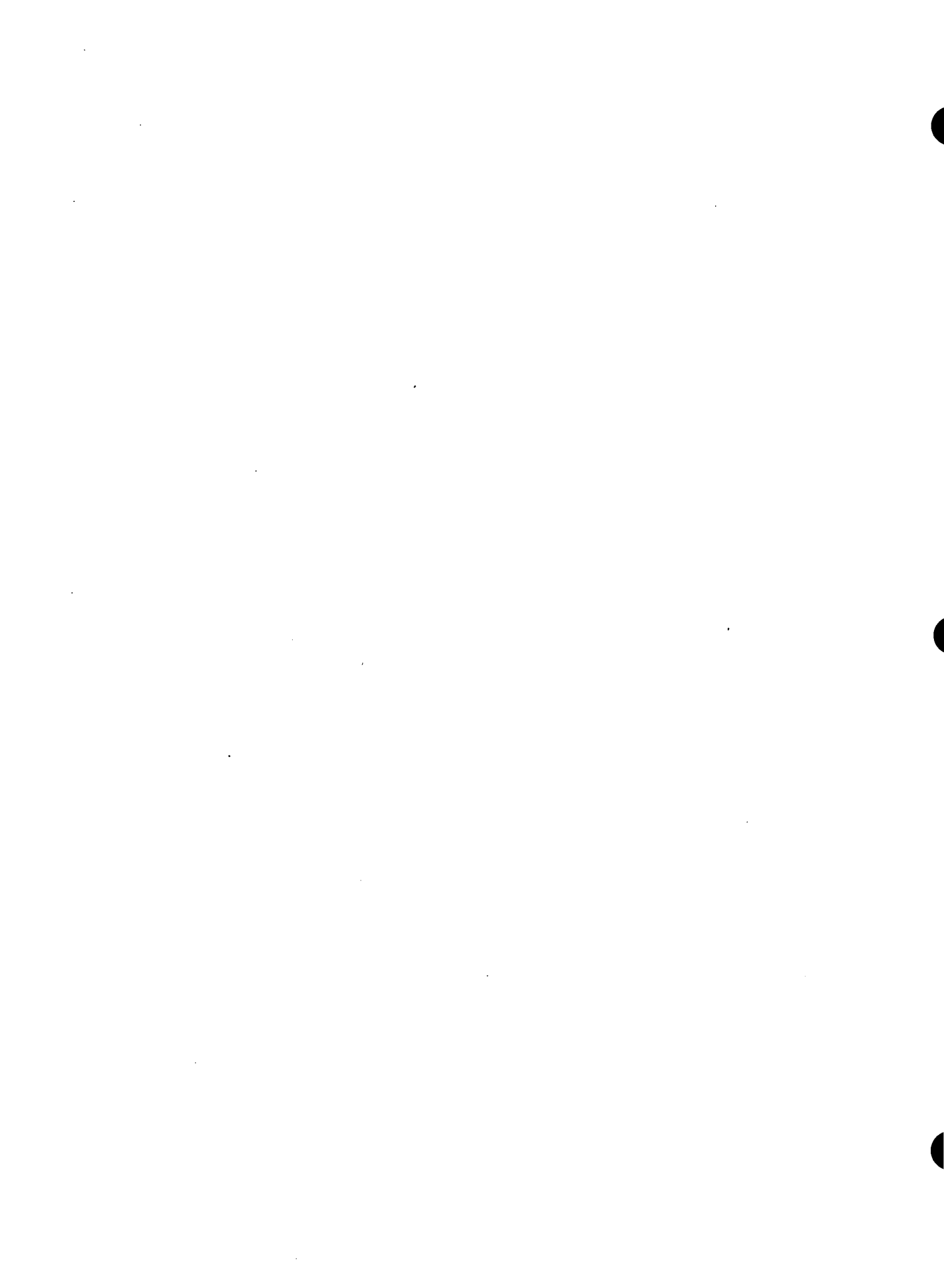
(iii) The process to notify the nursing assistant of whether administration of the medication is delegated or not;

(k) How to document the task in the patient's record;

(l) Document what teaching was done and that a return demonstration was correctly done; and

(m) A plan of nursing supervision describing how frequently the registered nurse will supervise the performance of the delegated task by the nursing assistant and reevaluate the delegated nursing task. Supervision shall occur at least every sixty days.

(4) The administration of PRN medications may be delegated at the discretion of the registered nurse. The nurse must first assess the patient to determine that on-site patient assessment will not be required prior to the ongoing administration of each PRN medication dose. The registered nurse must provide written parameters specific to an individual patient which includes guidelines for the nursing assistant to follow in the decision-making process to administer the PRN medication and the procedure to follow for such administration.



WSR 97-13-003
EMERGENCY RULES
SECRETARY OF STATE
[Filed June 5, 1997, 8:12 a.m.]

Date of Adoption: June 4, 1997.

Purpose: To provide consistent procedures for processing and canvassing mail ballots and absentee ballots.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-40-310; and amending WAC 434-36-120, 434-36-180, and 434-40-230.

Statutory Authority for Adoption: RCW 29.36.150 and 29.04.080.

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: To provide uniform procedures for the June 17 special election on Referendum Bill 48, regulations originally adopted as emergency regulations for the 1996 general election are reenacted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 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.

June 4, 1997
Donald F. Whiting
Assistant Secretary of State

AMENDATORY SECTION (Amending Order 83-2, filed 11/1/83)

WAC 434-36-120 Unsigned affidavit. If the voter neglects to sign the affidavit on the return envelope, the auditor shall ~~((notify the voter, either by telephone or by first class mail, of that fact. He or she shall advise the voter that, in order for the ballot to be counted, the voter must appear in person at the auditor's office not later than 8:00 p.m. on election day. A record shall be kept on the return envelope of the date on which the voter was contacted or on which the notice was mailed. Any notice by mail shall be in substantially the following form:~~

~~Dear Voter:~~

~~Your ballot for the forthcoming mail ballot special election to be held on has been received by this office. Unfortunately, you neglected to sign~~

~~the affidavit on the reverse side of the return envelope, as required by state law.~~

~~Please appear in person at the location listed on this card and sign the affidavit no later than 8:00 p.m. on Your ballot cannot be counted unless the return envelope is signed.~~

~~ADDRESS:)~~

follow the procedures prescribed for unsigned affidavits in chapter 434-40 WAC.

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 83-2, filed 11/1/83)

WAC 434-36-180 Tallying of ballots. The county canvassing board, upon the request of the county auditor, may ~~((direct that,))~~ begin final processing of mail ballots on hand after ((12:00 noon)) 7:00 a.m. on election day((, mail ballots on hand be counted. Any such count made prior to 8:00 p.m. must be done in secret and the results not revealed until after 8:00 p.m. Whenever any ballot is to be counted, the county auditor shall ensure that at least three election officers are present. Such officers shall be appointed as provided by RCW 29.45.010)). The county auditor shall request in writing that each major political party appoint representatives to observe such counts. Anyone present shall subscribe to an oath of secrecy regarding divulging election returns prior to 8:00 p.m. election night. Any violation of the secrecy of the count shall be subject to the penalties provided in RCW 29.54.035. During ~~((either the early count of ballots or the regular))~~ tabulation of ballots on election night in counties using electronic voting devices, political party observers may select up to ~~((ten))~~ three precincts and count by hand either the total number of ballots or the total number of votes cast for any single office or issue. This hand count may take place at any time after the ballots have been officially tabulated by the electronic vote tallying system, but must take place prior to the certification of the election results. Except as otherwise provided by law or administrative rule, final processing of mail ballots shall be conducted in the same manner as for absentee ballots.

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 434-40-225 Definitions regarding absentee ballots. For purposes of the counting and canvassing of absentee ballots:

(1) "Initial processing" means all steps taken to prepare absentee ballots for tabulation, except for the reading of ballots by an electronic vote tallying system. Initial processing includes, but is not limited to: verification of signatures on return envelopes; removal of the security envelope from the return envelope; removal of the ballot from the security envelope; manual inspection for damage, for write-in votes,

EMERGENCY

and for incorrect or incomplete marks; duplication of damaged and write-in ballots; and other preparation of ballots for final processing.

(2) "Final processing" means the reading of ballots by an electronic vote tallying system, but does not include tabulation.

(3) "Tabulation" means the production of returns of votes cast regarding candidates or measures in a form that can be read by a person, whether as precinct totals, partial cumulative totals, or final cumulative totals.

AMENDATORY SECTION (Amending WSR 88-03-019, filed 1/12/88)

WAC 434-40-230 Processing of absentee ballots. (1) Prior to initial processing of absentee ballots, the county auditor shall notify the county chair of each major political party of the time and date on which absentee processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of absentee ballots. If any major political party has appointed observers, such observers may be present for initial processing, final processing, or tabulation, if they so choose, but failure to appoint or attend shall not preclude the processing or tabulation of absentee ballots.

(2) All absentee ballot return envelopes may be opened and subsequently processed no earlier than the tenth day prior to any primary or election. In counties tabulating absentee ballots by hand, the inner security envelope may not be opened until after 8:00 p.m. on election day. (~~In counties tabulating absentee ballots on an electronic vote tallying system, the ballots may be removed from the inner envelope not earlier than the tenth day prior to a primary or election and the ballots then prepared for processing.~~)

(3) In counties tabulating absentee ballots on an electronic vote tallying system, the canvassing board or its representatives may perform the initial processing of absentee ballots at any time on or after the tenth day prior to the primary or election. Following initial processing, all absentee ballots (whether removed from the inner security envelope or not) must be kept in sealed (or locked) containers and in secure storage until they are ready (to be tabulated) for final processing.

(4) Final processing may be performed only after 7:00 a.m. on the day of the election.

(5) Tabulation may not occur until after 8:00 p.m. on the day of the primary or election.

NEW SECTION

WAC 434-40-235 Unsigned affidavit. (1) If the voter neglects to sign the affidavit on the return envelope, the auditor shall notify the voter, either by telephone or by first class mail, of that fact. The auditor may:

(a) Require the voter to appear in person and sign the return envelope not later than the day before the certification of the primary or election; or

(b) Provide the voter with a copy of the return envelope affidavit and require the voter to sign the copy of the affidavit and mail it back to the auditor so that it arrives not later than the day before the certification of the primary or election.

(2) The auditor shall advise the voter about the correct procedures for completing the unsigned affidavit and that, in order for the ballot to be counted, the voter must either:

(a) Sign the copy of the return envelope affidavit, if one is provided by the auditor, and mail it back to the auditor so that it arrives not later than the day before the certification of the primary or election; or

(b) Appear in person at the auditor's office not later than the day before the certification of the primary or election and complete the affidavit on the return envelope.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-40-310 Absentee ballot—Credit for having voted.

**WSR 97-13-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-102—Filed June 5, 1997, 3:32 p.m.]

Date of Adoption: June 5, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500D and 220-32-05500E; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of spring chinook salmon are available for a subsistence fishery. This conforms state rules with Yakama Nation regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

June 5, 1997
Evan Jacoby
for Bern Shanks
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 26, 1997:

WAC 220-32-05500E Columbia River tributaries—
Subsistence.

NEW SECTION

**WAC 220-32-05500E Columbia River tributaries—
Subsistence.** Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River, Wind River, Icicle River, Drano Lake and Ringold in the Columbia River except under the following provisions:

(1) The Yakima River from Horn Rapids Dam to Wapato Dam is open noon Tuesday to 6:00 p.m. Saturday of each week until June 21, 1997.

(2) The Klickitat River from the site of the former Swinging Bridge (RM 1.5) to Fishway No. 5 (RM 2.2) is open noon Wednesday to 6:00 p.m. Saturday from June 4 to June 7, 1997.

(3) The Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls is open from 6:00 a.m. Monday to 6:00 p.m. Saturday of each week until June 7, 1997 and from 200 feet above the Shipperd Falls upstream to a marker 30 feet below the outlet stream for Carson National Fish Hatchery is open noon Wednesday to 6:00 p.m. Saturday of each week from June 4 to June 28, 1997.

(4) The Icicle River where it borders the property of the U.S. Fish and Wildlife National Fish Hatchery at Leavenworth is open from 9:00 p.m. Wednesday to noon Saturday of each week from May 7 to June 21, 1997.

(5) The Columbia River from the marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a boundary marker approximately 1/4 mile downstream of Ringold waterway outlet, is open from 6:00 a.m. Monday to 6:00 p.m. Saturday of each week from May 5 to July 26, 1997. Fishing may be conducted from the riverbank on the hatchery side of the Columbia River only; fishing is not allowed from boats.

(6) **ALLOWABLE GEAR:**

Dipnets, setbag net, or rod and reel with bait or lures. All other fishing gear and methods, including snagging are unlawful.

(7) In Drano Lake from the Highway 14 Bridge to the orange markers near the mouth of the Little White Salmon River is open by permit only from: 6:00 p.m. June 5, 1997 until noon June 6, 1997.

(8) **GEAR FOR DRANO LAKE**

Legal gear includes floating gillnets, hoopnets fished from bank or boat, or hook and line with bait or lures. Snagging or gaffing of fish is prohibited. All fish must be landed at the boat ramp at Drano Lake.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500D Columbia River tributaries—Subsistence.

**WSR 97-13-029
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-103—Filed June 11, 1997, 4:05 p.m.]

Date of Adoption: June 10, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500E; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of spring chinook salmon are available for a subsistence fishery. This conforms state rules with Yakama Nation regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

June 10, 1997
Bern Shanks
Director

NEW SECTION

**WAC 220-32-05500F Columbia River tributaries—
Subsistence.** Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River, Wind River, Icicle River, Drano Lake and Ringold in the Columbia River except under the following provisions:

EMERGENCY

(1) The Yakima River from Horn Rapids Dam to Wapato Dam is open noon Tuesday to 6:00 p.m. Saturday of each week until June 21, 1997.

(2) The Klickitat River from the site of the former Swinging Bridge (RM 1.5) to Fishway No. 5 (RM 2.2) is open noon Wednesday to 6:00 p.m. Saturday from June 11, 1997 until further notice.

(3) The Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls is open from 6:00 a.m. Monday to 6:00 p.m. Saturday of each week until June 7, 1997 and from 200 feet above the Shipperd Falls upstream to a marker 30 feet below the outlet stream for Carson National Fish Hatchery is open noon Wednesday to 6:00 p.m. Saturday of each week from June 4 to June 28, 1997.

(4) The Icicle River where it borders the property of the U.S. Fish and Wildlife National Fish Hatchery at Leavenworth is open from 9:00 p.m. Wednesday to noon Saturday of each week from May 7 to June 21, 1997.

(5) The Columbia River from the marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a boundary marker approximately 1/4 mile downstream of Ringold waterway outlet, is open from 6:00 a.m. Monday to 6:00 p.m. Saturday of each week from May 5 to July 26, 1997. Fishing may be conducted from the riverbank on the hatchery side of the Columbia River only; fishing is not allowed from boats.

(6) ALLOWABLE GEAR: Dipnets, setbag net, or rod and reel with bait or lures. All other fishing gear and methods, including snagging are unlawful.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500E Columbia River tributaries—
Subsistence.

WSR 97-13-036
EMERGENCY RULES
DEPARTMENT OF ECOLOGY

[Order 97-13—Filed June 13, 1997, 10:47 a.m.]

Date of Adoption: June 12, 1997.

Purpose: Readopt emergency rule revising forest practices rules definitions of type 2 and 3 streams to protect riparian areas and water quality upstream of fish hatchery intakes. Forest practices rule changes (WAC 222-16-030) are incorporated by reference, pursuant to WAC 173-202-020, Washington forest practices rules and regulations to protect water quality.

Citation of Existing Rules Affected by this Order: Amending WAC 173-202-020.

Statutory Authority for Adoption: RCW 90.48.420 and 76.09.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This is a re-adoption of an emergency stream typing rule filed as WSR 97-05-039. Studies show many streams are incorrectly typed, resulting in inadequate protection of aquatic resources. Emergency rule will correct that deficiency and provide needed protection as required by federal and state law. Immediate amendment of this rule is necessary for general public welfare and observing notice/comment requirements as in a permanent rule would be contrary to public interest. Developed by TFW policy to be copromulgated by the Forest Practices Board and the department.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 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: Immediately.

June 12, 1997
Tom Fitzsimmons
Director

AMENDATORY SECTION (Amending WSR 94-17-011, filed 8/8/94, effective 9/8/94)

WAC 173-202-020 Certain WAC sections adopted by reference. The following sections of the Washington Administrative Code existing on ~~((September 15, 1994))~~ March 18, 1997, are hereby adopted by reference as part of this chapter in all respects as though the sections were set forth herein in full:

WAC 222-08-035—Continuing review of forest practices regulations.

WAC 222-12-010—Authority.

WAC 222-12-040—Alternate plans.

WAC 222-12-045—Adaptive management.

WAC 222-12-046—Cumulative effect

WAC 222-12-070—Enforcement policy.

WAC 222-12-090—Forest practices board manual.

WAC 222-16-010—General definitions.

WAC 222-16-030—Water typing system.

WAC 222-16-035—Wetland typing system.

WAC 222-16-050 (1)(a), (1)(e), (1)(h), (1)(i), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(n), (3)(o), (3)(p), (4)(c), (4)(d), (4)(e), (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(h), (5)(n)—Classes of forest practices.

WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.

WAC 222-22-010—Policy.

WAC 222-22-020—Watershed administrative units.

WAC 222-22-030—Qualification of watershed resource analysts, specialists, and field managers.
 WAC 222-22-040—Watershed prioritization.
 WAC 222-22-050—Level 1 watershed resource assessment.
 WAC 222-22-060—Level 2 watershed resource assessment.
 WAC 222-22-070—Prescription recommendation.
 WAC 222-22-080—Approval of watershed analysis.
 WAC 222-22-090—Use and review of watershed analysis.
 WAC 222-22-100—Application review prior to watershed analysis.
 WAC 222-24-010—Policy.
 WAC 222-24-020 (2), (3), (4), (6)—Road location.
 WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.
 WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9)—Road construction.
 WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.
 WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.
 WAC 222-24-050—Road maintenance.
 WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.
 WAC 222-30-010—Policy—Timber harvesting.
 WAC 222-30-020 (2), (3), (4), (5), (7)(a), (7)(e), (7)(f), (8)(c)—Harvest unit planning and design.
 WAC 222-30-025—Green-up: Even-aged harvest size and timing.
 WAC 222-30-030—Stream bank integrity.
 WAC 222-30-040—Shade requirements to maintain stream temperature.
 WAC 222-30-050 (1), (2), (3)—Felling and bucking.
 WAC 222-30-060 (1), (2), (3), (5)(c)—Cable yarding.
 WAC 222-30-070 (1), (2), (3), (4), (5), (7), (8), (9)—Tractor and wheeled skidding systems.
 WAC 222-30-080 (1), (2)—Landing cleanup.
 WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.
 WAC 222-34-040—Site preparation and rehabilitation.
 WAC 222-38-010—Policy—Forest chemicals.
 WAC 222-38-020—Handling, storage, and application of pesticides.
 WAC 222-38-030—Handling, storage, and application of fertilizers.
 WAC 222-38-040—Handling, storage, and application of other forest chemicals.

WSR 97-13-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 97-105—Filed June 13, 1997, 4:03 p.m.]

Date of Adoption: June 13, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-32-05700V and 220-32-05700W; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of sturgeon are available and these rules are adopted to conform with regulations adopted by treaty tribes to harvest their allotment of available sturgeon.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

June 13, 1997

Bern Shanks

Director

NEW SECTION

WAC 220-32-05700W Columbia River sturgeon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon in Columbia River Salmon Management and Catch Reporting Area 1H using set line gear effective:

Immediately through noon June 14, 1997;

noon June 16 through noon July 5, 1997.

(2) During the season specified in section 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(d) To deliver to a wholesale dealer or fish buyer sturgeon that have been dressed (not in the round).

(3) During the season specified in section 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line;

(b) With hooks less than the minimum size of 9/0;

(c) With treble hooks; or

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 1:

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John day Dam.

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05700V Columbia River sturgeon seasons above Bonneville. (97-63)

The following section of the Washington Administrative Code is repealed effective noon July 5, 1997:

WAC 220-32-05700W Columbia River sturgeon seasons above Bonneville. (97-104)

WSR 97-13-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)

[Order 97-104—Filed June 13, 1997, 4:05 p.m.]

Date of Adoption: June 13, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-32-05500F; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of spring chinook salmon are available for a subsistence fishery. This conforms state rules with Yakama Nation regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

June 13, 1997

Bern Shanks

Director

NEW SECTION

WAC 220-32-05500G Columbia River tributaries—Subsistence. Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River, Wind River, Icicle River, Drano Lake and Ringold in the Columbia River except under the following provisions:

(1) The Yakima River from Horn Rapids Dam to Wapato Dam is open noon Tuesday to 6:00 p.m. Saturday of each week until June 21, 1997.

(2) The Klickitat River from the site of the former Swinging Bridge (RM 1.5) to Fishway No. 5 (RM 2.2) is open noon Wednesday to 6:00 p.m. Saturday from June 11, 1997 until further notice.

(3) The Wind River from 200 feet above the Shipperd Falls upstream to a marker 30 feet below the outlet stream for Carson National Fish Hatchery is open from:

Immediately until 6:00 p.m. Saturday June 14, 1997:

6:00 a.m. Mondays to 6:00 p.m. Saturdays weekly June 16 through June 28, 1997.

(4) The Icicle River where it borders the property of the U.S. Fish and Wildlife National Fish Hatchery at Leavenworth is open from 9:00 p.m. Wednesday to noon Saturday of each week from May 7 to June 21, 1997.

(5) The Columbia River from the marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a boundary marker approximately 1/4 mile downstream of Ringold waterway outlet, is open from 6:00 a.m. Monday to 6:00 p.m. Saturday of each week from May 5 to July 26, 1997. Fishing may be conducted from the riverbank on the hatchery side of the Columbia River only; fishing is not allowed from boats.

(6) ALLOWABLE GEAR:

Dipnets, setbag net, or rod and reel with bait or lures. All other fishing gear and methods, including snagging are unlawful.

(7) In Drano Lake from the Highway 14 Bridge to the orange markers near the mouth of the Little White Salmon River is open by permit only from:

9:00 p.m. June 13 to 9:00 a.m. June 14, 1997.

(8) GEAR FOR DRANO LAKE

Each fisher may use one piece of legal gear, which includes floating gillnets not longer than 150 feet, hoopnets fished from bank or boat, or hook and line with bait or lures.

All fish must be landed at Drano Lake boat ramp.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500F Columbia River tributaries—Subsistence.

**WSR 97-13-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 97-106—Filed June 16, 1997, 4:15 p.m., effective June 17, 1997, 9:00 a.m.]

Date of Adoption: June 16, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88A-07000P; 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: This regulation is necessary to met 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: June 17, 1997, 9:00 a.m.

June 16, 1997

Bern Shanks

Director

NEW SECTION

WAC 220-88A-07000Q Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. Notwithstanding the provisions of WAC 220-88A-070, effective 9:00 a.m. June 17, 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 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 24A, 24B, 24C, 24D, 25A, 26A, 26B, and 26C.

(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.

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:00 a.m. June 17, 1997:

WAC 220-88A-07000P Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. (97-81)

**WSR 97-13-061
EMERGENCY RULES
OFFICE OF FAMILY
AND CHILDREN'S OMBUDSMAN**

[Filed June 17, 1997, 10:02 a.m.]

Date of Adoption: June 16, 1997.

Purpose: To adopt emergency rules to facilitate opening operation of new office.

Statutory Authority for Adoption: RCW 43.06A.030(6).

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 Office of Family and Children's Ombudsman is a new agency created to enhance and protect the public safety. These emergency rules will allow the agency to begin operation.

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

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

June 16, 1997

Charlotte E. Clark-Mahoney
Assistant Attorney General

Title 112 WAC

OFFICE OF THE FAMILY AND CHILDREN'S OMBUDSMAN

WAC 112 Title. This chapter shall be known as the Office of the Family and Children's Ombudsman.

[NEW SECTION]

WAC 112-10-010 Preamble. The Office of the Family and Children's Ombudsman (OFCO) was established to promote public awareness and understanding of family and children's services, to identify systems issues, to monitor and ensure compliance with administrative acts, statutes, rules, and policies pertaining to family and children's services and to those pertaining to the placement, supervision, and treatment of children in the state's care, in state-licensed facilities or residences, or in state operated facilities.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 112-10-020 Definitions. For purposes of these rules the following terms have the meanings indicated:

(1) "Administrative Act" means an action, decision, or omission made by a governmental agency or a contracting or state-licensed agency that affects a family who is under state supervision due to allegations of child abuse or neglect, or a child who is in state custody.

(2) "Child and family services" are services provided by or through the Department of Social and Health Services (DSHS), or state-licensed agencies, to families who are under state supervision due to allegations or findings of child abuse or neglect, or to children who are in state custody. These services include those provided by or through the Department of Social and Health Services, Children's Administration, Juvenile Rehabilitation Administration, and Health and Rehabilitative Services Administration.

(3) "Confidential and confidentiality" refer to information that, in the opinion of OFCO, shall not be further disclosed or disseminated.

(4) "Department" means the Department of Social and Health Services.

(5) "Investigative records" refers to all records obtained, held, or generated by OFCO in the performance of its duties.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 112-10-030 Location. OFCO is located organizationally within the Office of the Governor, reports directly to the Governor, and exercises the powers of the office and duties independently of the Secretary of the Department of Social and Health Services.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 112-10-040 Authority. OFCO was created and receives its authority from RCW 43.06A.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 112-10-050 Duties. OFCO shall:

(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services and on the procedures for providing these services.

(2) Investigate administrative acts alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds.

(3) Monitor the procedures of DSHS in carrying out its responsibilities in delivering family and children's services.

(4) Review periodically the facilities and procedures of state institutions serving children and state licensed facilities or residences.

(5) Recommend changes in the procedures for addressing the needs of families and children.

(6) Submit an annual report to the Governor and the Legislative Oversight Committee (LOC) analyzing the work of OFCO, including recommendations.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[NEW SECTION]

WAC 112-10-060 Implementation of duties (1) Investigations

(a) OFCO investigations may be initiated based upon complaint or on its own initiative.

(b) OFCO may not investigate administrative acts or omissions that are not within the scope and priorities of the policies and resources of OFCO.

(c) OFCO may conduct its investigation based upon records review, interviews, and any other investigative tools necessary to carry out its duties.

(d) Actions to be taken by OFCO after an investigation may include:

(i) Recommendations to the Department for systemic changes that should be implemented to improve service or accountability; or

(ii) Recommendations to the Legislature for legislative enactments that would improve services or accountability; or

(iii) Recommendations to the Governor for policy or executive order changes that would improve services or accountability; or

EMERGENCY

(iv) Work as an intermediary between the Department and a complainant for a mutually agreeable solution to an individual, non-systemic, complaint or concern.

(2) *Periodic Review of Facilities.*

(a) OFCO will periodically review the policies and procedures of state institutions serving children and state-licensed facilities where children reside.

(b) Review of physical facilities may be triggered by policies and procedures review, complaint or as patterns raising concern arise through other investigations, reports or records received. The review will be conducted according to the policies and procedures established by OFCO.

(3) *Handling of Records.*

(a) As provided by applicable federal and state law, OFCO shall have access to, and permission to copy, all records held or accessible by Children's Administration that are relevant to any OFCO investigation. Access shall be as established pursuant to interagency protocol.

(b) Any records received shall be part of the OFCO investigative records.

(c) The determination of relevance of records held or accessible by DSHS shall be made by OFCO.

(4) *Release of Records.*

(a) OFCO investigative records are exempt from disclosure under the Public Disclosure Act, RCW 42.17.

(b) Records received by OFCO shall be maintained as provided for under the law.

(c) Relevant investigative records created by OFCO shall be released to the Legislative Oversight Committee upon request, unless prohibited by law.

(d) The determination of relevance of records to be released to the LOC shall be made by OFCO.

(e) The Ombudsman shall treat all matters under investigation and records received, as confidential.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.



WSR 97-13-008
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—June 3, 1997]

The Washington State Convention and Trade Center's (WSCTC) Design Committee will meet on Monday, June 9, 1997, from 2:00 - 3:30 p.m. at LMN, the Norton Building, 801 Second Avenue, Third Floor Conference Room, Seattle, WA.

The WSCTC Design Committee will also meet on Wednesday, June 18, 1997, from 10:00 a.m. - 1:00 p.m. at LMN, the Norton Building, 801 Second Avenue, Third Floor Conference Room, Seattle, WA.

A regular meeting of the WSCTC board of directors will be held on Wednesday, June 18, 1997, at 1:30 p.m. in Room 310 of the Convention Center, 8th and Pike, Seattle.

If you have any questions regarding these meetings, please call 447-5000.

WSR 97-13-010
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

[Memorandum—June 5, 1997]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday and Friday, July 17-18, 1997, in Yakima. A tour of IAC-assisted sites is scheduled for Thursday morning followed by a workshop at 2:30 p.m. in the Youth Barn at the Yakima County Youth Activities Park. The meeting will continue on Friday, July 18th in the Gardenview Room at the Yakima Area Arboretum and Botanical Garden beginning at 8:30 a.m.

The workshop will focus on architecture and engineering fees and administrative costs reimbursement rules. Regular agenda items include a proposed WAC rule making pertaining to IAC-assisted projects, distribution of funds in the Washington wildlife and recreation and the state boating facilities programs and an update of the 1997 process for the national recreational trails program. Additional discussion items include the 1997 legislation creating a new watershed grant program and a public lands study, and legislative, election, and budget updates.

If you plan to participate or have materials for committee review, please submit information to IAC no later than June 26, 1997. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by June 26 at (360) 902-3000 or TDD (360) 902-1996.

WSR 97-13-011
NOTICE OF PUBLIC MEETINGS
WALLA WALLA
COMMUNITY COLLEGE

[Memorandum—June 4, 1997]

A special meeting of Walla Walla Community College's board of trustees is scheduled on Monday, June 9, at 8:30 a.m. on the college campus.

WSR 97-13-012
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—June 5, 1997]

NOTICE OF RESCHEDULED PUBLIC MEETING

The Washington State Convention and Trade Center's (WSCTC) Design Committee meeting previously scheduled for June 9 HAS BEEN CANCELLED.

The Design Committee will meet next on Thursday, June 12, 1997, from 10:00 a.m. - 12:30 p.m. at LMN, Norton Building, 801 Second Avenue, Third Floor Conference Room, Seattle, WA.

If you have any questions regarding this meeting, please call 447-5000.

WSR 97-13-013
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES

[Memorandum—June 4, 1997]

The Seattle Community College District board of trustees have scheduled a special meeting to be held Friday, June 6, 1997, beginning at 3:00 p.m.

The meeting will be held at the Puget Sound Regional Office of the Employment Security Department, 400 East Pine Street, Suite 325, Seattle, WA 98122.

WSR 97-13-014
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Memorandum—June 6, 1997]

The regular meeting of the board of trustees of Bellingham Technical College scheduled for June 19, 1997, has been canceled. The board of trustees will meet in a special session to discuss budget development and professional negotiations on Thursday, June 26, 1997, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

MISCELLANEOUS

WSR 97-13-018
INSURANCE COMMISSIONER'S OFFICE

[Filed June 9, 1997, 1:53 p.m.]

NOTICE OF PUBLICATION OF TABLES FOR USE OF COURTS AND APPRAISERS THROUGHOUT THIS STATE SHOWING THE AVERAGE EXPECTANCY OF LIFE AND VALUES OF ANNUITIES AND OF LIFE AND TERM ESTATES

June 5, 1997

Pursuant to RCW 48.02.160(1), the Insurance Commissioner hereby publishes the following tables for use of courts and appraisers throughout this state showing the average expectancy of life and values of annuities and of life and term estates.

If you have questions or need additional information, please call Greg Scully, Chief Deputy Insurance Commissioner, at (360) 664-3785.

Deborah Senn
Insurance Commissioner

MISCELLANEOUS

TABLE I. Single-life, 4½ Per Cent, Showing the Present Worth of a Reversionary Interest and of an Annuity, or Life Interest, on the Basis of 1990 United States Population Mortality

x	Male			Female		
	\bar{A}_x	\dot{a}_x	e_x	\bar{A}_x	\dot{a}_x	e_x
Age nearest birthday	Reversion or present value of one dollar due immediately upon death of a person of specified age	Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	Expectation of life	Reversion or present value of one dollar due immediately upon death of a person of specified age	Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	Expectation of life
①	②	③	④	⑤	⑥	⑦
0	0.06783	20.7153	71.84	0.04873	21.1397	78.77
1	0.06097	20.8677	71.59	0.04292	21.2687	78.42
2	0.06298	20.8230	70.64	0.04430	21.2380	77.46
3	0.06529	20.7717	69.68	0.04588	21.2030	76.49
4	0.06784	20.7151	68.71	0.04761	21.1645	75.52
5	0.07057	20.6545	67.73	0.04948	21.1229	74.54
6	0.07346	20.5902	66.75	0.05148	21.0784	73.56
7	0.07650	20.5227	65.77	0.05361	21.0313	72.57
8	0.07969	20.4519	64.79	0.05584	20.9815	71.59
9	0.08306	20.3770	63.80	0.05820	20.9291	70.60
10	0.08662	20.2979	62.82	0.06068	20.8741	69.61
11	0.09037	20.2144	61.82	0.06327	20.8165	68.62
12	0.09430	20.1272	60.83	0.06598	20.7564	67.63
13	0.09834	20.0374	59.85	0.06878	20.6942	66.64
14	0.10240	19.9473	58.87	0.07166	20.6301	65.65
15	0.10643	19.8577	57.91	0.07461	20.5646	64.67
16	0.11041	19.7693	56.96	0.07763	20.4976	63.70
17	0.11434	19.6820	56.02	0.08070	20.4294	62.72
18	0.11828	19.5944	55.10	0.08386	20.3591	61.76
19	0.12229	19.5053	54.18	0.08716	20.2859	60.79
20	0.12644	19.4131	53.26	0.09060	20.2093	59.82
21	0.13074	19.3176	52.34	0.09422	20.1290	58.85
22	0.13518	19.2190	51.43	0.09800	20.0451	57.88
23	0.13979	19.1166	50.51	0.10194	19.9575	56.91
24	0.14458	19.0102	49.60	0.10605	19.8662	55.93
25	0.14957	18.8994	48.68	0.11032	19.7713	54.97
26	0.15477	18.7837	47.77	0.11476	19.6727	54.00
27	0.16018	18.6635	46.85	0.11938	19.5700	53.03
28	0.16582	18.5382	45.94	0.12418	19.4633	52.06
29	0.17168	18.4081	45.02	0.12917	19.3524	51.10

MISCELLANEOUS

TABLE I. Single-life, 4½ Per Cent, Showing the Present Worth of a Reversionary Interest and of an Annuity, or Life Interest, on the Basis of 1990 United States Population Mortality

x	Male			Female		
	\bar{A}_x	\dot{a}_x	e_x	\bar{A}_x	\dot{a}_x	e_x
Age nearest birthday	Reversion or present value of one dollar due immediately upon death of a person of specified age	Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	Expectation of life	Reversion or present value of one dollar due immediately upon death of a person of specified age	Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	Expectation of life
①	②	③	④	⑤	⑥	⑦
30	0.17775	18.2732	44.11	0.13437	19.2371	50.13
31	0.18403	18.1337	43.20	0.13976	19.1172	49.17
32	0.19054	17.9891	42.29	0.14535	18.9931	48.21
33	0.19727	17.8395	41.38	0.15115	18.8643	47.25
34	0.20424	17.6848	40.48	0.15718	18.7302	46.29
35	0.21144	17.5247	39.58	0.16343	18.5912	45.33
36	0.21888	17.3594	38.68	0.16993	18.4470	44.38
37	0.22657	17.1886	37.78	0.17665	18.2976	43.43
38	0.23453	17.0118	36.89	0.18363	18.1426	42.48
39	0.24279	16.8283	36.00	0.19088	17.9815	41.53
40	0.25138	16.6374	35.11	0.19841	17.8143	40.58
41	0.26031	16.4389	34.21	0.20620	17.6411	39.64
42	0.26960	16.2327	33.32	0.21428	17.4617	38.69
43	0.27920	16.0193	32.43	0.22263	17.2761	37.76
44	0.28913	15.7988	31.55	0.23125	17.0846	36.82
45	0.29935	15.5717	30.67	0.24012	16.8875	35.89
46	0.30986	15.3381	29.80	0.24925	16.6847	34.97
47	0.32066	15.0982	28.93	0.25863	16.4762	34.05
48	0.33174	14.8520	28.07	0.26827	16.2621	33.14
49	0.34310	14.5997	27.21	0.27817	16.0421	32.24
50	0.35473	14.3414	26.37	0.28833	15.8165	31.34
51	0.36660	14.0775	25.53	0.29873	15.5853	30.45
52	0.37872	13.8082	24.70	0.30940	15.3484	29.57
53	0.39106	13.5340	23.88	0.32031	15.1060	28.69
54	0.40360	13.2556	23.07	0.33148	14.8579	27.83
55	0.41630	12.9734	22.28	0.34289	14.6042	26.97
56	0.42915	12.6878	21.50	0.35456	14.3450	26.12
57	0.44216	12.3989	20.73	0.36649	14.0801	25.28
58	0.45529	12.1072	19.97	0.37865	13.8099	24.44
59	0.46851	11.8136	19.23	0.39102	13.5351	23.62

MISCELLANEOUS

TABLE I. Single-life, 4½ Per Cent, Showing the Present Worth of a Reversionary Interest and of an Annuity, or Life Interest, on the Basis of 1990 United States Population Mortality

x Age nearest birthday	Male			Female		
	\bar{A}_x Reversion or present value of one dollar due immediately upon death of a person of specified age	\dot{a}_x Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	e_x Expectation of life	\bar{A}_x Reversion or present value of one dollar due immediately upon death of a person of specified age	\dot{a}_x Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	e_x Expectation of life
①	②	③	④	⑤	⑥	⑦
60	0.48178	11.5186	18.51	0.40358	13.2560	22.81
61	0.49511	11.2224	17.80	0.41633	12.9727	22.01
62	0.50848	10.9255	17.10	0.42927	12.6853	21.23
63	0.52191	10.6272	16.42	0.44241	12.3933	20.45
64	0.53541	10.3272	15.75	0.45578	12.0964	19.68
65	0.54902	10.0249	15.10	0.46939	11.7939	18.92
66	0.56272	9.7204	14.46	0.48326	11.4858	18.18
67	0.57652	9.4138	13.83	0.49736	11.1725	17.44
68	0.59038	9.1060	13.21	0.51168	10.8543	16.71
69	0.60422	8.7984	12.61	0.52618	10.5323	15.99
70	0.61800	8.4924	12.03	0.54082	10.2069	15.29
71	0.63167	8.1887	11.46	0.55560	9.8786	14.60
72	0.64526	7.8867	10.91	0.57052	9.5472	13.92
73	0.65876	7.5868	10.37	0.58555	9.2133	13.25
74	0.67214	7.2894	9.85	0.60069	8.8768	12.60
75	0.68540	6.9948	9.35	0.61594	8.5382	11.96
76	0.69849	6.7040	8.86	0.63128	8.1973	11.34
77	0.71144	6.4165	8.39	0.64669	7.8550	10.73
78	0.72420	6.1328	7.94	0.66214	7.5116	10.13
79	0.73679	5.8532	7.50	0.67761	7.1679	9.55
80	0.74917	5.5781	7.08	0.69307	6.8246	8.98
81	0.76127	5.3094	6.67	0.70838	6.4843	8.43
82	0.77310	5.0466	6.28	0.72357	6.1469	7.90
83	0.78462	4.7906	5.91	0.73853	5.8145	7.39
84	0.79579	4.5424	5.55	0.75315	5.4897	6.90
85	0.80654	4.3035	5.22	0.76725	5.1765	6.44
86	0.81628	4.0873	4.91	0.78005	4.8921	6.03
87	0.82562	3.8796	4.63	0.79240	4.6178	5.64
88	0.83458	3.6806	4.36	0.80426	4.3542	5.27
89	0.84314	3.4904	4.10	0.81561	4.1020	4.92

MISCELLANEOUS

TABLE I. Single-life, 4% Per Cent, Showing the Present Worth of a Reversionary Interest and of an Annuity, or Life Interest, on the Basis of 1990 United States Population Mortality

x	Male			Female		
	\bar{A}_x	\dot{a}_x	e_x	\bar{A}_x	\dot{a}_x	e_x
Age nearest birthday	Reversion or present value of one dollar due immediately upon death of a person of specified age	Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	Expectation of life	Reversion or present value of one dollar due immediately upon death of a person of specified age	Annuity or present value of \$1.00 per annum payable annually during the life of a person of specified age	Expectation of life
①	②	③	④	⑤	⑥	⑦
90	0.85130	3.3091	3.86	0.82642	3.8618	4.59
91	0.85906	3.1368	3.64	0.83667	3.6341	4.29
92	0.86640	2.9737	3.43	0.84634	3.4193	4.00
93	0.87332	2.8198	3.23	0.85540	3.2180	3.74
94	0.87981	2.6757	3.05	0.86382	3.0309	3.50
95	0.88584	2.5418	2.88	0.87156	2.8591	3.28
96	0.89144	2.4174	2.73	0.87865	2.7014	3.08
97	0.89664	2.3017	2.58	0.88517	2.5566	2.90
98	0.90152	2.1935	2.45	0.89120	2.4228	2.73
99	0.90613	2.0910	2.33	0.89685	2.2972	2.57
100	0.91060	1.9916	2.21	0.90232	2.1757	2.43
101	0.91494	1.8953	2.09	0.90760	2.0583	2.28
102	0.91914	1.8020	1.98	0.91270	1.9450	2.15
103	0.92320	1.7117	1.87	0.91762	1.8357	2.02
104	0.92713	1.6244	1.77	0.92236	1.7304	1.89
105	0.93094	1.5399	1.67	0.92693	1.6289	1.77
106	0.93461	1.4582	1.58	0.93132	1.5313	1.66
107	0.93816	1.3793	1.49	0.93555	1.4374	1.55
108	0.94159	1.3032	1.40	0.93961	1.3472	1.45
109	0.94490	1.2297	1.31	0.94351	1.2606	1.35
110	0.94809	1.1587	1.23	0.94723	1.1778	1.26
111	0.95117	1.0904	1.16	0.95077	1.0991	1.17
112	0.95413	1.0245	1.08	0.95408	1.0257	1.09
113	0.95699	0.9611	1.01	0.95699	0.9611	1.01
114	0.95974	0.9000	0.95	0.95974	0.9000	0.95
115	0.96239	0.8411	0.88	0.96239	0.8411	0.88
116	0.96497	0.7837	0.82	0.96497	0.7837	0.82
117	0.96758	0.7256	0.75	0.96758	0.7257	0.75
118	0.97078	0.6546	0.68	0.97078	0.6548	0.68
119	0.97822	0.4886	0.50	0.97823	0.4893	0.50

MISCELLANEOUS

TABLE II. Present Value of Reversions and Annuities-Certain Upon a 4½ Per Cent Basis

n	v^n	a_n
Number of years	Present worth of one dollar payable at the end of a certain number of years	Present worth of an annuity of one dollar payable at the end of each year, for a certain number of years
①	②	③
	Reversion	Annuity
1	0.956938	0.9569
2	0.915730	1.8727
3	0.876297	2.7490
4	0.838561	3.5875
5	0.802451	4.3900
6	0.767896	5.1579
7	0.734828	5.8927
8	0.703185	6.5959
9	0.672904	7.2688
10	0.643928	7.9127
11	0.616199	8.5289
12	0.589664	9.1186
13	0.564272	9.6829
14	0.539973	10.2228
15	0.516720	10.7395
16	0.494469	11.2340
17	0.473176	11.7072
18	0.452800	12.1600
19	0.433302	12.5933
20	0.414643	13.0079
21	0.396787	13.4047
22	0.379701	13.7844
23	0.363350	14.1478
24	0.347703	14.4955
25	0.332731	14.8282
26	0.318402	15.1466
27	0.304691	15.4513
28	0.291571	15.7429
29	0.279015	16.0219
30	0.267000	16.2889

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EXPLANATORY NOTES—TABLE I

The first column shows the age of the person under consideration at his or her nearest birthday.

The second column shows the present worth of one dollar payable upon death.

The third column shows the present value of an annuity of \$1.00 per year payable at the end of each year, during the lifetime of a person of the specified age, with a final payment upon death of an amount proportionate to the time elapsed between the date of the preceding payment and the date of death.

The fourth column shows the complete expectation of life, which is the average number of years of future life for persons of the specified age.

ADJUSTMENTS FOR MONTHLY PAYMENTS, ETC.

If a life interest in an estate or income from property is payable in semiannual, quarterly, monthly or weekly installments, Tables should be used *without adjustment*.

In the case of a *life annuity* or an *annuity-certain*, if payable at the end of semiannual, quarterly, monthly or weekly periods, the annuity value should be multiplied by the appropriate adjustment factor:

Semiannual	1.01113
Quarterly	1.01672
Monthly	1.02046
Weekly	1.02190

EXAMPLES

Example 1. A decedent's will provides that his nephew, age 40 years, is to receive the sum of \$1,000 per year for life, payable in monthly installments. What is the present value of the bequest?

Reference to column (3) of Table I provides the factor for valuation of a life annuity at age 40, 16.6374. The monthly adjustment factor is 1.02046. The value required is $16.6374 \times 1.02046 \times \$1,000 = \$16,978$.

Example 2. A decedent leaves to his sister, age 50, a life interest in property the value of which is \$50,000, and provides that upon the sister's death, absolute title to the property will pass to other parties. What is the value of the sister's interest, and what is the value of the remainder interest of the other parties in the estate?

A net return of 4 1/2% per annum is to be assumed, and on that basis the sister's income from the estate will be $.045 \times \$50,000$ or \$2,250 per year. The value of her income (whether paid annually or otherwise) will be $\$2,250 \times 15.8165$ [see column (6) Table I, age 50] or \$35,587, which is the amount upon which the sister's tax accrues.

The remainder interest of the other parties is determined from column (5) of Table I, taking into account the age of the person receiving the life interest. The value of \$1.00 due upon the death of the sister is \$.28833. Hence, the reversion is valued at $.28833 \times \$50,000$, or \$14,417, on which amount accrues the tax of those who receive the remainder interest.

NOTE. It is to be noted that the value of a life estate plus the value of the reversionary or remainder interest equals the value of the whole property. Thus, as a practical matter, only one of the values needs to be computed, and the second

can then be arrived at by simply subtracting the value computed from the value of the whole property.

Example 3. Income from property valued at \$100,000 is payable to the decedent's niece for 20 years. The income is payable whether or not the niece survives. At the end of 20 years (whether or not the niece is then living) the property is to pass to the decedent's younger brother (or to the younger brother's estate if he is not then living).

Income at 4 1/2% on \$100,000 will be \$4,500 per year. Present worth of \$1.00 per year for 20 years, according to column (3) of Table II, is \$13.0079. The niece's interest, therefore, is $\$13.0079 \times \$4,500$ or \$58,536.

Present worth of \$1.00 due at the end of 20 years, from column (2) is \$.414643. The brother's interest is valued at $$.414643 \times 100,000$ or \$41,464.

NOTE. It is to be noted that the value of a term estate plus the value of the reversionary or remainder interest equals the value of the whole property. Thus, as a practical matter, only one of the values needs to be computed, and the second can then be arrived at by simply subtracting the value computed from the value of the whole property.

Example 4. The decedent provides that a beneficiary is to receive \$100 per month for a fixed period of 10 years, and at the end of that period a final payment in the amount of \$10,000. What is the value of the bequest?

\$1.00 per year payable annually for 10 years is worth \$7.9127 [column (3), Table II]. For adjustment to a monthly basis, the correcting factor is 1.02046. The payments amount to \$1,200 per year and the value of the income is, thus, $\$7.9127 \times 1.02046 \times 1,200 = \$9,690$.

The value of \$10,000 due at the end of 10 years is $\$.643928 \times 10,000 = \$6,439$; the total value of the bequest is $\$9,690 + \$6,439 = \$16,129$.

Reviser's note: The brackets and enclosed material in the text of 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.

WSR 97-13-019
RULES OF COURT
STATE SUPREME COURT
[June 5, 1997]

IN THE MATTER OF THE ADOPTION)	ORDER
OF THE AMENDMENTS TO JuCR 1.2)	NO. 25700-A-603
(b); JuCR 1.5(2); JuCR 2.3(d); JuCR 2.4)	
(c); JuCR 2.5; JuCR 3.3(c); JuCR 3.4(d);)	
JuCR 3.7(c); JuCR 3.8(d); JuCR 3.9; JuCR)	
4.3 (a), (b); Title V; JuCR 5.1; JuCR 5.2;)	
JuCR 5.3; JuCR 5.4; JuCR 5.5; JuCR 5.6;)	
JuCR 5.7; New JuCR 5A—Title; New JuCR)	
5A.1; New JuCR 5A.2; New JuCR 5A.3;)	
New JuCR 5A.4; New JuCR 5A.5; New)	
JuCR 5A.6; JuCR 7.3 (e), (f); JuCR 7.7)	
(9), (14), (15), (16), (17), (18), (19);)	
JuCR 7.13; JuCR 9.1; AND JrCR 92)	
9.1; AND JuCR 9.2)	

The Superior Court Judges' Association having recommended the adoption of the proposed amendments to JuCR 1.2(b); JuCR 1.5(2); JuCR 2.3(d); JuCR 2.4(c); JuCR 2.5; JuCR 3.3(c); JuCR 3.4(d); JuCR 3.7(c); JuCR 3.8(d); JuCR 3.9; JuCR 4.3 (a), (b); Title V; JuCR 5.1; JuCR 5.2; JuCR 5.3; JuCR 5.4; JuCR 5.5; JuCR 5.6; JuCR 5.7; New JuCR

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5A—Title; New JuCR 5A.1; New JuCR 5A.2; New JuCR 5A.3; New JuCR 5A.4; New JuCR 5A.5; New JuCR 5A.6; JuCR 7.3 (e), (f); JuCR 7.7 (9), (14), (15), (16), (17), (18), (19); JuCR 7.13; JuCR 9.1; and JuCR 9.2, and the Court having considered the amendments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 1997.

DATED at Olympia, Washington this 5th day of June, 1997.

Durham, C.J.

Dolliver, J.

Madsen, J.

Smith, J.

Talmadge, J.

Guy, J.

Alexander, J.

Johnson, J.

Sanders, J.

I. TITLE I

JuCR 1.2(b)

(b) **Indian Children.** In the case of an Indian child refer to the as defined by the federal Indian Child Welfare Act of 1978, jurisdiction and proceedings under these rules shall be in accordance with that act.

JuCR 1.5(2)

The status of all juveniles found to be dependent prior to July 1, 1978, shall be reviewed as provided in RCW 13.34.130(3)(5).

II. TITLE II

JuCR 2.3(d)

(d) **Indian Children.** If the petitioner knows or has reason to know that the child juvenile is a member of an Indian child tribe as defined by the federal Indian Child Welfare Act, the petitioner shall notify the child's tribe in the manner required by RCW 13.34.070(9)(10) and 25 USC 1912.

JuCR 2.4(c)

(c) **Release of Juvenile on Conditions.** The court may release the juvenile on those conditions it deems appropriate. As provided in RCW 13.34.060(7)(9), the conditions may be modified upon notice to the parties given accordance with rule 11.2 and after a hearing.

JuCR 2.5

AMENDMENT OF SHELTER CARE ORDER

The court may amend a shelter care order as provided in RCW 13.34.060(8)(10) at a hearing held after notice to

the parties given in accordance with rule 11.2. Any party may move to amend a shelter care order.

III. TITLE III

JuCR 3.3(c)

(c) ~~Membership in Indian Tribe~~ **Indian Children.** If the petitioner knows or has reason to know that the juvenile is a member of an Indian child tribe as defined by the federal Indian Child Welfare Act, the petition shall so state and shall name the tribe, if known, to which the juvenile belongs.

JuCR 3.4(d)

(d) **Indian Children.** If the petitioner knows or has reason to know that the child juvenile is a member of an Indian child tribe as defined by the federal Indian Child Welfare Act, the petitioner shall notify the child's tribe in the manner required by RCW 13.34.070(9)(10) and 25 USC 1912.

JuCR 3.7(c)

(c) **Burden of Proof.** In a fact-finding hearing on a petition alleging dependency pursuant to RCW 13.34.030(2)(4), the facts alleged in the petition must be proven by a preponderance of the evidence.

JuCR 3.8(d)

(d) **Submission of Agency Plan.** If the agency plan referred to in RCW 13.34.130(2)(3) is not submitted to the court at the time of the disposition hearing, it shall be filed with the court and distributed to all parties within 30 days after the disposition hearing.

JuCR 3.9

REVIEW HEARING

The status of all juveniles found to be dependent shall be reviewed by the court at least every 6 months, in accordance with RCW 13.34.130(3)(5), except when a guardianship has been established under RCW 13.34.231 and 13.34.232. The parties shall be given notice of the review hearing in accordance with rule 11.2. All parties shall have the right to be present at the review hearing and to be heard. Notice of a review hearing concerning a juvenile who had been found dependent under RCW 13.34.030(2)(4) and who has been removed from the parental home shall include an advisement that a petition to terminate the parent-child relationship may be filed.

IV. TITLE IV

JuCR 4.3 (a),(b)

(a) **Generally.** Notice of the termination hearing and a coup of the petition shall be served on all parties in the manner defined by RCW 13.34.070(7) and (8) or published in the manner defined by RCW 13.34.080.

(b) **Indian Children.** If the petitioner knows or has reason to know that the child juvenile is a member of an Indian child tribe as defined by the federal Indian Child Welfare Act, the petitioner shall notify the child's tribe in the manner required by RCW 13.34.070(9)(10) and 25 USC 1912.

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TITLE V

PROCEEDINGS FOR ~~ALTERNATIVE RESIDENTIAL PLACEMENT~~
CHILDREN IN NEED OF SERVICES

JuCR 5.1

INVOKING JURISDICTION OF JUVENILE COURT

Juvenile court jurisdiction is invoked over a proceeding for ~~alternative residential placement~~ a child in need of services by filing a petition.

JuCR 5.2

PLEADINGS ~~RELEASE OF CHILD IN~~
CRISIS RESIDENTIAL CENTER

(a) **Petition.** A petition requesting an ~~alternative residential out-of-home placement~~, conforming to the requirements of rule 3.3, may be filed by a child or child's custodial parent, legal custodian, or guardian pursuant to ~~RCW 74.13.034~~ 13.32A.030(13), RCW 13.32A.120 (2) or (3), or RCW 13.32A.150, or by the Department of Social and Health Services pursuant to RCW 13.32A.140.

(b) **Venue.** The petition shall be filed in the county where the custodial parent, legal custodian, or guardian resides or where the child is located. ~~The hearing may be held in the county of the parent's residence upon request of any party.~~

(c) **Amendment of Petition.** A petition may be amended as provided in rule 3.5.

(d) **Answer.** A party may answer a petition as provided in rule 3.6.

(e) ~~Release of Child in Crisis Residential Center.~~ If a child is held in a crisis residential center, a petition shall be filed by the Department of Social and Health Services pursuant to ~~RCW 13.32A.140~~ on the day that the 72-hour time limit specified in ~~RCW 13.32A.140~~ expires, unless that day is a Saturday, Sunday, or holiday, or the child shall be released. If that day is a Saturday, Sunday, or holiday, the petition shall be deemed filed 1 within the time limits of RCW 13.32A.130, RCW 13.32A.140, and this rule if the Department files the petition on the next judicial day.

JuCR 5.3

SCHEDULING OF FACT-FINDING HEARING

(a) **Time.** When a proper petition has been filed, the court shall schedule a fact-finding hearing upon the question of ~~alternative residential out-of-home placement~~ with reasonable speed. The hearing shall be held within 14 days after the filing of the petition, unless the time is extended for good cause shown 5 calendar days after the filing of the petition if the child is in a center, or is not residing at home nor in and out-of-home placement pursuant to RCW 13.32A.160, otherwise the hearing shall be held within 10 calendar days.

(b) **Interim Placement Review Hearing.** Upon written request of the child or the child's parent, the court shall schedule and hold an interim placement review hearing in accordance with ~~RCW 13.32A.160(3)~~. The parties shall be notified of the date and place of the hearing in accordance with rule 11.2.

JuCR 5.4

NOTICE OF ~~FACTFINDING~~ FACT-FINDING HEARING

The notice required by RCW 13.32A.160 shall be given in accordance with rule 11.2. The notice shall also include the following:

(1) **Right to Lawyer.** A statement advising the parents of their right to be represented by a ~~retained~~ lawyer at the hearing, and, that if the parents cannot afford a lawyer are indigent, that one will be appointed for them in accordance with rule 9.2;

(2) **Location of Hearing.** ~~A statement advising the parties of the right to request that the hearing be held in the county where the parent resides;~~

(3) (2) **Consequences of Petition Approval.** A statement advising the parties that if the court approves the petition, the child will be placed in a residence outside the parental home to be as determined by the court or by the Department of Social and Health Services, and that the parents will not be relieved of financial responsibility for the child unless the parents oppose placement and continuously seek reconciliation with and return of the child;

(4) (3) **Consequences of Petition Disapproval.**

(5) (4) **Right to Present Evidence.** A statement advising the parties that they will be allowed to present evidence at the hearing on the petition; and,

(6) ~~Right to Challenge Interim Placement.~~ A statement advising the parties that if a parent or the child objects to the interim placement of the child by the Department of Social and Health Services, the parent or child may make a written request for court review of the child's placement and receive a hearing within 3 court days.

JuCR 5.5

PROCEDURE AT ~~FACTFINDING~~ FACT-FINDING HEARING

The fact-finding hearing to consider the child's placement a proper child in need of services petition shall be held in accordance with RCW 13.32A.170

JuCR 5.6

DISPOSITION HEARING

(a) **Time.** A disposition hearing to consider the 3 month disposition plan shall be held within 14 days after of the factfinding hearing approval of a temporary out-of-home placement. The court may, for good cause shown, continue the hearing upon the request of a party or the Department of Social and Health Services.

(b) **Notice.** The notice of the disposition hearing required by RCW 13.32A.170(3)179(1) shall be given to the parties and to the Department of Social and Health Services in accordance with rule 11.2.

(c) **Hearing.** The hearing to consider the disposition plan shall be held in accordance with RCW 13.32A.180179.

JuCR 5.7

REVIEW HEARING

The court shall schedule a review of a dispositional order of an any alternative residential out-of-home placement within 3 months of the placement. The notice of the review hearing required by RCW 13.32A.190 may be given to the parties at the placement hearing, or they may be notified in

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accordance with rule 11.2. The hearing shall be conducted in accordance with RCW 13.32A.190.

JuCR 5A
[NEW SECTION]
TITLE 5A - PROCEEDINGS FOR AT-RISK YOUTH

JuCR 5A.1
INVOKING JURISDICTION OF JUVENILE COURT

Juvenile court jurisdiction is invoked over an At-Risk Youth by filing a petition.

JuCR 5A.2
SCHEDULING OF FACT-FINDING HEARING

When a proper petition has been filed, the court shall schedule a fact-finding hearing. The hearing shall be held within 5 calendar days after the filing of the petition if the child is in a center, or is not residing at home nor in an out-of-home placement pursuant to RCW 13.32A.192, otherwise the hearing shall be held within 10 calendar days.

JuCR 5A.3
NOTICE OF FACT-FINDING HEARING

The notice required by RCW 13.32A.192 shall be given in accordance with rule 11.2. The notice shall also include the following:

(1) **Right to Lawyer.** A statement advising the parent of their right to be represented by an attorney at their own expense;

(2) **Consequences of Petition Approval.** A statement advising the parties of the legal consequences should the court find the child to be an at-risk youth;

(3) **Right to Present Evidence.** A statement advising the parties that they will be allowed to present evidence at the hearing on the petition.

JuCR 5A.4
PROCEDURE AT FACT-FINDING HEARING

The fact-finding hearing to consider a proper at-risk youth petition shall be held in accordance with RCW 13.32A.194

JuCR 5A.5
DISPOSITION HEARING

(a) **Time.** The hearing to consider a disposition plan shall be held within 14 days after the fact-finding hearing of on an at-risk youth petition.

(b) **Notice.** The notice of the disposition hearing required by RCW 13.32A.194 shall be given to the parties and may be given to the Department of Social and Health Services in accordance with rule 11.2.

(c) **Hearing.** The hearing to consider the disposition plan shall be held in accordance with RCW 13.32A.196.

JuCR 5A.6
REVIEW HEARING

Upon making a disposition regarding an adjudicated at-risk youth, the court shall schedule the matter for review within 3 months. The notice of the review hearing required by RCW 13.32A.198(1) may be given to the parties at the disposition hearing, or they may be notified in accordance with rule 11.2. The Hearing shall be conducted in accordance with RCW 13.32A.198.

VII. TITLE VII

JuCR 7.3 (e), (f)

(e) **If Motion Not Filed Before Custody.** If a juvenile alleged to have violated a diversion agreement, a conditional release order, ~~or~~ a disposition order, or a deferred adjudication order is taken into custody and held in detention before a petition to terminate the diversion agreement, a motion to modify the conditional release order or the disposition order, or a motion to revoke the deferred adjudication order is filed, the court shall make every reasonable effort to conduct a hearing on the issue of detention by the end of the next judicial day. The juvenile shall be released unless a motion is filed within 72 hours (excluding Saturdays, Sundays, and holidays) after taking the juvenile into custody. In the absence of any prior determination, a juvenile held in detention after the filing of a motion shall be given a hearing to determine whether continued detention is necessary. The juvenile shall be released unless this determination is made within 72 hours (excluding Saturdays, Sundays, and holidays) after the juvenile is taken into custody.

(f) **If Petition or Motion Filed Before Custody.** If a juvenile alleged to have violated a diversion agreement, a conditional release order, ~~or~~ a disposition order, or a deferred adjudication order is taken into custody and held in detention after a petition to terminate the diversion agreement, ~~or~~ a motion to modify the conditional release order or the disposition order, or a motion to revoke the deferred adjudication order ~~has been~~ is filed, the juvenile shall be given a hearing within 72 hours (excluding Saturdays, Sundays, and holidays) ~~of the time after taking~~ the juvenile is taken into custody, or the juvenile shall be released.

JuCR 7.7 (9), (14), (15), (16), (17), (18), (19)
STATEMENT OF JUVENILE ON PLEA OF GUILTY

9. I have been informed and fully understand that my plea of guilty and the court's acceptance of my plea will become part of my criminal history. I have also been informed and fully understand that if the offense is a ~~felony~~ class A felony, a serious violent offense, or a sex offense, then the plea will remain part of my criminal history when I am an adult. I also understand that if the offense is a class B or C felony that is not classified as a serious violent or sex offense, or the offense is a serious traffic offense and I was 15 years of age or older when the offense was committed, then the plea will remain part of my criminal history when I am an adult if I commit another offense prior to my twenty-third birthday.

14. I have been informed that if the offense that I am pleading guilty to involves a finding that the offense was committed while I was armed with a firearm, or if the offense was a violation of RCW 9.41.040 (1)(e) or chapter 66.44, 69.41, 69.50, or 69.52, and I was 13 years of age or older when the offense was committed, then the plea will result in the suspension or revocation of my privilege to drive. [If not applicable, this paragraph should be crossed out and initialed by the offender and the judge.]

15. I have been informed that if the offense that I am pleading guilty to is a violation of Title 46 RCW or similar municipal ordinances for reckless driving, driving or being in physical control of a motor vehicle while under the influence of intoxicants, driving while license suspended or

revoked, vehicular assault, vehicular homicide, hit and run, felony elude, or other similar offense, the plea will result in the suspension or revocation of my privilege to drive. [If not applicable, this paragraph should be crossed out and initialed by the offender and the judge.]

16. I have been informed that if the offense that I am pleading guilty to involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency virus (HIV/AIDS). [If not applicable, this paragraph should be crossed out and initialed by the offender and the judge.]

17. I have been informed that if the offense that I am pleading guilty to involves a sex offense or violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If not applicable, this paragraph should be crossed out and initialed by the offender and the judge.]

18. I have been informed that if the offense that I am pleading guilty to involves a sex offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Juvenile Rehabilitation Administration or Department of Corrections.

If I change my residence within a county, I must send written notice of the change to the sheriff at least 14 days before moving. If I change my residence to a new county within this state, I must register with the sheriff of the new county at least 14 days before moving to the new county of residence and I must register with that county sheriff within 24 hours of moving and I must give written notice of my change of address to the sheriff of the county where last registered, both with 10 days of moving. If I move out of Washington State, I must send written notice within 10 days of moving to the new state or foreign country to the county sheriff with whom I last registered in Washington State. [If not applicable, this paragraph should be crossed out and initialed by the offender and the judge.]

19. I have been informed that if I am pleading guilty to any offense that is classified as a felony or a crime of domestic violence, or a crime of "harassment" as defined under RCW 9A.46.060 that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record. (PURSUANT TO RCW 9.41.047(1), THE JUDGE SHALL READ THIS SECTION TO THE OFFENDER IN OPEN COURT. THE CLERK SHALL FORWARD A COPY OF THE OFFENDER'S DRIVER'S LICENSE, IDENTICARD, OR COMPARABLE IDENTIFICATION TO THE DEPARTMENT OF LICENSING ALONG WITH THE DATE OF CONVICTION.) [If not applicable, this paragraph should be crossed out and initialed by the offender and the judge.]

JuCR 7.13

RELEASE PENDING APPELLATE REVIEW

~~If the only error asserted on appellate review is the appropriateness of the disposition, release of the juvenile pending review is governed by RCW 13.40.230(5). If~~

~~additional or different errors are asserted, Pending appellate review of an order of adjudication or disposition, the juvenile court shall release the juvenile if the court determines, at a hearing, that detention is not necessary to prevent the juvenile from fleeing the jurisdiction or harming the juvenile or the person or property of others. Release of the juvenile pending review is governed by RCW 13.40.230(5).~~

VIII. TITLE IX

JuCR 9.1

~~ALTERNATIVE RESIDENTIAL PLACEMENT CHILD IN NEED OF SERVICES AND AT RISK YOUTH PETITION- MANDATORY APPOINTMENT OF LAWYER~~

~~The court shall appoint a lawyer for a child or parent in an alternative residential placement Child In Need of Services or an At Risk Youth proceeding when required by RCW 13.32A.160 (1)(e)(a)(ii)(c), and RCW 13.32A.190(1), or 13.32A.192 (1)(c).~~

JuCR 9.2

~~(b) Child in Need of Services Proceedings. The court shall appoint a lawyer for indigent parents of a juvenile in a child in need of services proceeding.~~

~~(b) (c) Dependency and Termination Proceedings.~~

~~(e) (d) Juvenile Offense Proceedings. The court shall provide a lawyer at public expense in a juvenile offense proceeding when required by RCW 13.40.080(8)(10), RCW 13.40.140(2), or rule 6.2.~~

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 97-13-020
RULES OF COURT
STATE SUPREME COURT

[June 5, 1997]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO CR 34;) NO. 25700-A-604
CR 41; ARLJ 7; RALJ 4.2(a);)
CRLJ 41 AND CrRLJ 2.3(d))

The Washington State Bar Association having recommended the adoption of the proposed amendments to CR 34, CR 41 and CRLJ 41 and the District and Municipal Court Judges' Association recommended the proposed amendments to ARLJ 7, RALJ 4.2(a), and CrRLJ 2.3(d). The Court considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 1997.

DATED at Olympia, Washington this 5th day of June, 1997.

MISCELLANEOUS

Durham, C.J.

Dolliver, J.

Madsen, J.

Smith, J.

Talmadge, J.

Guy, J.

Alexander, J.

Johnson, J.

Sanders, J.

CR 34

PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES

(a) Unchanged.

(b) Procedure. The request may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 30 days after the service of the request, except that a defendant may serve a response within 40 days after service of the summons and complaint upon that defendant. The parties may stipulate or the court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objections shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(c) Unchanged.

CR 41

DISMISSAL OF ACTIONS

(a) Unchanged.

(b) Involuntary Dismissal; Effect. For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him or her.

(1) Unchanged.

(2) Dismissal on Clerk's Motion.

(A) Notice. In all civil cases in which ~~wherein there has been~~ no action of record has occurred during the previous 12 months just past, the clerk of the superior court shall notify ~~shall mail notice to~~ the attorneys of record by mail that ~~such case will be dismissed by the court will dismiss the case~~ for want of prosecution unless, within 30 days following the said mailing of such notice, a party takes action of record or files a status report with the court indicating the reason for inactivity and projecting future activity and a case completion date ~~action of record is made or an application in writing is made to the court and good cause shown why it should be continued as a pending case.~~ If the court does not receive such a status report, it shall, on motion of the clerk, such application is not made or good cause is not shown, the court shall dismiss the each such case without prejudice and without cost to any party. The cost of filing such order of dismissal with the clerk shall not be assessed against either party.

(B) Mailing notice; reinstatement. ~~The notice shall be mailed in every eligible case not later than 30 days before June 15 and December 15 of each year, and all such cases shall be presented to the court by the clerk for action thereon or before June 30 and December 31 of each year. These deadlines shall not be interpreted as a prohibition against mailing of notice and dismissal thereon as cases may become eligible for dismissal under this rule. The clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who does not receive the clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.~~

(C) ~~Applicable date~~ Discovery in process. ~~This dismissal procedure is mandatory as to all cases filed after January 1, 1959, and permissive as to all cases filed before that date. This rule is not a limitation upon any other power that the court may have to dismiss any action upon motion or otherwise. The filing of a document indicating that discovery is occurring between the parties shall constitute action of record for purposes of this rule.~~

(D) Other grounds for dismissal and reinstatement. ~~This rule is not a limitation upon any other power that the court may have to dismiss or reinstate any action upon motion or otherwise.~~

(3) Unchanged.

(c)-(e) Unchanged.

ARLJ 7

~~VIOLATION OF RULES CONTEMPT WHEN~~

~~Any willful failure to apply the provisions of these rules in his court, the failure to amend or vacate local court rules contradictory to those herein set forth, or the continuation of practices expressly forbidden in these rules by the judge of any court subject thereto who has received actual notice of their adoption may be considered a contempt of the Supreme Court of Washington and punishable as such.~~

[Reserved].

MISCELLANEOUS

PROPOSED AMENDMENTS TO RULES FOR APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION

RALJ 4.2(a)

(a) Civil Case. A party may not enforce a civil judgment of a court of limited jurisdiction until 44 30 days after the entry of the judgment. Thereafter, a party may enforce the judgment in the court of limited jurisdiction unless enforcement is stayed as provided in Rule 4.3.

CRLJ 41

DISMISSAL OF ACTIONS

(a) Unchanged.

(b) Involuntary Dismissal; Effect. For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him or her.

(1) Unchanged.

(2) Dismissal on Clerk's Motion.

(i) Notice. In all civil cases in which wherein there has been no action of record has occurred during the previous 12 months just past, the clerk of the superior court may shall notify shall mail notice to the attorneys of record by mail that such case will be dismissed by the court will dismiss the case for want of prosecution unless, within 30 days following the said mailing of such notice, a party takes action of record or files a status report with the court indicating the reason for inactivity and projecting future activity and a case completion date action of record is made or an application in writing is made to the court and good cause shown why it should be continued as a pending case. If the court does not receive such a status report, it shall, on motion of the clerk, such application is not made or good cause is not shown, the court shall dismiss the each such case without prejudice and without cost to any party. The cost of filing such order of dismissal with the clerk shall not be assessed against either party.

(ii) Mailing notice; reinstatement. The notice shall be mailed in every eligible case not later than 30 days before June 15 and December 15 of each year, and all such cases shall be presented to the court by the clerk for action thereon or before June 30 and December 31 of each year. These deadlines shall not be interpreted as a prohibition against mailing of notice and dismissal thereon as cases may become eligible for dismissal under this rule. The clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who does not receive the clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.

(iii) Applicable date Discovery in process. This dismissal procedure is mandatory as to all cases filed after January 1, 1959, and permissive as to all cases filed before that date. This rule is not a limitation upon any other power that the court may have to dismiss any action upon motion or otherwise. The filing of a document indicating that discovery is occurring between the parties shall constitute action of record for purposes of this rule.

(iv) Other grounds for dismissal and reinstatement. This rule is not a limitation upon any other power that the court may have to dismiss or reinstate any action upon motion or otherwise.

(3) Unchanged.

(c) Unchanged.

(d) Unchanged.

(e) Unchanged.

CrRLJ 2.3(d)

(d) Execution and Return With Inventory. The peace officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property taken. If no such person is present, it shall be left with some person of suitable age and discretion then residing upon the premises or posted thereon in a conspicuous location. the officer may post a copy of the search warrant and receipt. The return shall be made within 3 court days promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person from whose possession or premises the property is taken, or in the presence of at least one person other than the officer. The court shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

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 97-13-021 RULES OF COURT STATE SUPREME COURT

[June 5, 1997]

IN THE MATTER OF THE ADOPTION) ORDER OF PROPOSED NEW GR 19 AND NEW) NO. 25700-A-605 GR 20)

The Administrator for the Court's Ad Hoc Committee recommended the adoption of proposed New GR 19 and the Records Management Advisory Committee recommended proposed New GR 20. The Court having considered the proposed new rules and comments submitted thereto, and having determined that the proposed new rules will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby ORDERED;

(a) That the proposed new rules as attached hereto are adopted.

(b) That the proposed new rule will be published in the Washington Reports and will become effective September 1, 1997.

DATED at Olympia, Washington this 5th day of June, 1997.

MISCELLANEOUS

	Durham, C.J.
Dolliver, J.	Madsen, J.
Smith, J.	Talmadge, J.
Guy, J.	Alexander, J.
Johnson, J.	Sanders, J.

GR 19
[NEW RULE]
VIDEO CONFERENCE PROCEEDINGS

(a) **Criminal.** Preliminary appearances as defined by CrR 3.2(B) and CrRLJ 3.2.1(d), arraignments as defined by CrR 3.4 and 4.1 and CrRLJ 3.4 and 4.1, bail hearings as defined by CrR 3.2 and CrRLJ 3.2, and trial settings as defined by CrR 3.3 and CrRLJ 3.3(f), conducted via video conference in which all participants can simultaneously see, hear, and speak with each other shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an inperson hearing, which may in the trial court judge's discretion be granted.

(b) **Agreement.** Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as defined by CrR 4.2 and CrRLJ 4.2 may be conducted by video conference only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(c) **Standards for Video Conference Proceedings.** The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants. The Office of the Administrator for the Courts (OAC) shall promulgate standards for facilities and equipment and provide technical assistance to courts as required.

GR 20
[NEW RULE]
SECURITY IN HANDLING COURT EXHIBITS

(a) **Hazardous Exhibits to be Packaged and Labeled.**
[Reserved.]

(b) **Security for Exhibits of Intrinsic or Negotiable Value.**

(1) Upon petition of the clerk or any party and order of the court, a weapon, money, an item of negotiable value, an item deemed to be excessively bulky, or a controlled substance may be admitted and then withdrawn upon the

substitution of photograph(s), videotape(s), samples or other facsimile representations as provided by the order. The photograph(s), videotape(s), samples or other facsimile representations may be used to demonstrate the existence, quantity, and physical characteristic of the evidence. The order shall direct the disposition of the original evidence and shall state whether the evidence shall be further documented by a descriptive certificate issued by an authorized federal or state agency.

(2) When controlled substances or samples thereof are presented in court, such items shall be presented under sealed evidence tape in containers whose labels describe their contents. Sealed controlled substances presented as exhibits shall be unsealed in open court and, upon completion of the action for which unsealing was ordered, the item shall be sealed again.

(3) When a photograph, videotape, or other facsimile representation is substituted, the original exhibit must be retained by the presenting party or agency until at least sixty (60) days following case completion and must produce the original exhibit upon the court's direction. Case completion is defined as the date of filing of the judgment of acquittal, final judgment, or dismissal, or the date the judgment becomes final after appeal.

(4) Exhibits handled under these rules shall have the same standing for purposes of appeal as would the original exhibits.

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 97-13-022
RULES OF COURT
STATE SUPREME COURT
[June 5, 1997]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO RAP 18.13) NO. 25700-A-606

The Attorney General and the Washington State Bar Association having recommended the adoption of the proposed amendments to RAP 18.13. The Supreme Court Domestic Relations Commission amended the rule, and the Court having considered the amendment and comments submitted thereto, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That the amendment will be published in the Washington Reports and will become effective September 1, 1997.

DATED at Olympia, Washington this 5th day of June, 1997.

	Durham
Dolliver, J.	Madsen, J.

MISCELLANEOUS

Smith, J.	Talmadge, J.
Guy, J.	Alexander, J.
Johnson, J.	Sanders, J.

WSR 97-13-023
RULES OF COURT
STATE SUPREME COURT
 [June 5, 1997]

IN THE MATTER OF THE ADOPTION) ORDER
 OF THE AMENDMENT TO RAP 10.3(e)) NO. 25700-A-607

The Court having recommended the adoption of the proposed amendment to RAP 10.3(e), and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby
ORDERED:

- (a) That the amendment as attached hereto is adopted.
- (b) That the amendment will be published in the Washington Reports and will become effective September 1, 1997.

DATED at Olympia, Washington this 5th day of June, 1997.

	Durham, C.J.
Dolliver, J.	Madsen, J.
Smith, J.	Talmadge, J.
Guy, J.	Alexander, J.
Johnson, J.	Sanders, J.

RAP 18.13

**ACCELERATED REVIEW OF DISPOSITIONS
 IN JUVENILE OFFENSE, JUVENILE DEPENDENCY
AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS**

(a) Generally. ~~A~~ Dispositions in a juvenile offense proceeding ~~which is~~ beyond the standard range for ~~that~~ such offense, juvenile dependency and termination of parental rights, may shall be reviewed ~~in the manner provided in the rules for other decisions or~~ by accelerated review as provided in this rule.

(b) Accelerated review by motion. ~~A party seeking~~ The accelerated review of the disposition shall be done ~~so~~ by motion. The motion must include (1) the name of the party filing the motion; (2) the offense in a juvenile offense proceeding or the issues in a juvenile dependency or termination of parental rights; (3) the disposition of the trial court; (4) the standard range for the offense, as may be appropriate; (5) a statement of the disposition urged by the moving party; (6) copies of the clerk's papers and a written verbatim report of those portions of the disposition proceeding which are material to the motion; (7) an argument for the relief the party seeks; and (8) a statement of any other issues to be decided in the review proceeding.

(c) Motion procedure controls. The motion procedure, including a party's response, is governed by ~~Title 17 rule.~~

(d) Accelerated review of other issues. The decision of issues other than those relating to the juvenile offense disposition, juvenile dependency and termination of parental rights may be accelerated only pursuant to rules 18.8 and 18.12.

(e) Supreme Court review. A decision by the Court of Appeals on accelerated review that relates only to a juvenile offense disposition, juvenile dependency and termination of parental rights is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in rule 13.5 (a), (b) and (c).

(f) Schedule. The accelerated review shall include a schedule for filing the record on review, and briefs, and setting oral argument.

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.

RAP 10.3(e)
CONTENT OF BRIEF

(e) Amicus Curiae Brief. The brief of amicus curiae should conform to section (a), except assignments of error are not required and the brief should set forth a separate section regarding the identity and interest of amicus and be limited to the issues of concern to amicus. Amicus must review all briefs on file and avoid repetition of matters in other briefs.

WSR 97-13-025
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD
 [Memorandum—June 6, 1997]

MEETING NOTICE FOR JUNE 1997
 TRANSPORTATION IMPROVEMENT BOARD
 OLYMPIA, WASHINGTON 98504-0901

Increase Committee, 1:30 p.m. - 4:30 p.m., Thursday, June 26, 1997, at the Shilo Inn, Pend Oreille Room, East 923 Third Avenue, Spokane.

Sidewalk Committee, 4:30 p.m. - 5:00 p.m., Thursday, June 26, 1997, at the Shilo Inn, Pend Oreille Room.

Work Session, 7:00 p.m., Thursday, June 26, 1997, at the Shilo Inn.

Board Meeting, 9:00 a.m., Friday, June 27, 1997, at Eastern Washington University, Pence Union Building, Cheney.

MISCELLANEOUS

Special Needs: For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by June 17, 1997.

The next scheduled meeting is July 24, 1997, in Mt. Vernon. A notice with further detail of the July meeting will be mailed July 3, 1997.

WSR 97-13-031

INSURANCE COMMISSIONER'S OFFICE

[Filed June 12, 1997, 10:22 a.m.]

NOTICE OF PUBLICATION OF AMENDED TABLES FOR USE OF COURTS AND APPRAISERS THROUGHOUT THIS STATE SHOWING THE AVERAGE EXPECTANCY OF LIFE AND VALUES OF ANNUITIES AND OF LIFE AND TERM ESTATES

June 12, 1997

Pursuant to RCW 48.02.160(1), the Insurance Commissioner hereby publishes the following amended tables for use of courts and appraisers throughout this state showing the average expectancy of life and values of annuities and of life and term estates. **These amended tables are intended to replace the tables published at WSR 97-13-018 on June 9, 1997.**

If you have questions or need additional information, please call Greg Scully, Chief Deputy Insurance Commissioner, at (360) 664-3785.

Deborah Senn
Insurance Commissioner

LIFE EXPECTANCY TABLE

Age Nearest Birthday	LIFE EXPECTANCY TABLE	
	Male Expectation of Life	Female Expectation of Life
0	71.84	78.77
1	71.59	78.42
2	70.64	77.46
3	69.68	76.49
4	68.71	75.52
5	67.73	74.54
6	66.75	73.56
7	65.77	72.57
8	64.79	71.58
9	63.80	70.60
10	62.82	69.61
11	61.82	68.62
12	60.83	67.63
13	59.85	66.64
14	58.87	65.65
15	57.91	64.67
16	56.96	63.70
17	56.02	62.72
18	55.10	61.76
19	54.18	60.79
20	53.26	59.82
21	52.34	58.85
22	51.43	57.88
23	50.51	56.91

24	49.60	55.93
25	48.68	54.97
26	47.77	54.00
27	46.85	53.03
28	45.94	52.06
29	45.02	51.10
30	44.11	50.13
31	43.20	49.17
32	42.29	48.21
33	41.38	47.25
34	40.48	46.29
35	39.58	45.33
36	38.68	44.38
37	37.78	43.43
38	36.89	42.48
39	36.00	41.53
40	35.11	40.58
41	34.21	39.64
42	33.32	38.69
43	32.43	37.76
44	31.55	36.82
45	30.67	35.89
46	29.80	34.97
47	28.93	34.05
48	28.07	33.14
49	27.21	32.24
50	26.37	31.34
51	25.53	30.45
52	24.70	29.57
53	23.88	28.69
54	23.07	27.83
55	22.28	26.97
56	21.50	26.12
57	20.73	25.28
58	19.97	24.44
59	19.23	23.62
60	18.51	22.81
61	17.80	22.01
62	17.10	21.23
63	16.42	20.45
64	15.75	19.68
65	15.10	18.92
66	14.46	18.18
67	13.83	17.44
68	13.21	16.71
69	12.61	15.99
70	12.03	15.29
71	11.46	14.60
72	10.91	13.92
73	10.37	13.25
74	9.85	12.60
75	9.35	11.96
76	8.86	11.34
77	8.39	10.73
78	7.94	10.13
79	7.50	9.55
80	7.08	8.98
81	6.67	8.43
82	6.28	7.90

MISCELLANEOUS

83	5.91	7.39
84	5.55	6.90
85	5.22	6.44
86	4.91	6.03
87	4.63	5.64
88	4.36	5.27
89	4.10	4.92
90	3.86	4.59
91	3.64	4.29
92	3.43	4.00
93	3.23	3.74
94	3.05	3.50
95	2.88	3.28
96	2.73	3.08
97	2.58	2.90
98	2.45	2.73
99	2.33	2.57
100	2.21	2.43
101	2.09	2.28
102	1.98	2.15
103	1.87	2.02
104	1.77	1.89
105	1.67	1.77
106	1.58	1.66
107	1.49	1.55
108	1.40	1.45
109	1.31	1.35
110	1.23	1.26
111	1.16	1.17
112	1.08	1.09
113	1.01	1.01
114	0.95	0.95
115	0.88	0.88
116	0.82	0.82
117	0.75	0.75
118	0.68	0.68
119	0.50	0.50

WSR 97-13-032
RULES COORDINATOR
HIGHER EDUCATION
COORDINATING BOARD
 [Filed June 12, 1997, 11:15 a.m.]

This memorandum is to inform you that Susan Patrick, Deputy Director for Governmental Relations and Policy, has also taken over the duties and responsibilities of the rules coordinator for the Higher Education Coordinating Board. Her phone number is (360) 753-7811. Please direct all inquiries and correspondence on this matter to her attention.

Karen B. Moton-Tate

WSR 97-13-033
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—June 12, 1997]

PLEASE NOTE TIME AND LOCATION CHANGE

The Washington State Convention and Trade Center (WSCTC) Design Committee will meet on Wednesday, June 18, 1997, from 11:00 a.m. (not 10:00 a.m.) to 1:00 p.m. in Room 307-308 at the CONVENTION CENTER, 800 Convention Place, Seattle, WA.

A regular meeting of the WSCTC board of directors will be held on Wednesday, June 18, 1997, at 1:30 p.m. in Room 310 of the Convention Center, Seattle.

If you have any questions regarding these meetings, please call 447-5000.

WSR 97-13-035
RULES OF COURT
STATE SUPREME COURT

[June 10, 1997]

IN THE MATTER OF THE ADOPTION) ORDER
 OF THE PROPOSED AMENDMENT) NO. 25700-A-608
 TO GR 12)

The Washington State Bar Association recommended the adoption of the proposed amendment to GR 12, and the Court having considered the proposed amendment and comment submitted thereto, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendment as attached hereto is adopted.

(b) That the proposed amendment will be published in the Washington Reports and will become effective September 1, 1997.

DATED at Olympia, Washington this 10th day of June, 1997.

Durham, C.J.

Dolliver, J.

Madsen, J.

Smith, J.

Alexander, J.

Guy, J.

Talmadge, J.

Johnson, J.

MISCELLANEOUS

GR 12

WASHINGTON STATE BAR ASSOCIATION: PURPOSES

(a) Purposes: In General. ~~The purposes of~~ In general, the Washington State Bar Association shall be to strives to:

- (1) Promote independence of the judiciary and the bar.
- (2) Promote an effective legal system, accessible to all.
- (3) Provide services to its members.
- (4) Foster and maintain high standards of competence, professionalism, and ethics among its members.
- (5) Foster collegiality among its members and goodwill between the bar and the public.
- (6) Promote diversity and equality in the courts, the legal profession, and the bar.
- (7) Administer admissions to the bar and discipline of its members in a manner that protects the public and respects the rights of the applicant or member.
- (8) Administer programs of legal education.
- (9) Promote understanding of and respect for our legal system and the law.
- (10) Operate a well-managed and financially sound association, with a positive work environment for its employees.

(11) Serve as a state-wide voice to the public and the branches of government on matters relating to these purposes and the activities of the association. promote and aid in the effective administration of justice; to assist in the admission and discipline of members of the Bar Association; to foster and maintain high standards of competence, professionalism and ethics among its members; to promote the availability of legal services to all in need; to advise the public and its officials in matters relevant to these purposes and the professional interests of the Bar Association; to promote respect and understanding for our legal system; to promote the creation of voluntary associations of lawyers concerned with their members' professional interests; to carry on programs of legal research and education; to provide a forum for the discussion of subjects pertaining to jurisprudence and the practice of law; to foster camaraderie among members of the Bar Association and good will between the Bar Association and the public; to promote the independence of the Bar Association and the judiciary of which it is a part; and to promote the interests of the legal profession.

(b) Specific Activities Authorized. Among the specific Bar Association activities authorized by this rule and these stated purposes are In pursuit of these purposes, the Washington State Bar Association may:

- (1) Sponsor and maintain committees, sections, and divisions whose activities further these purposes;
- (2) Support the judiciary in maintaining the integrity and fiscal stability of an independent and effective judicial system;
- (3) Provide periodic reviews and recommendations concerning court rules and procedures;
- (4) Administer examinations and review applicants' character and fitness to practice law;
- (5) Inform and advise lawyers regarding their ethical obligations;
- (6) Administer an effective system of discipline of its members, including receiving and investigating complaints of lawyer misconduct, taking and recommending appropriate

punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system;

- (7) Maintain a program, pursuant to court rule, requiring members to submit fee dispute to arbitration;
- (8) Maintain a program for mediation of disputes between members and their clients and others;
- (9) Maintain a program for lawyer practice assistance;
- (10) Sponsor, conduct, and assist in producing programs and products of continuing legal education;
- (11) Maintain a system for accrediting programs of continuing legal education;
- (12) Conduct audits of lawyers' trust accounts;
- (13) Maintain a lawyers' fund for client protection in accordance with the Admission to Practice Rules;
- (14) Maintain a program for the aid and rehabilitation of impaired members;
- (15) Disseminate information about bar activities, interests, and positions;
- (16) Monitor, report on, and advise public officials about matters of interest to the bar;
- (17) Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about bar positions and concerns;
- (18) Encourage public service by members and support programs providing legal services to those in need;
- (19) Maintain and foster programs of public information and education about the law and the legal system;
- (20) Provide, sponsor and participate in services to its members;
- (21) Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the bar's discretion, authorizing collective bargaining;
- (22) Collect, allocate, invest, and disburse funds so that its mission, purposes and activities may be effectively and efficiently discharged.

(1) The regulation of those persons who seek admission to practice law, including the administration of examinations and the review of applicants' fitness and character to practice law;

(2) The regulation and administration of lawyer discipline;

(3) Providing a forum for the discussion of subjects pertaining to the practice of law, law reform, and jurisprudence;

(4) Sponsoring, conducting and participating with qualified organizations in programs of continuing legal education;

(5) Carrying on research in fields of substantive law, practice and procedure, and making reports and recommendations thereon;

(6) Conducting audits of lawyer trust accounts;

(7) Maintaining, in its discretion, a program to indemnify clients in whole or in part against losses caused by dishonesty of active members of the Bar Association, or by failure of such a member to account properly for funds entrusted to such member;

(8) Maintaining, in its discretion, a program for the aid and rehabilitation of impaired lawyers;

(9) Sponsoring and maintaining committees, sections and divisions whose activities relate to the purposes stated herein;

~~(10) Providing communications of interest and utility to lawyers and the public and disseminating information about Bar Association activities, interests and positions;~~

~~(11) Monitoring, reporting on and reporting to public officials about matters of interest to the Bar Association;~~

~~(12) Maintaining a legislative liaison who shall keep the Bar Association informed about new and proposed legislation and who shall, from time to time, inform public officials about positions and concerns of the Bar Association;~~

~~(13) Maintaining and fostering programs of public information and education about the law;~~

~~(14) Maintaining and fostering programs to promote good will among the members of the Bar Association and between the Bar Association and the public;~~

~~(15) Allocating and disbursing funds, in its discretion, so that these purposes may be effectively and efficiently discharged;~~

~~(16) Authorizing, in its discretion, collective bargaining for its employees~~

~~(c) Activities Not Authorized. Among the specific actions which this rule and these purposes do not authorize are The Washington State Bar Association will not:~~

~~(1) Taking Take positions on issues concerning the politics or social positions of foreign nations;~~

~~(2) Taking Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice;~~

~~(3) Supporting Support or opposing oppose, in an election, candidates for public office.~~

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.

WSR 97-13-052
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 (Memorandum—June 12, 1997)

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce two upcoming special board meetings:

Meeting Date/Location	Time
June 23, 1997 Mitzels Restaurant 7805 South Hosmer Tacoma, WA 98498	7:30 a.m.

and

July 1, 1997 Pierce College Ft. Steilacoom Campus 9401 Farwest Drive Tacoma, WA 98498	5:00 p.m.
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WSR 97-13-053
POLICY STATEMENT
DEPARTMENT OF HEALTH
 [Filed June 16, 1997, 10:49 a.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Interim Policy on Continuing Education Deficiencies.

Issuing Entity: Board of Nursing Home Administrators.

Subject Matter: Policy statement defining how disciplinary cases concerning continuing education deficiencies of licensees will be handled by the Board of Nursing Home Administrators.

Effective Date: January 31, 1997.

Contact Person: Barbara Hayes, Program Manager, Department of Health, Board of Nursing Home Administrators, P.O. Box 47869, Olympia, WA 98504-7869, (360) 664-3245, FAX (360) 664-0412, Internet address bah0303@hub.doc.wa.gov [bah0303@hub.doh.wa.gov].

WSR 97-13-054
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH
 [Filed June 16, 1997, 10:50 a.m.]

NOTICE OF REVISION OF INTERPRETIVE GUIDELINES

Title: Revised Medical Test Site Interpretive Guidelines.

Effective Date: Revision May 5, 1997.

Issuing Agency/Division: Department of Health, Health Systems Quality Assurance, Office of Laboratory Quality Assurance.

Description: The interpretive guidelines are intended to assist the laboratory surveyors in determining a medical test site's compliance with the regulations (chapter 246-338 WAC) and to enhance consistency among surveyors in interpreting the regulations. They may also be useful to consultants, quality assurance coordinators and other laboratory personnel in interpreting the medical test site regulations.

Contact Person: Martha G. Simon, Director, Office of Laboratory Quality Assurance, 1610 N.E. 150th Street, K17-9, Seattle, WA 98155-9701, phone (206) 361-2802, Internet mgs1303@hub.doh.wa.gov.

WSR 97-13-065
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
 (Memorandum—June 16, 1997)

The Washington State Library Commission will hold a special meeting as follows:

DATE: Monday, June 23, 1997
 TIME: 10:00 a.m. - noon
 LOCATION: Cherberg Building - Senate Hearing Room 2
 Olympia, Washington
 SUBJECT: Proposal to change the manner in which the state library uses federal moneys within the

MISCELLANEOUS

Washington State Library to deliver programs and services to libraries.

Purpose of the Meeting: To discuss a proposal to change the way the state library uses federal moneys within the Washington State Library to deliver programs and services to libraries.

Elements of the Proposal: To take federal funding from these current services . . . Consulting, advocacy, representation of libraries with various groups; interlibrary lending from the Washington State Library collection; publications for libraries; library statistics; training of library staff and trustees; and materials purchased for residents of state supported institutions . . . and make an exchange, dollar for dollar, with state funds in the current state/federal mix of funding for the contract with Seattle Public Library for the Washington Talking Book and Braille Library.

The commission is seeking input from anyone who has an opinion, a perception, or information to offer on this issue. The commission's intent is to consider all opinions, perceptions, and information before directing the state library in its use of federal funds within its own budget, including the contract with Seattle Public Library for the Washington Talking Book and Braille Library.

For further information, please contact Nancy Zussy, State Librarian, at Washington State Library, P.O. Box 42460, Olympia, WA 98504-2460, voice (360) 753-2915, FAX (360) 586-7575, e-mail nzussy@statelib.wa.gov.

WSR 97-13-068
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE
 [Memorandum—June 16, 1997]

At their June 12, 1997, regular meeting, the board of trustees of Community College District 24, adopted the following 1997-98 board meeting schedule.

Regular Meeting Schedule
 1997-98

DATE	TIME
Tuesday, July 15, 1997	1:30 p.m.
Thursday, July 24, 1997 (special meeting)	4:30 p.m.
Thursday, September 11, 1997	3:00 p.m.
Thursday, October 9, 1997	3:00 p.m.
Thursday, November 13, 1997	3:00 p.m.
Thursday, December 11, 1997	3:00 p.m.
Thursday, January 8, 1998	3:00 p.m.
Thursday, February 12, 1998	3:00 p.m.
Thursday, March 12, 1998	3:00 p.m.
Thursday, April 9, 1998	3:00 p.m.
Thursday, May 14, 1998	3:00 p.m.
Thursday, June 11, 1998	3:00 p.m.

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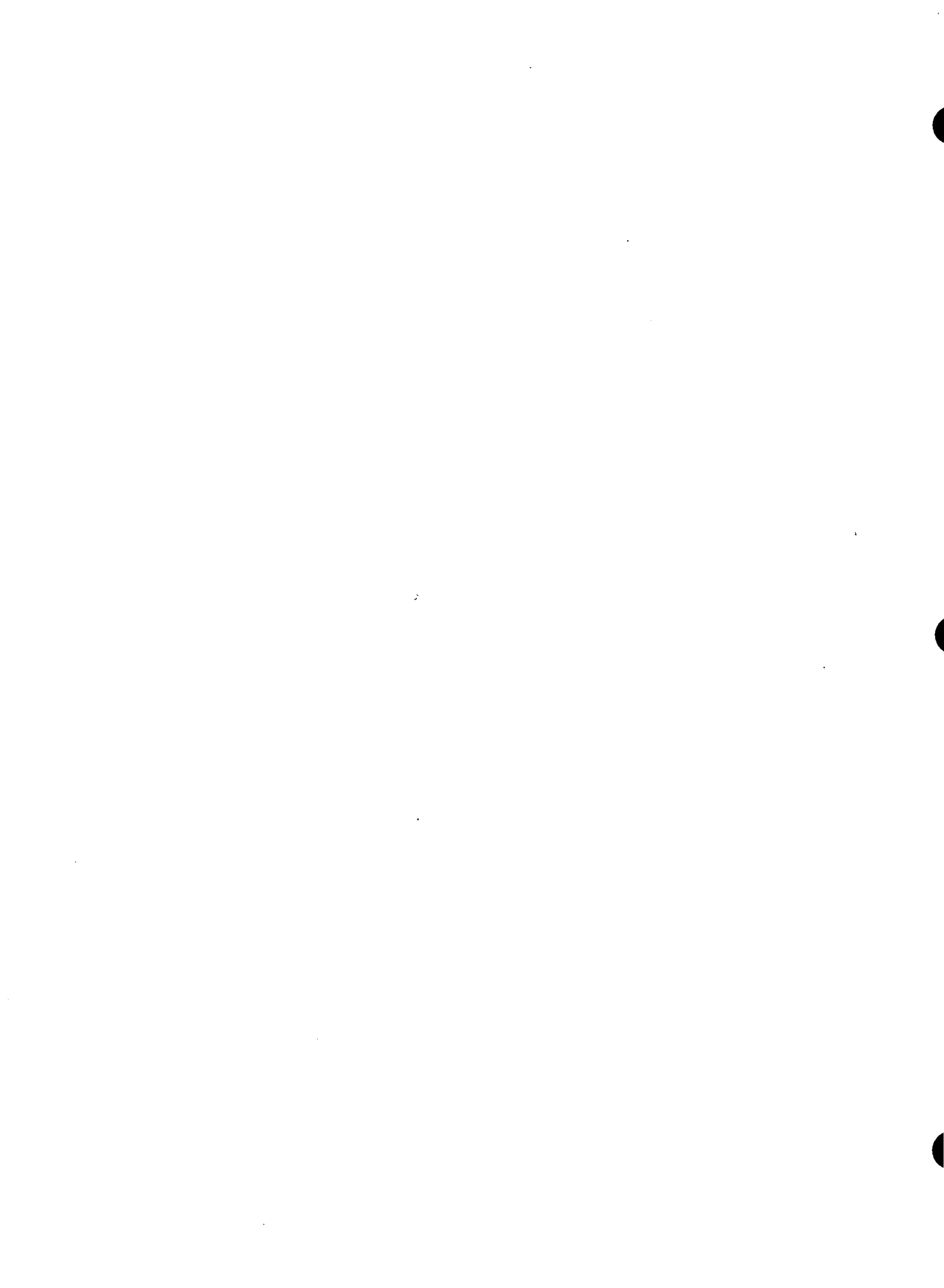


Table of WAC Sections Affected

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 #
1-21-010	AMD-P	97-12-068	16-324-400	REP-P	97-07-075	16-324-620	REP	97-11-028
1-21-020	AMD-P	97-12-068	16-324-400	REP	97-11-028	16-324-630	REP-P	97-07-075
1-21-070	AMD-P	97-12-068	16-324-401	NEW-P	97-07-075	16-324-630	REP	97-11-028
1-21-170	AMD-P	97-12-068	16-324-401	NEW	97-11-028	16-324-650	REP-P	97-07-075
1-21-180	AMD-P	97-12-068	16-324-402	NEW-P	97-07-075	16-324-650	REP	97-11-028
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
16-162	PREP	97-04-065	16-324-410	REP-P	97-07-075	16-324-670	REP	97-11-028
16-218-02001	AMD	97-05-003	16-324-410	REP	97-11-028	16-324-680	REP-P	97-07-075
16-230-835	AMD-P	97-02-094	16-324-420	AMD-P	97-07-075	16-324-680	REP	97-11-028
16-230-835	AMD-W	97-06-003	16-324-420	AMD	97-11-028	16-409-020	AMD-S	97-02-098
16-230-862	AMD-P	97-02-094	16-324-430	REP-P	97-07-075	16-409-020	AMD	97-05-054
16-230-862	AMD-W	97-06-003	16-324-430	REP	97-11-028	16-459-010	AMD-E	97-03-063
16-316-474	AMD-P	97-11-050	16-324-431	NEW-P	97-07-075	16-470-100	AMD-P	97-04-089
16-316-715	AMD-P	97-11-050	16-324-431	NEW	97-11-028	16-470-100	AMD	97-09-098
16-316-724	AMD-P	97-11-050	16-324-435	REP-P	97-07-075	16-473-001	NEW-P	97-04-090
16-324-360	REP-P	97-07-075	16-324-435	REP	97-11-028	16-473-001	NEW-W	97-05-058
16-324-360	REP	97-11-028	16-324-445	REP-P	97-07-075	16-473-001	NEW-P	97-05-059
16-324-361	NEW-P	97-07-075	16-324-445	REP	97-11-028	16-473-001	NEW	97-11-015
16-324-361	NEW	97-11-028	16-324-446	NEW-P	97-07-075	16-473-010	NEW-P	97-04-090
16-324-370	AMD-P	97-07-075	16-324-446	NEW	97-11-028	16-473-010	NEW-W	97-05-058
16-324-370	AMD	97-11-028	16-324-450	REP-P	97-07-075	16-473-010	NEW-P	97-05-059
16-324-375	AMD-P	97-07-075	16-324-450	REP	97-11-028	16-473-010	NEW	97-11-015
16-324-375	AMD	97-11-028	16-324-460	REP-P	97-07-075	16-473-015	NEW-P	97-04-090
16-324-380	REP-P	97-07-075	16-324-460	REP	97-11-028	16-473-015	NEW-W	97-05-058
16-324-380	REP	97-11-028	16-324-470	REP-P	97-07-075	16-473-015	NEW-P	97-05-059
16-324-381	NEW-P	97-07-075	16-324-470	REP	97-11-028	16-473-015	NEW	97-11-015
16-324-381	NEW	97-11-028	16-324-480	REP-P	97-07-075	16-473-020	NEW-P	97-04-090
16-324-382	NEW-P	97-07-075	16-324-480	REP	97-11-028	16-473-020	NEW-W	97-05-058
16-324-382	NEW	97-11-028	16-324-490	REP-P	97-07-075	16-473-020	NEW-P	97-05-059
16-324-390	REP-P	97-07-075	16-324-490	REP	97-11-028	16-473-020	NEW	97-11-015
16-324-390	REP	97-11-028	16-324-500	REP-P	97-07-075	16-473-025	NEW-P	97-04-090
16-324-391	NEW-P	97-07-075	16-324-500	REP	97-11-028	16-473-025	NEW-W	97-05-058
16-324-391	NEW	97-11-028	16-324-510	REP-P	97-07-075	16-473-025	NEW-P	97-05-059
16-324-392	NEW-P	97-07-075	16-324-510	REP	97-11-028	16-473-025	NEW	97-11-015
16-324-392	NEW	97-11-028	16-324-520	REP-P	97-07-075	16-532	PREP	97-05-067
16-324-393	NEW-P	97-07-075	16-324-520	REP	97-11-028	16-532-010	AMD-P	97-09-095
16-324-393	NEW	97-11-028	16-324-530	REP-P	97-07-075	16-532-040	AMD-P	97-09-095
16-324-394	NEW-P	97-07-075	16-324-530	REP	97-11-028	16-532-110	AMD-P	97-09-095
16-324-394	NEW	97-11-028	16-324-540	REP-P	97-07-075	16-532-120	AMD-P	97-09-095
16-324-395	NEW-P	97-07-075	16-324-540	REP	97-11-028	16-536-040	PREP	97-08-083
16-324-395	NEW	97-11-028	16-324-600	REP-P	97-07-075	16-536-040	AMD-P	97-11-085
16-324-396	NEW-P	97-07-075	16-324-600	REP	97-11-028	16-573-010	NEW-P	97-11-084
16-324-396	NEW	97-11-028	16-324-605	REP-P	97-07-075	16-573-020	NEW-P	97-11-084
16-324-397	NEW-P	97-07-075	16-324-605	REP	97-11-028	16-573-030	NEW-P	97-11-084
16-324-397	NEW	97-11-028	16-324-610	REP-P	97-07-075	16-573-040	NEW-P	97-11-084
16-324-398	NEW-P	97-07-075	16-324-610	REP	97-11-028	16-573-041	NEW-P	97-11-084
16-324-398	NEW	97-11-028	16-324-620	REP-P	97-07-075	16-573-050	NEW-P	97-11-084

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-573-060	NEW-P	97-11-084	51-32	PREP	97-03-086	132N-120-140	NEW-P	97-10-018
16-573-070	NEW-P	97-11-084	51-32-1119	NEW-W	97-09-042	132N-120-150	NEW-P	97-10-018
16-573-080	NEW-P	97-11-084	51-34	PREP	97-03-086	132N-120-160	NEW-P	97-10-018
16-580	PREP	97-10-098	82-50-021	AMD-P	97-10-079	132N-120-170	NEW-P	97-10-018
16-662	AMD-P	97-09-080	82-50-021	AMD	97-13-064	132N-120-180	NEW-P	97-10-018
16-662	AMD	97-12-075	112-10-010	NEW-E	97-13-061	132P-116	PREP	97-10-076
16-662-070	REP-P	97-09-080	112-10-020	NEW-E	97-13-061	132V-12-003	REP-P	97-03-128
16-662-070	REP	97-12-075	112-10-030	NEW-E	97-13-061	132V-12-003	REP	97-07-048
16-662-071	REP-P	97-09-080	112-10-040	NEW-E	97-13-061	132V-12-006	REP-P	97-03-128
16-662-071	REP	97-12-075	112-10-050	NEW-E	97-13-061	132V-12-006	REP	97-07-048
16-662-100	NEW-P	97-09-080	112-10-060	NEW-E	97-13-061	132V-12-009	REP-P	97-03-128
16-662-100	NEW	97-12-075	131-16	AMD-C	97-07-007	132V-12-009	REP	97-07-048
16-662-105	NEW-P	97-09-080	131-16-010	AMD-E	97-07-006	132V-12-012	REP-P	97-03-128
16-662-105	NEW	97-12-075	131-16-010	AMD	97-10-069	132V-12-012	REP	97-07-048
16-662-110	NEW-P	97-09-080	131-16-011	AMD-E	97-07-006	132V-12-015	REP-P	97-03-128
16-662-110	NEW	97-12-075	131-16-011	AMD	97-10-069	132V-12-015	REP	97-07-048
16-662-115	NEW-P	97-09-080	131-16-021	AMD-E	97-07-006	132V-12-018	REP-P	97-03-128
16-662-115	NEW	97-12-075	131-16-021	AMD	97-10-069	132V-12-018	REP	97-07-048
16-664-010	NEW-P	97-09-102	131-16-050	AMD-E	97-07-006	132V-12-021	REP-P	97-03-128
16-664-010	NEW	97-12-076	131-16-050	AMD	97-10-069	132V-12-021	REP	97-07-048
16-664-020	NEW-P	97-09-102	131-16-060	AMD-E	97-07-006	132V-12-024	REP-P	97-03-128
16-664-020	NEW	97-12-076	131-16-060	AMD	97-10-069	132V-12-024	REP	97-07-048
16-664-030	NEW-P	97-09-102	132E-111-010	PREP	97-08-080	132V-12-027	REP-P	97-03-128
16-664-030	NEW	97-12-076	132E-121-010	PREP	97-08-080	132V-12-027	REP	97-07-048
16-664-040	NEW-P	97-09-102	132E-121-010	AMD-P	97-11-068	132V-12-030	REP-P	97-03-128
16-664-040	NEW	97-12-076	132E-133-020	PREP	97-08-081	132V-12-030	REP	97-07-048
16-664-050	NEW-P	97-09-102	132E-133-020	AMD-P	97-11-069	132V-12-033	REP-P	97-03-128
16-664-050	NEW	97-12-076	132K-04	AMD-P	97-07-018	132V-12-033	REP	97-07-048
16-664-060	NEW-P	97-09-102	132K-04	AMD	97-12-071	132V-12-036	REP-P	97-03-128
16-664-060	NEW	97-12-076	132K-04-001	AMD-P	97-07-018	132V-12-036	REP	97-07-048
16-675-010	AMD-P	97-09-103	132K-04-001	AMD	97-12-071	132V-12-039	REP-P	97-03-128
16-675-010	AMD	97-12-024	132K-04-010	AMD-P	97-07-018	132V-12-039	REP	97-07-048
16-675-020	AMD-P	97-09-103	132K-04-010	AMD	97-12-071	132V-12-042	REP-P	97-03-128
16-675-020	AMD	97-12-024	132K-04-020	AMD-P	97-07-018	132V-12-042	REP	97-07-048
16-675-030	AMD-P	97-09-103	132K-04-020	AMD	97-12-071	132V-12-045	REP-P	97-03-128
16-675-030	AMD	97-12-024	132K-04-030	AMD-P	97-07-018	132V-12-045	REP	97-07-048
16-675-040	AMD-P	97-09-103	132K-04-030	AMD	97-12-071	132V-12-048	REP-P	97-03-128
16-675-040	AMD	97-12-024	132K-04-050	AMD-P	97-07-018	132V-12-048	REP	97-07-048
16-695-005	NEW-E	97-04-020	132K-04-050	AMD	97-12-071	132V-12-051	REP-P	97-03-128
16-695-010	NEW-E	97-04-020	132K-04-070	REP-P	97-07-018	132V-12-051	REP	97-07-048
16-695-015	NEW-E	97-04-020	132K-04-070	REP	97-12-071	132V-12-054	REP-P	97-03-128
16-695-020	NEW-E	97-04-020	132K-04-080	AMD-P	97-07-018	132V-12-054	REP	97-07-048
16-695-025	NEW-E	97-04-020	132K-04-080	AMD	97-12-071	132V-12-057	REP-P	97-03-128
16-695-030	NEW-E	97-04-020	132K-04-110	AMD-P	97-07-018	132V-12-057	REP	97-07-048
16-695-035	NEW-E	97-04-020	132K-04-110	AMD	97-12-071	132V-12-060	REP-P	97-03-128
16-695-040	NEW-E	97-04-020	132K-04-130	AMD-P	97-07-018	132V-12-060	REP	97-07-048
16-695-045	NEW-E	97-04-020	132K-04-130	AMD	97-12-071	132V-12-063	REP-P	97-03-128
16-695-050	NEW-E	97-04-020	132K-08-010	REP-P	97-07-017	132V-12-063	REP	97-07-048
16-695-055	NEW-E	97-04-020	132K-08-010	REP	97-12-070	132V-12-066	REP-P	97-03-128
16-695-060	NEW-E	97-04-020	132N-20	PREP	97-06-008	132V-12-066	REP	97-07-048
16-695-065	NEW-E	97-04-020	132N-20-010	REP-P	97-10-018	132V-12-069	REP-P	97-03-128
16-695-070	NEW-E	97-04-020	132N-20-020	REP-P	97-10-018	132V-12-069	REP	97-07-048
16-695-075	NEW-E	97-04-020	132N-20-030	REP-P	97-10-018	132V-12-072	REP-P	97-03-128
16-695-080	NEW-E	97-04-020	132N-20-040	REP-P	97-10-018	132V-12-072	REP	97-07-048
16-700-010	AMD	97-04-078	132N-20-050	REP-P	97-10-018	132V-12-075	REP-P	97-03-128
16-700-021	AMD-S	97-04-077	132N-20-060	REP-P	97-10-018	132V-12-075	REP	97-07-048
16-700-021	AMD	97-04-078	132N-20-070	REP-P	97-10-018	132V-12-078	REP-P	97-03-128
16-700-021	AMD-C	97-09-025	132N-20-080	REP-P	97-10-018	132V-12-078	REP	97-07-048
16-700-021	AMD	97-12-028	132N-20-090	REP-P	97-10-018	132V-12-084	REP-P	97-03-128
16-700-040	AMD	97-04-078	132N-120-010	NEW-P	97-10-018	132V-12-084	REP	97-07-048
16-700-050	AMD	97-04-078	132N-120-020	NEW-P	97-10-018	132V-12-087	REP-P	97-03-128
16-700-060	AMD	97-04-078	132N-120-030	NEW-P	97-10-018	132V-12-087	REP	97-07-048
16-700-080	AMD	97-04-078	132N-120-040	NEW-P	97-10-018	132V-12-096	REP-P	97-03-128
16-750	PREP	97-12-019	132N-120-050	NEW-P	97-10-018	132V-12-096	REP	97-07-048
16-750-003	AMD	97-06-108	132N-120-060	NEW-P	97-10-018	132V-12-120	REP-P	97-03-128
16-750-011	AMD	97-06-108	132N-120-065	NEW-P	97-10-018	132V-12-120	REP	97-07-048
16-750-015	AMD	97-06-108	132N-120-070	NEW-P	97-10-018	132V-12-144	REP-P	97-03-128
16-750-020	AMD	97-06-108	132N-120-080	NEW-P	97-10-018	132V-12-144	REP	97-07-048
16-750-130	AMD	97-06-108	132N-120-090	NEW-P	97-10-018	132V-12-147	REP-P	97-03-128
51-11-1210	AMD	97-03-017	132N-120-100	NEW-P	97-10-018	132V-12-147	REP	97-07-048
51-11-1301	AMD	97-03-017	132N-120-110	NEW-P	97-10-018	132V-12-150	REP-P	97-03-128
51-26	PREP	97-06-107	132N-120-120	NEW-P	97-10-018	132V-12-150	REP	97-07-048
51-27	PREP	97-06-107	132N-120-130	NEW-P	97-10-018	132V-12-153	REP-P	97-03-128

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132V-12-153	REP	97-07-048	132V-12-273	REP-P	97-03-128	132V-12-380	REP	97-07-048
132V-12-165	REP-P	97-03-128	132V-12-273	REP	97-07-048	132V-12-383	REP-P	97-03-128
132V-12-165	REP	97-07-048	132V-12-276	REP-P	97-03-128	132V-12-383	REP	97-07-048
132V-12-168	REP-P	97-03-128	132V-12-276	REP	97-07-048	132V-12-386	REP-P	97-03-128
132V-12-168	REP	97-07-048	132V-12-279	REP-P	97-03-128	132V-12-386	REP	97-07-048
132V-12-171	REP-P	97-03-128	132V-12-279	REP	97-07-048	132V-12-389	REP-P	97-03-128
132V-12-171	REP	97-07-048	132V-12-281	REP-P	97-03-128	132V-12-389	REP	97-07-048
132V-12-174	REP-P	97-03-128	132V-12-281	REP	97-07-048	132V-12-392	REP-P	97-03-128
132V-12-174	REP	97-07-048	132V-12-284	REP-P	97-03-128	132V-12-392	REP	97-07-048
132V-12-177	REP-P	97-03-128	132V-12-284	REP	97-07-048	132V-12-398	REP-P	97-03-128
132V-12-177	REP	97-07-048	132V-12-287	REP-P	97-03-128	132V-12-398	REP	97-07-048
132V-12-180	REP-P	97-03-128	132V-12-287	REP	97-07-048	132V-12-401	REP-P	97-03-128
132V-12-180	REP	97-07-048	132V-12-290	REP-P	97-03-128	132V-12-401	REP	97-07-048
132V-12-183	REP-P	97-03-128	132V-12-290	REP	97-07-048	132V-12-404	REP-P	97-03-128
132V-12-183	REP	97-07-048	132V-12-293	REP-P	97-03-128	132V-12-404	REP	97-07-048
132V-12-186	REP-P	97-03-128	132V-12-293	REP	97-07-048	132V-12-407	REP-P	97-03-128
132V-12-186	REP	97-07-048	132V-12-296	REP-P	97-03-128	132V-12-407	REP	97-07-048
132V-12-189	REP-P	97-03-128	132V-12-296	REP	97-07-048	132V-12-410	REP-P	97-03-128
132V-12-189	REP	97-07-048	132V-12-299	REP-P	97-03-128	132V-12-410	REP	97-07-048
132V-12-192	REP-P	97-03-128	132V-12-299	REP	97-07-048	132V-12-413	REP-P	97-03-128
132V-12-192	REP	97-07-048	132V-12-302	REP-P	97-03-128	132V-12-413	REP	97-07-048
132V-12-195	REP-P	97-03-128	132V-12-302	REP	97-07-048	132V-12-416	REP-P	97-03-128
132V-12-195	REP	97-07-048	132V-12-305	REP-P	97-03-128	132V-12-416	REP	97-07-048
132V-12-198	REP-P	97-03-128	132V-12-305	REP	97-07-048	132V-12-419	REP-P	97-03-128
132V-12-198	REP	97-07-048	132V-12-308	REP-P	97-03-128	132V-12-419	REP	97-07-048
132V-12-201	REP-P	97-03-128	132V-12-308	REP	97-07-048	132V-12-422	REP-P	97-03-128
132V-12-201	REP	97-07-048	132V-12-311	REP-P	97-03-128	132V-12-422	REP	97-07-048
132V-12-204	REP-P	97-03-128	132V-12-311	REP	97-07-048	132V-12-425	REP-P	97-03-128
132V-12-204	REP	97-07-048	132V-12-314	REP-P	97-03-128	132V-12-425	REP	97-07-048
132V-12-207	REP-P	97-03-128	132V-12-314	REP	97-07-048	132V-12-428	REP-P	97-03-128
132V-12-207	REP	97-07-048	132V-12-317	REP-P	97-03-128	132V-12-428	REP	97-07-048
132V-12-210	REP-P	97-03-128	132V-12-317	REP	97-07-048	132V-12-431	REP-P	97-03-128
132V-12-210	REP	97-07-048	132V-12-320	REP-P	97-03-128	132V-12-431	REP	97-07-048
132V-12-213	REP-P	97-03-128	132V-12-320	REP	97-07-048	132V-12-434	REP-P	97-03-128
132V-12-213	REP	97-07-048	132V-12-323	REP-P	97-03-128	132V-12-434	REP	97-07-048
132V-12-216	REP-P	97-03-128	132V-12-323	REP	97-07-048	136-130-060	AMD	97-06-006
132V-12-216	REP	97-07-048	132V-12-326	REP-P	97-03-128	137-28-140	AMD	97-03-041
132V-12-219	REP-P	97-03-128	132V-12-326	REP	97-07-048	137-28-160	AMD	97-03-041
132V-12-219	REP	97-07-048	132V-12-329	REP-P	97-03-128	137-28-220	AMD	97-03-041
132V-12-222	REP-P	97-03-128	132V-12-329	REP	97-07-048	137-28-260	AMD	97-03-041
132V-12-222	REP	97-07-048	132V-12-332	REP-P	97-03-128	137-28-350	AMD	97-03-041
132V-12-225	REP-P	97-03-128	132V-12-332	REP	97-07-048	137-55-010	NEW	97-03-041
132V-12-225	REP	97-07-048	132V-12-335	REP-P	97-03-128	137-55-020	NEW	97-03-041
132V-12-228	REP-P	97-03-128	132V-12-335	REP	97-07-048	137-55-030	NEW	97-03-041
132V-12-228	REP	97-07-048	132V-12-338	REP-P	97-03-128	137-55-040	NEW	97-03-041
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
132V-12-234	REP-P	97-03-128	132V-12-341	REP	97-07-048	172-120-015	NEW	97-06-095
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	173-95A-010	NEW-E	97-12-022
132V-12-270	REP-P	97-03-128	132V-12-377	REP	97-07-048	173-95A-020	NEW-E	97-12-022
132V-12-270	REP	97-07-048	132V-12-380	REP-P	97-03-128	173-95A-030	NEW-E	97-12-022

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-95A-040	NEW-E	97-12-022	174-276-010	AMD-P	97-09-084	180-77A-030	NEW	97-04-087
173-95A-050	NEW-E	97-12-022	174-276-010	AMD	97-13-047	180-77A-033	NEW	97-04-087
173-152-010	NEW-E	97-10-091	174-276-040	AMD-P	97-09-084	180-77A-037	NEW	97-04-087
173-152-020	NEW-E	97-10-091	174-276-040	AMD	97-13-047	180-77A-040	NEW	97-04-087
173-152-030	NEW-E	97-10-091	174-276-050	AMD-P	97-09-084	180-77A-057	NEW	97-04-087
173-152-040	NEW-E	97-10-091	174-276-050	AMD	97-13-047	180-77A-165	NEW	97-04-087
173-152-050	NEW-E	97-10-091	174-276-060	AMD-P	97-09-084	180-77A-170	NEW	97-04-087
173-160	PREP	97-10-093	174-276-060	AMD	97-13-047	180-77A-175	NEW	97-04-087
173-162	PREP	97-10-093	174-276-080	AMD-P	97-09-084	180-77A-180	NEW	97-04-087
173-201A-020	AMD-P	97-12-034	174-276-080	AMD	97-13-047	180-77A-195	NEW	97-04-087
173-201A-030	AMD-P	97-12-034	174-276-090	AMD-P	97-09-084	180-78-205	AMD	97-04-081
173-201A-040	AMD-P	97-12-034	174-276-090	AMD	97-13-047	180-78-207	RECOD	97-04-081
173-201A-050	AMD-P	97-12-034	174-276-095	NEW-P	97-09-084	180-78-215	AMD	97-04-081
173-201A-060	AMD-P	97-12-034	174-276-095	NEW	97-13-047	180-78-217	RECOD	97-04-081
173-201A-110	AMD-P	97-12-034	180-16	PREP	97-10-014	180-78-235	AMD	97-04-081
173-201A-130	AMD-P	97-12-034	180-16-221	AMD	97-04-083	180-78-237	RECOD	97-04-081
173-201A-140	AMD-P	97-12-034	180-16-222	AMD	97-04-083	180-78-285	AMD	97-04-081
173-201A-160	AMD-P	97-12-034	180-16-223	REP	97-04-083	180-78A	PREP	97-10-007
173-202-020	AMD-E	97-05-039	180-16-224	REP	97-04-083	180-78A	PREP	97-10-013
173-202-020	PREP	97-08-038	180-16-236	PREP	97-10-008	180-78A-003	NEW	97-04-084
173-202-020	AMD-E	97-13-036	180-24	PREP	97-09-032	180-78A-004	NEW	97-04-084
173-303	PREP	97-04-062	180-24-410	AMD-P	97-13-096	180-78A-005	NEW	97-04-084
173-401-735	AMD-P	97-04-061	180-24-415	AMD-P	97-13-096	180-78A-006	NEW	97-04-084
173-401-735	AMD	97-08-084	180-27-056	PREP	97-09-115	180-78A-007	NEW	97-04-084
173-430-040	AMD	97-03-021	180-33-025	PREP	97-09-116	180-78A-010	NEW	97-04-084
173-490	PREP	97-09-018	180-40-260	AMD-P	97-04-067	180-78A-010	PREP	97-10-006
173-491	PREP	97-09-018	180-40-260	AMD	97-08-019	180-78A-012	NEW	97-04-084
173-491-020	AMD	97-04-012	180-40-310	AMD-P	97-04-067	180-78A-015	NEW	97-04-084
173-491-040	AMD	97-04-012	180-40-310	AMD	97-08-019	180-78A-025	NEW	97-04-084
173-491-050	AMD	97-04-012	180-51-050	AMD-P	97-04-066	180-78A-026	NEW	97-04-084
173-500	PREP	97-13-074	180-51-050	AMD	97-08-020	180-78A-028	NEW	97-04-084
173-531A	PREP	97-12-092	180-75-003	REP	97-04-088	180-78A-030	NEW	97-04-084
173-563-090	PREP	97-12-092	180-75-005	REP	97-04-088	180-78A-033	NEW	97-04-084
174-116	PREP	97-05-044	180-75-016	REP	97-04-088	180-78A-037	NEW	97-04-084
174-122	PREP	97-05-044	180-75-017	REP	97-04-088	180-78A-047	NEW	97-04-084
174-122-010	REP-P	97-09-084	180-75-045	REP	97-04-088	180-78A-057	NEW	97-04-084
174-122-010	REP	97-13-047	180-75-047	REP	97-04-088	180-78A-060	NEW	97-04-084
174-122-020	REP-P	97-09-084	180-75-048	REP	97-04-088	180-78A-063	NEW	97-04-084
174-122-020	REP	97-13-047	180-75-050	REP	97-04-088	180-78A-065	NEW	97-04-084
174-122-030	REP-P	97-09-084	180-75-055	REP	97-04-088	180-78A-068	NEW	97-04-084
174-122-030	REP	97-13-047	180-75-060	REP	97-04-088	180-78A-073	NEW	97-04-084
174-122-040	REP-P	97-09-084	180-75-061	REP	97-04-088	180-78A-074	NEW	97-04-084
174-122-040	REP	97-13-047	180-75-065	REP	97-04-088	180-78A-075	NEW	97-04-084
174-130	PREP	97-05-044	180-75-070	REP	97-04-088	180-78A-080	NEW	97-04-084
174-130-010	REP-P	97-09-084	180-75-081	DECOD	97-04-082	180-78A-135	NEW	97-04-084
174-130-010	REP	97-13-047	180-75-082	REP	97-04-088	180-78A-140	NEW	97-04-084
174-130-020	REP-P	97-09-084	180-75-083	DECOD	97-04-082	180-78A-142	NEW	97-04-084
174-130-020	REP	97-13-047	180-75-085	REP	97-04-088	180-78A-145	NEW	97-04-084
174-133	PREP	97-05-044	180-75-087	REP	97-04-088	180-78A-150	NEW	97-04-084
174-133-020	AMD-P	97-09-084	180-75-088	REP	97-04-088	180-78A-155	NEW	97-04-084
174-133-020	AMD	97-13-047	180-75-089	REP	97-04-088	180-78A-160	NEW	97-04-084
174-140	PREP	97-05-044	180-75-090	REP	97-04-088	180-78A-165	NEW	97-04-084
174-140-010	NEW-P	97-09-084	180-75-091	REP	97-04-088	180-78A-195	NEW	97-04-084
174-140-010	NEW	97-13-047	180-75-092	REP	97-04-088	180-78A-197	NEW	97-04-084
174-140-180	REP-P	97-09-084	180-75-100	REP	97-04-088	180-78A-201	NEW	97-04-084
174-140-180	REP	97-13-047	180-75-110	REP	97-04-088	180-78A-260	NEW	97-04-084
174-140-190	REP-P	97-09-084	180-77	PREP	97-10-016	180-78A-265	NEW	97-04-084
174-140-190	REP	97-13-047	180-77-003	AMD	97-04-085	180-78A-266	NEW	97-04-084
174-140-200	REP-P	97-09-084	180-77-031	AMD	97-04-085	180-78A-300	NEW	97-04-084
174-140-200	REP	97-13-047	180-77-041	AMD	97-04-085	180-78A-301	NEW	97-04-084
174-140-210	REP-P	97-09-084	180-77-120	AMD	97-04-085	180-78A-302	NEW	97-04-084
174-140-210	REP	97-13-047	180-77A-003	NEW	97-04-087	180-78A-303	NEW	97-04-084
174-140-220	REP-P	97-09-084	180-77A-004	NEW	97-04-087	180-78A-304	NEW	97-04-084
174-140-220	REP	97-13-047	180-77A-006	NEW	97-04-087	180-78A-305	NEW	97-04-084
174-140-230	REP-P	97-09-084	180-77A-012	NEW	97-04-087	180-78A-306	NEW	97-04-084
174-140-230	REP	97-13-047	180-77A-014	NEW	97-04-087	180-78A-320	NEW	97-04-084
174-140-240	REP-P	97-09-084	180-77A-016	NEW	97-04-087	180-78A-340	NEW	97-04-084
174-140-240	REP	97-13-047	180-77A-018	NEW	97-04-087	180-78A-345	NEW	97-04-084
174-276	PREP	97-05-044	180-77A-020	NEW	97-04-087	180-78A-350	NEW	97-04-084
174-276	AMD-P	97-09-084	180-77A-025	NEW	97-04-087	180-78A-355	NEW	97-04-084
174-276	AMD	97-13-047	180-77A-026	NEW	97-04-087	180-78A-360	NEW	97-04-084
174-276-005	NEW-P	97-09-084	180-77A-028	NEW	97-04-087	180-78A-365	NEW	97-04-084
174-276-005	NEW	97-13-047	180-77A-029	NEW	97-04-087	180-79-003	REP	97-04-088

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180-79-005	REP	97-04-088	180-79-379	REP	97-04-088	180-79A-348	NEW	97-04-088
180-79-010	REP	97-04-088	180-79-380	REP	97-04-088	180-79A-350	NEW	97-04-088
180-79-031	REP	97-04-088	180-79-382	REP	97-04-088	180-79A-352	NEW	97-04-088
180-79-032	REP	97-04-088	180-79-384	REP	97-04-088	180-79A-354	NEW	97-04-088
180-79-035	REP	97-04-088	180-79-386	REP	97-04-088	180-79A-356	NEW	97-04-088
180-79-041	REP	97-04-088	180-79-388	REP	97-04-088	180-79A-358	NEW	97-04-088
180-79-045	REP	97-04-088	180-79-390	REP	97-04-088	180-79A-360	NEW	97-04-088
180-79-047	REP	97-04-088	180-79-392	REP	97-04-088	180-79A-362	NEW	97-04-088
180-79-049	REP	97-04-088	180-79-394	REP	97-04-088	180-79A-364	NEW	97-04-088
180-79-060	REP	97-04-088	180-79-396	REP	97-04-088	180-79A-366	NEW	97-04-088
180-79-062	REP	97-04-088	180-79-398	REP	97-04-088	180-79A-368	NEW	97-04-088
180-79-063	REP	97-04-088	180-79A	PREP	97-09-015	180-79A-370	NEW	97-04-088
180-79-065	REP	97-04-088	180-79A-003	NEW	97-04-088	180-79A-372	NEW	97-04-088
180-79-075	REP	97-04-088	180-79A-005	NEW	97-04-088	180-79A-374	NEW	97-04-088
180-79-080	REP	97-04-088	180-79A-010	NEW	97-04-088	180-79A-376	NEW	97-04-088
180-79-086	REP	97-04-088	180-79A-012	NEW	97-04-088	180-79A-378	NEW	97-04-088
180-79-115	REP	97-04-088	180-79A-013	NEW	97-04-088	180-79A-379	NEW	97-04-088
180-79-117	REP	97-04-088	180-79A-015	NEW	97-04-088	180-79A-380	NEW	97-04-088
180-79-120	REP	97-04-088	180-79A-020	NEW	97-04-088	180-79A-382	NEW	97-04-088
180-79-121	REP	97-04-088	180-79A-022	NEW	97-04-088	180-79A-384	NEW	97-04-088
180-79-122	REP	97-04-088	180-79A-025	NEW	97-04-088	180-79A-386	NEW	97-04-088
180-79-123	REP	97-04-088	180-79A-101	NEW	97-04-088	180-79A-388	NEW	97-04-088
180-79-124	REP	97-04-088	180-79A-105	NEW	97-04-088	180-79A-390	NEW	97-04-088
180-79-125	REP	97-04-088	180-79A-110	NEW	97-04-088	180-79A-392	NEW	97-04-088
180-79-126	REP	97-04-088	180-79A-115	NEW	97-04-088	180-79A-394	NEW	97-04-088
180-79-127	REP	97-04-088	180-79A-117	NEW	97-04-088	180-79A-396	NEW	97-04-088
180-79-128	REP	97-04-088	180-79A-120	NEW	97-04-088	180-79A-398	NEW	97-04-088
180-79-131	DECOD	97-04-081	180-79A-122	NEW	97-04-088	180-79A-403	NEW	97-04-088
180-79-136	DECOD	97-04-081	180-79A-125	NEW	97-04-088	180-79A-405	NEW	97-04-088
180-79-140	DECOD	97-04-081	180-79A-126	NEW	97-04-088	180-79A-415	NEW	97-04-088
180-79-230	REP	97-04-088	180-79A-130	NEW	97-04-088	180-79A-417	NEW	97-04-088
180-79-236	REP	97-04-088	180-79A-131	NEW	97-04-088	180-79A-420	NEW	97-04-088
180-79-241	REP	97-04-088	180-79A-140	NEW	97-04-088	180-79A-422	NEW	97-04-088
180-79-245	REP	97-04-088	180-79A-150	NEW	97-04-088	180-79A-423	NEW	97-04-088
180-79-247	REP	97-04-088	180-79A-160	NEW	97-04-088	180-79A-424	NEW	97-04-088
180-79-300	REP	97-04-088	180-79A-161	NEW	97-04-088	180-79A-430	NEW	97-04-088
180-79-303	REP	97-04-088	180-79A-165	NEW	97-04-088	180-79A-433	NEW	97-04-088
180-79-305	REP	97-04-088	180-79A-170	NEW	97-04-088	180-79A-435	NEW	97-04-088
180-79-311	REP	97-04-088	180-79A-200	NEW	97-04-088	180-79A-440	NEW	97-04-088
180-79-312	REP	97-04-088	180-79A-205	NEW	97-04-088	180-79A-445	NEW	97-04-088
180-79-315	REP	97-04-088	180-79A-210	NEW	97-04-088	180-79A-503	NEW	97-04-088
180-79-317	REP	97-04-088	180-79A-215	NEW	97-04-088	180-79A-510	NEW	97-04-088
180-79-320	REP	97-04-088	180-79A-220	NEW	97-04-088	180-79A-515	NEW	97-04-088
180-79-322	REP	97-04-088	180-79A-225	NEW	97-04-088	180-79A-517	NEW	97-04-088
180-79-324	REP	97-04-088	180-79A-230	NEW	97-04-088	180-79A-520	NEW	97-04-088
180-79-326	REP	97-04-088	180-79A-230	PREP	97-10-009	180-85	PREP	97-10-011
180-79-328	REP	97-04-088	180-79A-236	NEW	97-04-088	180-85-025	AMD	97-04-086
180-79-330	REP	97-04-088	180-79A-241	NEW	97-04-088	180-85-030	AMD	97-04-086
180-79-332	REP	97-04-088	180-79A-300	NEW	97-04-088	180-85-110	REP	97-04-086
180-79-333	REP	97-04-088	180-79A-302	NEW	97-04-088	180-85-115	REP	97-04-086
180-79-334	REP	97-04-088	180-79A-304	NEW	97-04-088	180-85-120	REP	97-04-086
180-79-336	REP	97-04-088	180-79A-306	NEW	97-04-088	180-85-135	REP	97-04-086
180-79-338	REP	97-04-088	180-79A-308	NEW	97-04-088	180-85-200	AMD	97-04-086
180-79-340	REP	97-04-088	180-79A-310	NEW	97-04-088	180-85-210	AMD	97-04-086
180-79-342	REP	97-04-088	180-79A-311	NEW	97-04-088	180-85-211	NEW	97-04-086
180-79-344	REP	97-04-088	180-79A-312	NEW	97-04-088	180-85-215	AMD	97-04-086
180-79-346	REP	97-04-088	180-79A-315	NEW	97-04-088	180-86-011	NEW	97-04-082
180-79-348	REP	97-04-088	180-79A-317	NEW	97-04-088	180-86-013	RECOD	97-04-082
180-79-350	REP	97-04-088	180-79A-320	NEW	97-04-088	180-86-014	RECOD	97-04-082
180-79-352	REP	97-04-088	180-79A-322	NEW	97-04-088	180-86-080	NEW	97-05-008
180-79-354	REP	97-04-088	180-79A-324	NEW	97-04-088	180-86-080	NEW-W	97-05-043
180-79-356	REP	97-04-088	180-79A-326	NEW	97-04-088	180-86-086	NEW-W	97-05-043
180-79-358	REP	97-04-088	180-79A-328	NEW	97-04-088	180-86-116	NEW	97-05-008
180-79-360	REP	97-04-088	180-79A-330	NEW	97-04-088	180-86-116	NEW-W	97-05-043
180-79-362	REP	97-04-088	180-79A-332	NEW	97-04-088	180-87-070	PREP	97-10-025
180-79-364	REP	97-04-088	180-79A-333	NEW	97-04-088	180-97	PREP	97-10-010
180-79-366	REP	97-04-088	180-79A-334	NEW	97-04-088	180-110	PREP	97-05-027
180-79-368	REP	97-04-088	180-79A-336	NEW	97-04-088	180-110-010	REP-P	97-13-017
180-79-370	REP	97-04-088	180-79A-338	NEW	97-04-088	180-110-015	REP-P	97-13-017
180-79-372	REP	97-04-088	180-79A-340	NEW	97-04-088	180-110-017	REP-P	97-13-017
180-79-374	REP	97-04-088	180-79A-342	NEW	97-04-088	180-110-020	REP-P	97-13-017
180-79-376	REP	97-04-088	180-79A-344	NEW	97-04-088	180-110-030	REP-P	97-13-017
180-79-378	REP	97-04-088	180-79A-346	NEW	97-04-088	180-110-035	REP-P	97-13-017

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180-110-040	REP-P	97-13-017	197-11-535	AMD-P	97-08-085	212-17-215	REP-E	97-11-041
180-110-045	REP-P	97-13-017	197-11-600	AMD-P	97-08-085	212-17-21503	NEW-E	97-11-023
180-110-050	REP-P	97-13-017	197-11-660	AMD-P	97-08-085	212-17-21503	RESCIND	97-11-041
180-110-052	REP-P	97-13-017	197-11-680	AMD-P	97-08-085	212-17-21503	NEW-E	97-11-041
180-110-053	REP-P	97-13-017	197-11-702	AMD-P	97-08-085	212-17-21505	NEW-E	97-11-023
180-110-055	REP-P	97-13-017	197-11-721	NEW-P	97-08-085	212-17-21505	RESCIND	97-11-041
180-110-060	REP-P	97-13-017	197-11-728	AMD-P	97-08-085	212-17-21505	NEW-E	97-11-041
180-110-065	REP-P	97-13-017	197-11-775	NEW-P	97-08-085	212-17-21507	NEW-E	97-11-023
180-115	PREP	97-05-026	197-11-790	AMD-P	97-08-085	212-17-21507	RESCIND	97-11-041
180-115-005	REP-P	97-13-016	197-11-800	AMD-P	97-08-085	212-17-21507	NEW-E	97-11-041
180-115-010	REP-P	97-13-016	197-11-912	AMD-P	97-08-085	212-17-21509	NEW-E	97-11-023
180-115-015	REP-P	97-13-016	197-11-914	AMD-P	97-08-085	212-17-21509	RESCIND	97-11-041
180-115-020	REP-P	97-13-016	197-11-938	AMD-P	97-08-085	212-17-21509	NEW-E	97-11-041
180-115-025	REP-P	97-13-016	197-11-940	AMD-P	97-08-085	212-17-21511	NEW-E	97-11-023
180-115-030	REP-P	97-13-016	197-11-948	AMD-P	97-08-085	212-17-21511	RESCIND	97-11-041
180-115-035	REP-P	97-13-016	197-11-970	AMD-P	97-08-085	212-17-21511	NEW-E	97-11-041
180-115-040	REP-P	97-13-016	204-10-035	NEW	97-03-087	212-17-21513	NEW-E	97-11-023
180-115-045	REP-P	97-13-016	204-10-045	PREP	97-03-042	212-17-21515	NEW-E	97-11-023
180-115-050	REP-P	97-13-016	204-10-045	NEW-P	97-07-036	212-17-21515	RESCIND	97-11-041
180-115-055	REP-P	97-13-016	204-10-045	NEW	97-10-024	212-17-21515	NEW-E	97-11-041
180-115-060	REP-P	97-13-016	204-41-060	PREP	97-03-043	212-17-21517	NEW-E	97-11-041
180-115-065	REP-P	97-13-016	204-41-060	NEW-P	97-07-037	212-17-21519	NEW-E	97-11-023
180-115-075	REP-P	97-13-016	204-41-060	NEW	97-10-023	212-17-21519	RESCIND	97-11-041
180-115-080	REP-P	97-13-016	204-60	AMD	97-04-054	212-17-21519	NEW-E	97-11-041
180-115-081	REP-P	97-13-016	204-60-010	AMD	97-04-054	212-17-21521	NEW-E	97-11-023
180-115-085	REP-P	97-13-016	204-60-030	AMD	97-04-054	212-17-21521	RESCIND	97-11-041
180-115-090	REP-P	97-13-016	204-72-040	PREP	97-06-100	220-20-020	AMD-P	97-04-080
180-115-095	REP-P	97-13-016	204-72-040	AMD-P	97-09-069	220-20-020	AMD	97-07-043
180-115-100	REP-P	97-13-016	204-72-040	AMD	97-12-061	220-20-021	AMD-P	97-04-080
180-115-105	REP-P	97-13-016	204-90-040	AMD	97-04-055	220-20-021	AMD	97-07-043
182-08-160	AMD-E	97-06-071	204-91A-060	AMD-S	97-04-053	220-20-038	AMD	97-08-078
182-08-175	AMD-E	97-06-071	204-91A-060	AMD-E	97-04-056	220-24-02000D	NEW-E	97-10-029
182-12-117	AMD-E	97-06-070	294-91A-060	AMD	97-08-021	220-24-02000D	REP-E	97-10-029
182-25-010	AMD-P	97-08-067	204-91A-140	AMD-S	97-04-053	220-32-05100X	NEW-E	97-04-046
182-25-020	AMD-P	97-08-067	204-91A-140	AMD-E	97-04-056	220-32-05100X	REP-E	97-04-046
182-25-030	AMD-E	97-06-069	204-91A-140	AMD	97-08-021	220-32-05100X	REP-E	97-07-044
182-25-030	AMD-P	97-08-067	204-95-030	NEW	97-03-127	220-32-05100Y	NEW-E	97-07-044
182-25-040	AMD-E	97-06-069	204-95-080	NEW	97-03-127	220-32-05500B	NEW-E	97-08-007
182-25-040	AMD-P	97-08-067	208-440-030	AMD-W	97-03-074	220-32-05500B	REP-E	97-08-007
182-25-090	AMD-E	97-06-069	208-630-020	AMD-P	97-06-092	220-32-05500B	REP-E	97-12-036
182-25-090	AMD-P	97-08-067	208-630-020	AMD	97-09-035	220-32-05500C	NEW-E	97-12-036
196-12-010	PREP	97-03-029	208-630-021	NEW-P	97-06-092	220-32-05500C	REP-E	97-12-036
196-12-020	PREP	97-03-029	208-630-021	NEW	97-09-035	220-32-05500C	REP-E	97-12-069
196-12-030	PREP	97-03-029	208-630-022	NEW-P	97-06-092	220-32-05500D	NEW-E	97-12-069
196-12-050	PREP	97-03-029	208-630-022	NEW	97-09-035	220-32-05500D	REP-E	97-12-069
196-12-060	PREP	97-03-029	208-630-023	NEW-P	97-06-092	220-32-05500D	REP-E	97-13-007
196-24-030	PREP	97-03-029	208-630-023	NEW	97-09-035	220-32-05500E	NEW-E	97-13-007
196-24-040	PREP	97-03-029	208-680D-050	AMD-W	97-04-071	220-32-05500E	REP-E	97-13-007
196-24-050	PREP	97-03-029	212-17	PREP	97-05-028	220-32-05500E	REP-E	97-13-029
196-24-085	PREP	97-03-029	212-17	PREP	97-13-073	220-32-05500F	NEW-E	97-13-029
196-24-100	PREP	97-03-029	212-17-185	AMD-E	97-11-023	220-32-05500F	REP-E	97-13-049
196-24-105	PREP	97-03-029	212-17-185	RESCIND	97-11-041	220-32-05500G	NEW-E	97-13-049
197-11	PREP	97-03-130	212-17-185	AMD-E	97-11-041	220-32-05500G	REP-E	97-03-002
197-11-055	AMD-P	97-08-085	212-17-190	REP-E	97-11-023	220-32-05700U	NEW-E	97-03-002
197-11-060	AMD-P	97-08-085	212-17-190	RESCIND	97-11-041	220-32-05700V	REP-E	97-09-009
197-11-070	AMD-P	97-08-085	212-17-190	REP-E	97-11-041	220-32-05700V	NEW-E	97-09-009
197-11-158	NEW-P	97-08-085	212-17-195	REP-E	97-11-023	220-32-05700V	REP-E	97-13-048
197-11-164	NEW-P	97-08-085	212-17-195	RESCIND	97-11-041	220-32-05700W	NEW-E	97-13-048
197-11-168	NEW-P	97-08-085	212-17-195	REP-E	97-11-041	220-32-05700W	REP-E	97-13-048
197-11-172	NEW-P	97-08-085	212-17-200	REP-E	97-11-023	220-33-01000M	NEW-E	97-04-013
197-11-210	AMD-P	97-08-085	212-17-200	RESCIND	97-11-041	220-33-01000M	REP-E	97-04-013
197-11-238	NEW-P	97-08-085	212-17-200	REP-E	97-11-041	220-33-01000N	NEW-E	97-05-042
197-11-259	AMD-P	97-08-085	212-17-203	REP-E	97-11-023	220-33-020	AMD-P	97-04-080
197-11-300	AMD-P	97-08-085	212-17-203	RESCIND	97-11-041	220-33-020	AMD	97-07-043
197-11-310	AMD-P	97-08-085	212-17-203	REP-E	97-11-041	220-33-03000K	NEW-E	97-11-045
197-11-315	AMD-P	97-08-085	212-17-205	REP-E	97-11-023	220-33-03000K	REP-E	97-11-045
197-11-330	AMD-P	97-08-085	212-17-205	RESCIND	97-11-041	220-33-04000C	NEW-E	97-04-014
197-11-340	AMD-P	97-08-085	212-17-205	REP-E	97-11-041	220-33-04000C	REP-E	97-05-041
197-11-355	NEW-P	97-08-085	212-17-210	REP-E	97-11-023	220-33-04000D	NEW-E	97-05-041
197-11-390	AMD-P	97-08-085	212-17-210	RESCIND	97-11-041	220-36-021	AMD-P	97-09-097
197-11-408	AMD-P	97-08-085	212-17-210	REP-E	97-11-041	220-36-023	AMD-P	97-09-097
197-11-502	AMD-P	97-08-085	212-17-215	REP-E	97-11-023	220-40-021	AMD-P	97-09-097
197-11-508	AMD-P	97-08-085	212-17-215	RESCIND	97-11-041	220-40-027	AMD-P	97-09-097

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-44-05000E	REP-E	97-10-021	220-56-32500N	NEW-E	97-11-011	220-88A-07000J	NEW-E	97-09-044
220-44-05000F	NEW-E	97-10-021	220-56-32500P	NEW-E	97-12-037	220-88A-07000J	REP-E	97-09-067
220-47-301	AMD-P	97-09-104	220-56-32500P	REP-E	97-12-037	220-88A-07000K	NEW-E	97-09-067
220-47-302	AMD-P	97-09-104	220-56-330	AMD	97-07-078	220-88A-07000K	REP-E	97-10-044
220-47-304	AMD-P	97-09-104	220-56-336	NEW	97-07-078	220-88A-07000L	NEW-E	97-10-044
220-47-307	AMD-P	97-09-104	220-56-350	AMD	97-07-078	220-88A-07000L	REP-E	97-10-081
220-47-311	AMD-P	97-09-104	220-56-35000P	NEW-E	97-12-009	220-88A-07000M	NEW-E	97-10-081
220-47-319	AMD-P	97-09-104	220-56-355	AMD	97-07-078	220-88A-07000M	REP-E	97-11-030
220-47-325	NEW-P	97-09-096	220-56-36000T	NEW-E	97-04-045	220-88A-07000N	NEW-E	97-11-030
220-47-326	NEW-P	97-09-096	220-56-36000T	REP-E	97-04-045	220-88A-07000N	REP-E	97-11-046
220-47-401	AMD-P	97-09-104	220-56-36000U	NEW-E	97-07-051	220-88A-07000P	NEW-E	97-11-046
220-47-410	NEW-P	97-09-104	220-56-36000U	REP-E	97-07-051	220-88A-07000P	REP-E	97-13-056
220-47-411	AMD-P	97-09-104	220-56-375	AMD	97-07-078	220-88A-07000Q	NEW-E	97-13-056
220-47-427	AMD-P	97-09-104	220-56-380	AMD	97-07-078	220-88A-080	AMD	97-08-052
220-47-428	AMD-P	97-09-104	220-57	AMD-C	97-05-075	220-88A-08000J	NEW-E	97-09-044
220-48-015	AMD	97-07-053	220-57-14000R	NEW-E	97-09-068	220-88A-08000J	REP-E	97-11-046
220-52-03000K	NEW-E	97-07-050	220-57-15500B	NEW-E	97-09-068	220-88A-08000K	NEW-E	97-11-046
220-52-03000K	REP-E	97-07-050	220-57-160	AMD	97-07-078	220-95-013	AMD-W	97-03-075
220-52-040	AMD	97-08-052	220-57-16000H	NEW-E	97-06-036	220-95-018	AMD-W	97-03-075
220-52-04000D	NEW-E	97-05-029	220-57-16000I	NEW-E	97-09-008	220-95-022	AMD-W	97-03-075
220-52-046	AMD	97-08-052	220-57-17500G	NEW-E	97-06-036	220-95-032	AMD-W	97-03-075
220-52-04600T	NEW-E	97-05-029	220-57-25000A	NEW-E	97-12-035	220-110-010	AMD-P	97-07-077
220-52-04600T	REP-E	97-06-054	220-57-27000C	NEW-E	97-09-068	220-110-010	AMD	97-13-001
220-52-04600U	NEW-E	97-06-054	220-57-29000U	NEW-E	97-09-008	220-110-020	AMD-P	97-07-077
220-52-07300L	REP-E	97-03-045	220-57-31000U	NEW-E	97-06-036	220-110-020	AMD	97-13-001
220-52-07300M	NEW-E	97-03-045	220-57-31500C	NEW-E	97-08-048	220-110-031	NEW-P	97-07-077
220-52-07300M	REP-E	97-03-101	220-57-31500C	REP-E	97-09-001	220-110-031	NEW	97-13-001
220-52-07300N	NEW-E	97-03-101	220-57-31500D	NEW-E	97-09-001	220-110-035	AMD-P	97-07-077
220-52-07300N	REP-E	97-04-011	220-57-31900M	NEW-E	97-09-008	220-110-035	AMD	97-13-001
220-52-07300P	NEW-E	97-04-011	220-57-31900M	REP-E	97-12-035	220-110-331	NEW-P	97-07-077
220-52-07300P	REP-E	97-04-049	220-57-31900N	NEW-E	97-12-035	220-110-331	NEW	97-13-001
220-52-07300Q	NEW-E	97-04-049	220-57-32100B	NEW-E	97-08-048	220-110-332	NEW-P	97-07-077
220-52-07300Q	REP-E	97-05-025	220-57-37700A	NEW-E	97-09-068	220-110-332	NEW	97-13-001
220-52-07300R	NEW-E	97-05-025	220-57-38500Z	NEW-E	97-09-068	220-110-333	NEW-P	97-07-077
220-52-075	AMD	97-08-052	220-57-46000D	NEW-E	97-09-068	220-110-333	NEW	97-13-001
220-56	AMD-C	97-05-075	220-57-48000A	NEW-E	97-12-035	220-110-334	NEW-P	97-07-077
220-56-100	AMD	97-07-078	220-57-50500Z	NEW-E	97-08-048	220-110-334	NEW	97-13-001
220-56-103	AMD	97-07-078	220-57-51500M	NEW-E	97-08-048	220-110-335	NEW-P	97-07-077
220-56-105	AMD	97-07-078	220-69-240	AMD	97-08-052	220-110-335	NEW	97-13-001
220-56-115	AMD-W	97-10-075	220-72-002	AMD	97-08-078	220-110-336	NEW-P	97-07-077
220-56-128	AMD	97-07-078	220-72-011	NEW	97-08-078	220-110-336	NEW	97-13-001
220-56-12800A	NEW-E	97-10-043	220-72-013	REP	97-08-078	220-110-337	NEW-P	97-07-077
220-56-180	AMD	97-07-078	220-72-015	NEW	97-08-078	220-110-337	NEW	97-13-001
220-56-19100V	NEW-E	97-09-068	220-72-016	REP	97-08-078	220-110-338	NEW-P	97-07-077
220-56-19500B	NEW-E	97-09-068	220-72-019	REP	97-08-078	220-110-338	NEW	97-13-001
220-56-205	AMD	97-07-078	220-72-022	REP	97-08-078	220-130-020	AMD-W	97-09-040
220-56-225	AMD-C	97-07-052	220-72-025	REP	97-08-078	220-130-070	AMD-W	97-09-040
220-56-225	AMD	97-09-066	220-72-028	REP	97-08-078	220-140-010	AMD-W	97-09-040
220-56-235	AMD	97-07-078	220-72-031	REP	97-08-078	220-140-040	NEW-W	97-09-040
220-56-240	AMD	97-08-017	220-72-034	REP	97-08-078	222-10-042	NEW-S	97-08-077
220-56-24000F	REP-E	97-03-001	220-72-037	REP	97-08-078	222-10-042	NEW-S	97-11-074
220-56-24000G	NEW-E	97-03-001	220-72-040	REP	97-08-078	222-12-090	AMD-E	97-07-054
220-56-255	AMD	97-07-078	220-72-043	REP	97-08-078	222-12-090	AMD-S	97-08-077
220-56-25500E	NEW-E	97-11-031	220-72-046	REP	97-08-078	222-12-090	AMD-S	97-11-074
220-56-25500E	REP-E	97-11-061	220-72-049	REP	97-08-078	222-16-010	AMD-S	97-08-077
220-56-25500F	NEW-E	97-11-061	220-72-052	REP	97-08-078	222-16-010	AMD-E	97-10-005
220-56-27000A	NEW-E	97-06-035	220-72-055	REP	97-08-078	222-16-010	AMD-S	97-11-074
220-56-28500I	NEW-E	97-06-036	220-72-058	REP	97-08-078	222-16-030	PREP	97-05-033
220-56-28500I	REP-E	97-06-036	220-72-061	REP	97-08-078	222-16-030	AMD-E	97-07-054
220-56-28500J	NEW-E	97-09-001	220-72-064	REP	97-08-078	222-16-080	AMD-S	97-08-077
220-56-28500K	NEW-E	97-10-063	220-72-067	REP	97-08-078	222-16-080	AMD-E	97-10-005
220-56-305	AMD	97-08-018	220-72-070	AMD	97-08-078	222-16-080	AMD-S	97-11-074
220-56-305	AMD-W	97-10-075	220-72-073	AMD	97-08-078	222-16-081	NEW-W	97-09-041
220-56-310	AMD	97-07-078	220-72-076	AMD	97-08-078	222-16-087	NEW-S	97-08-077
220-56-31000N	REP-E	97-05-011	220-72-082	REP	97-08-078	222-16-087	NEW-S	97-11-074
220-56-31000P	NEW-E	97-05-011	220-72-085	AMD	97-08-078	222-16-100	AMD-S	97-11-074
220-56-31000P	REP-E	97-10-065	220-72-088	REP	97-08-078	222-16-105	AMD-S	97-11-074
220-56-315	AMD-W	97-10-075	220-72-091	REP	97-08-078	222-24-030	AMD-S	97-08-077
220-56-320	AMD	97-07-078	220-72-094	REP	97-08-078	222-24-030	AMD-S	97-11-074
220-56-325	AMD	97-07-078	220-77-020	AMD	97-08-078	222-30-020	AMD-S	97-11-074
220-56-32500L	NEW-E	97-09-033	220-77-040	AMD	97-08-078	222-30-050	AMD-S	97-08-077
220-56-32500M	NEW-E	97-10-070	220-77-065	NEW	97-08-078	222-30-050	AMD-S	97-11-074
220-56-32500M	REP-E	97-12-037	220-88A-070	AMD	97-08-052	222-30-060	AMD-S	97-08-077

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
222-30-060	AMD-S	97-11-074	230-30-130	REP-P	97-09-075	232-28-61900D	REP-E	97-03-100
222-30-065	AMD-S	97-08-077	230-30-200	REP-P	97-11-018	232-28-61900E	NEW-E	97-04-001
222-30-065	AMD-S	97-11-074	230-30-210	AMD-P	97-09-077	232-28-61900F	NEW-E	97-06-034
222-30-070	AMD-S	97-08-077	230-30-215	REP-P	97-09-075	232-28-61900F	REP-E	97-06-034
222-30-070	AMD-S	97-11-074	230-30-300	AMD-P	97-09-077	232-28-61900G	REP-E	97-12-035
222-30-100	AMD-S	97-08-077	230-50-005	NEW	97-03-095	232-28-61900G	NEW-E	97-07-056
222-30-100	AMD-S	97-11-074	230-50-010	AMD-P	97-09-076	232-28-61900G	REP-E	97-07-056
230-02-020	AMD	97-03-094	230-50-012	AMD-P	97-09-076	232-28-61900H	NEW-E	97-08-047
230-02-126	AMD-W	97-08-071	232-12	AMD-C	97-05-075	232-28-61900H	REP-E	97-08-047
230-02-520	AMD-P	97-03-093	232-12-001	AMD	97-07-076	232-28-61900I	NEW-E	97-09-068
230-02-520	AMD	97-09-073	232-12-011	AMD-P	97-06-115	232-28-61900J	NEW-E	97-10-043
230-04-125	AMD-P	97-11-017	232-12-011	AMD	97-12-048	232-28-61900K	NEW-E	97-12-035
230-04-138	AMD-P	97-03-093	232-12-018	AMD	97-07-076	236-48-198	AMD	97-04-025
230-04-138	AMD	97-09-073	232-12-019	AMD-W	97-10-074	242-02-010	AMD	97-04-008
230-04-190	AMD-P	97-09-076	232-12-024	AMD-W	97-06-084	242-02-030	AMD	97-04-008
230-04-202	AMD-P	97-09-077	232-12-147	AMD-W	97-10-074	242-02-040	AMD	97-04-008
230-04-203	AMD-P	97-09-077	232-12-619	AMD	97-07-076	242-02-060	AMD	97-04-008
230-04-260	AMD-P	97-09-076	232-28	AMD-C	97-05-075	242-02-070	AMD	97-04-008
230-08-017	AMD-P	97-09-077	232-28-02201	AMD	97-06-050	242-02-074	AMD	97-04-008
230-08-040	AMD-P	97-09-077	232-28-02202	AMD	97-06-049	242-02-110	AMD	97-04-008
230-08-060	AMD-P	97-03-093	232-28-02203	AMD	97-06-048	242-02-130	AMD	97-04-008
230-08-060	AMD	97-09-073	232-28-02204	AMD	97-06-044	242-02-210	AMD	97-04-008
230-08-270	NEW-P	97-09-077	232-28-02205	AMD	97-06-043	242-02-220	AMD	97-04-008
230-12-200	REP-P	97-11-018	232-28-02206	AMD	97-06-041	242-02-240	AMD-W	97-04-009
230-12-215	AMD-W	97-08-071	232-28-02210	AMD	97-06-042	242-02-250	AMD	97-04-008
230-12-230	AMD-P	97-03-093	232-28-02220	AMD	97-06-059	242-02-260	AMD	97-04-008
230-12-230	AMD	97-09-073	232-28-02230	AMD	97-06-061	242-02-270	AMD	97-04-008
230-12-230	AMD-P	97-09-074	232-28-02240	AMD	97-06-060	242-02-310	AMD	97-04-008
230-12-315	NEW-P	97-09-077	232-28-02250	AMD	97-06-058	242-02-510	AMD	97-04-008
230-12-320	NEW-P	97-11-017	232-28-02260	AMD	97-06-057	242-02-520	AMD	97-04-008
230-12-330	NEW-P	97-11-017	232-28-02270	AMD	97-06-056	242-02-52001	NEW	97-04-008
230-12-340	NEW-P	97-11-017	232-28-02280	AMD-W	97-06-084	242-02-52002	NEW	97-04-008
230-12-350	NEW-P	97-11-017	232-28-02290	AMD	97-06-055	242-02-521	AMD	97-04-008
230-20-060	AMD-P	97-09-076	232-28-02290	AMD-P	97-06-127	242-02-522	AMD	97-04-008
230-20-062	AMD-P	97-09-076	232-28-02290	AMD	97-12-060	242-02-532	AMD	97-04-008
230-20-070	AMD-P	97-05-060	232-28-240	AMD	97-06-047	242-02-533	AMD	97-04-008
230-20-070	AMD	97-11-020	232-28-240	AMD-P	97-06-116	242-02-550	AMD	97-04-008
230-20-115	AMD-P	97-03-092	232-28-240	AMD	97-12-049	242-02-554	REP	97-04-008
230-20-115	AMD	97-09-072	232-28-242	AMD	97-06-053	242-02-560	AMD	97-04-008
230-20-240	AMD	97-05-056	232-28-242	AMD-P	97-06-117	242-02-570	AMD	97-04-008
230-20-242	AMD-P	97-09-076	232-28-242	AMD	97-12-050	242-02-634	AMD-W	97-04-009
230-20-247	AMD	97-05-061	232-28-248	AMD	97-06-052	242-02-650	AMD	97-04-008
230-20-325	AMD-W	97-13-059	232-28-249	AMD	97-06-051	242-02-660	AMD	97-04-008
230-20-600	AMD-P	97-03-093	232-28-252	AMD-P	97-06-118	242-02-670	AMD	97-04-008
230-20-600	AMD	97-09-073	232-28-252	AMD	97-12-051	242-02-710	AMD	97-04-008
230-20-630	AMD-P	97-03-093	232-28-253	AMD-P	97-06-119	242-02-820	REP	97-04-008
230-20-630	AMD	97-09-073	232-28-253	AMD	97-12-052	242-02-830	AMD	97-04-008
230-20-685	AMD-P	97-03-093	232-28-254	AMD-P	97-06-120	242-02-832	NEW	97-04-008
230-20-685	AMD	97-11-021	232-28-254	AMD	97-12-053	242-02-834	NEW	97-04-008
230-20-700	AMD-P	97-03-093	232-28-260	AMD	97-06-038	242-02-840	REP	97-04-008
230-30-015	REP-P	97-09-075	232-28-260	AMD-P	97-06-121	242-02-850	REP	97-04-008
230-30-016	REP-P	97-09-075	232-28-260	AMD	97-12-054	242-02-860	REP	97-04-008
230-30-018	REP-P	97-09-075	232-28-262	AMD	97-06-039	242-02-870	REP	97-04-008
230-30-025	AMD-P	97-05-057	232-28-263	AMD	97-06-037	242-02-880	AMD	97-04-008
230-30-025	AMD-E	97-05-062	232-28-264	NEW	97-06-045	242-02-890	AMD-W	97-04-009
230-30-025	AMD	97-11-019	232-28-265	NEW	97-06-046	242-02-892	AMD	97-04-008
230-30-030	AMD-P	97-09-077	232-28-265	AMD-P	97-06-122	242-04-050	AMD	97-04-008
230-30-040	AMD-P	97-09-077	232-28-265	AMD	97-12-055	246-08-400	AMD-P	97-09-092
230-30-050	AMD-P	97-09-077	232-28-266	NEW	97-05-074	246-08-400	AMD	97-12-087
230-30-055	AMD-P	97-09-077	232-28-267	NEW-P	97-06-123	246-10-102	AMD-P	97-08-092
230-30-060	REP-P	97-09-075	232-28-267	NEW	97-12-056	246-10-102	AMD	97-12-089
230-30-065	REP-P	97-09-075	232-28-268	NEW-P	97-06-124	246-10-108	AMD-P	97-08-092
230-30-070	AMD-P	97-09-077	232-28-268	NEW	97-12-057	246-10-108	AMD	97-12-089
230-30-072	AMD-P	97-09-077	232-28-269	NEW-P	97-06-125	246-10-109	AMD-P	97-08-092
230-30-075	REP-P	97-09-075	232-28-269	NEW	97-12-058	246-10-109	AMD	97-12-089
230-30-080	AMD-P	97-09-077	232-28-270	NEW-P	97-06-126	246-10-121	AMD-P	97-08-092
230-30-100	REP-P	97-09-075	232-28-270	NEW	97-12-059	246-10-121	AMD	97-12-089
230-30-102	AMD-P	97-09-077	232-28-619	AMD	97-07-076	246-10-122	AMD-P	97-08-092
230-30-103	AMD-P	97-09-077	232-28-61900A	REP-E	97-04-001	246-10-122	AMD	97-12-089
230-30-104	AMD-P	97-09-077	232-28-61900B	NEW-E	97-03-039	246-10-203	AMD-P	97-08-092
230-30-105	REP-P	97-09-075	232-28-61900C	NEW-E	97-03-099	246-10-203	AMD	97-12-089
230-30-106	AMD-P	97-09-077	232-28-61900C	REP-E	97-03-099	246-10-205	AMD-P	97-08-092
230-30-110	REP-P	97-09-075	232-28-61900D	NEW-E	97-03-100	246-10-205	AMD	97-12-089

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-10-401	AMD-P	97-08-092	246-327-990	AMD-P	97-11-087	246-810-541	REP-P	97-13-099
246-10-401	AMD	97-12-089	246-331-990	AMD-P	97-11-087	246-810-542	REP-P	97-13-099
246-10-403	AMD-P	97-08-092	246-336-990	AMD-P	97-11-087	246-810-545	NEW-P	97-13-099
246-10-403	AMD	97-12-089	246-338-020	AMD-P	97-11-039	246-810-548	NEW-P	97-13-099
246-10-605	AMD-P	97-08-092	246-338-030	AMD-P	97-11-039	246-810-550	REP-P	97-13-099
246-10-605	AMD	97-12-089	246-338-060	AMD-P	97-11-039	246-810-560	REP-P	97-13-099
246-10-608	AMD-P	97-08-092	246-338-070	AMD-P	97-11-039	246-810-561	REP-P	97-13-099
246-10-608	AMD	97-12-089	246-338-090	AMD-P	97-11-039	246-810-562	REP-P	97-13-099
246-10-701	AMD-P	97-08-092	246-338-100	AMD-P	97-11-039	246-810-563	REP-P	97-13-099
246-10-701	AMD	97-12-089	246-790-010	AMD-P	97-13-098	246-810-564	REP-P	97-13-099
246-10-704	AMD-P	97-08-092	246-790-050	AMD-P	97-13-098	246-810-565	REP-P	97-13-099
246-10-704	AMD	97-12-089	246-790-060	AMD-P	97-13-098	246-810-566	REP-P	97-13-099
246-10-707	AMD-P	97-08-092	246-790-070	AMD-P	97-13-098	246-810-570	REP-P	97-13-099
246-10-707	AMD	97-12-089	246-790-080	AMD-P	97-13-098	246-810-580	REP-P	97-13-099
246-11-010	AMD-P	97-08-092	246-790-085	NEW-P	97-13-098	246-810-710	NEW-P	97-13-099
246-11-010	AMD	97-13-015	246-790-090	AMD-P	97-13-098	246-810-720	AMD-P	97-13-099
246-11-070	AMD-P	97-08-092	246-790-100	AMD-P	97-13-098	246-810-721	NEW-P	97-13-099
246-11-070	AMD	97-13-015	246-790-110	REP-P	97-13-098	246-810-730	REP-P	97-13-099
246-11-080	AMD-P	97-08-092	246-790-120	AMD-P	97-13-098	246-810-731	REP-P	97-13-099
246-11-080	AMD	97-13-015	246-790-130	AMD-P	97-13-098	246-810-732	NEW-P	97-13-099
246-11-200	AMD-P	97-08-092	246-810-010	AMD-P	97-13-099	246-810-734	NEW-P	97-13-099
246-11-200	AMD	97-13-015	246-810-020	AMD-P	97-13-099	246-810-740	AMD-P	97-13-099
246-11-210	AMD-P	97-08-092	246-810-022	NEW-P	97-13-099	246-810-741	REP-P	97-13-099
246-11-210	AMD	97-13-015	246-810-030	AMD-P	97-13-099	246-810-745	NEW-P	97-13-099
246-11-270	AMD-P	97-08-092	246-810-031	AMD-P	97-13-099	246-810-748	NEW-P	97-13-099
246-11-270	AMD	97-13-015	246-810-032	AMD-P	97-13-099	246-810-750	REP-P	97-13-099
246-11-290	AMD-P	97-08-092	246-810-035	NEW-P	97-13-099	246-810-760	REP-P	97-13-099
246-11-290	AMD	97-13-015	246-810-040	AMD-P	97-13-099	246-810-761	REP-P	97-13-099
246-11-380	AMD-P	97-08-092	246-810-045	NEW-P	97-13-099	246-810-762	REP-P	97-13-099
246-11-380	AMD	97-13-015	246-810-049	NEW-P	97-13-099	246-810-763	REP-P	97-13-099
246-11-510	AMD-P	97-08-092	246-810-050	REP-P	97-13-099	246-810-764	REP-P	97-13-099
246-11-510	AMD	97-13-015	246-810-060	AMD-P	97-13-099	246-810-765	REP-P	97-13-099
246-11-540	AMD-P	97-08-092	246-810-061	AMD-P	97-13-099	246-810-766	REP-P	97-13-099
246-11-540	AMD	97-13-015	246-810-062	AMD-P	97-13-099	246-810-770	REP-P	97-13-099
246-11-550	AMD-P	97-08-092	246-810-063	AMD-P	97-13-099	246-810-780	REP-P	97-13-099
246-11-550	AMD	97-13-015	246-810-064	AMD-P	97-13-099	246-810-990	AMD-P	97-13-099
246-11-580	AMD-P	97-08-092	246-810-065	AMD-P	97-13-099	246-828-015	NEW	97-04-042
246-11-580	AMD	97-13-015	246-810-066	AMD-P	97-13-099	246-828-055	AMD-P	97-12-086
246-11-610	AMD-P	97-08-092	246-810-070	AMD-P	97-13-099	246-828-070	AMD-P	97-12-086
246-11-610	AMD	97-13-015	246-810-080	AMD-P	97-13-099	246-828-990	AMD	97-04-043
246-100-011	AMD-P	97-06-110	246-810-110	NEW-P	97-13-099	246-838	PREP-W	97-03-066
246-100-036	AMD-P	97-06-110	246-810-120	NEW-P	97-13-099	246-838	PREP-W	97-03-067
246-100-072	AMD-P	97-06-110	246-810-130	NEW-P	97-13-099	246-838-010	REP-P	97-07-074
246-100-206	AMD-P	97-06-110	246-810-140	NEW-P	97-13-099	246-838-010	REP	97-13-100
246-100-207	AMD	97-04-041	246-810-150	NEW-P	97-13-099	246-838-020	REP-P	97-07-074
246-100-209	AMD-P	97-06-110	246-810-152	NEW-P	97-13-099	246-838-020	REP	97-13-100
246-232-060	AMD-P	97-03-126	246-810-310	AMD-P	97-13-099	246-838-026	REP-P	97-07-074
246-232-060	AMD	97-08-095	246-810-320	AMD-P	97-13-099	246-838-026	REP	97-13-100
246-235-075	AMD-P	97-03-126	246-810-321	AMD-P	97-13-099	246-838-030	REP-P	97-07-074
246-235-075	AMD	97-08-095	246-810-330	REP-P	97-13-099	246-838-030	REP	97-13-100
246-252-010	AMD	97-13-055	246-810-331	REP-P	97-13-099	246-838-040	REP-P	97-07-074
246-252-030	AMD	97-13-055	246-810-332	AMD-P	97-13-099	246-838-050	REP-P	97-07-074
246-282-990	AMD-P	97-08-025	246-810-334	NEW-P	97-13-099	246-838-050	REP	97-13-100
246-282-990	AMD	97-12-031	246-810-340	AMD-P	97-13-099	246-838-060	REP-P	97-07-074
246-290-990	AMD-P	97-07-073	246-810-345	NEW-P	97-13-099	246-838-060	REP	97-13-100
246-290-990	AMD	97-12-032	246-810-348	NEW-P	97-13-099	246-838-070	REP-P	97-07-074
246-316-990	PREP	97-13-097	246-810-350	REP-P	97-13-099	246-838-070	REP	97-13-100
246-321-001	REP	97-03-080	246-810-360	REP-P	97-13-099	246-838-080	REP-P	97-07-074
246-321-010	REP	97-03-080	246-810-361	REP-P	97-13-099	246-838-080	REP	97-13-100
246-321-012	REP	97-03-080	246-810-362	REP-P	97-13-099	246-838-090	REP-P	97-07-074
246-321-014	REP	97-03-080	246-810-363	REP-P	97-13-099	246-838-090	REP	97-13-100
246-321-015	REP	97-03-080	246-810-364	REP-P	97-13-099	246-838-100	REP-P	97-07-074
246-321-017	REP	97-03-080	246-810-365	REP-P	97-13-099	246-838-100	REP	97-13-100
246-321-018	REP	97-03-080	246-810-366	REP-P	97-13-099	246-838-110	REP-P	97-07-074
246-321-020	REP	97-03-080	246-810-370	REP-P	97-13-099	246-838-110	REP	97-13-100
246-321-025	REP	97-03-080	246-810-380	REP-P	97-13-099	246-838-120	REP-P	97-07-074
246-321-030	REP	97-03-080	246-810-510	AMD-P	97-13-099	246-838-120	REP	97-13-100
246-321-035	REP	97-03-080	246-810-520	AMD-P	97-13-099	246-838-121	REP-P	97-07-074
246-321-040	REP	97-03-080	246-810-521	AMD-P	97-13-099	246-838-121	REP	97-13-100
246-321-045	REP	97-03-080	246-810-530	REP-P	97-13-099	246-838-130	REP-P	97-07-074
246-321-050	REP	97-03-080	246-810-532	NEW-P	97-13-099	246-838-130	REP	97-13-100
246-321-055	REP	97-03-080	246-810-534	NEW-P	97-13-099	246-838-250	REP-P	97-07-074
246-321-990	REP	97-03-080	246-810-540	AMD-P	97-13-099	246-838-250	REP	97-13-100

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-838-260	REP-P	97-07-074	246-839-370	REP-P	97-07-074	246-840-090	NEW-P	97-07-074
246-838-260	REP	97-13-100	246-839-370	REP	97-13-100	246-840-090	NEW	97-13-100
246-838-270	REP-P	97-07-074	246-839-400	REP-P	97-07-074	246-840-100	NEW-P	97-07-074
246-838-270	REP	97-13-100	246-839-400	REP	97-13-100	246-840-100	NEW	97-13-100
246-838-280	REP-P	97-07-074	246-839-410	REP-P	97-07-074	246-840-105	NEW-P	97-07-074
246-838-280	REP	97-13-100	246-839-410	REP	97-13-100	246-840-105	NEW	97-13-100
246-838-290	REP-P	97-07-074	246-839-420	REP-P	97-07-074	246-840-110	NEW-P	97-07-074
246-838-290	REP	97-13-100	246-839-420	REP	97-13-100	246-840-110	NEW	97-13-100
246-838-300	REP-P	97-07-074	246-839-430	REP-P	97-07-074	246-840-113	NEW-P	97-07-074
246-838-300	REP	97-13-100	246-839-430	REP	97-13-100	246-840-113	NEW	97-13-100
246-838-310	REP-P	97-07-074	246-839-440	REP-P	97-07-074	246-840-115	NEW-P	97-07-074
246-838-310	REP	97-13-100	246-839-440	REP	97-13-100	246-840-115	NEW	97-13-100
246-838-330	REP-P	97-07-074	246-839-450	REP-P	97-07-074	246-840-120	NEW-P	97-07-074
246-838-330	REP	97-13-100	246-839-450	REP	97-13-100	246-840-120	NEW	97-13-100
246-838-340	REP-P	97-07-074	246-839-700	REP-P	97-07-074	246-840-130	NEW-P	97-07-074
246-838-340	REP	97-13-100	246-839-700	REP	97-13-100	246-840-130	NEW	97-13-100
246-838-350	REP-P	97-07-074	246-839-710	REP-P	97-07-074	246-840-300	NEW-P	97-07-074
246-838-350	REP	97-13-100	246-839-710	REP	97-13-100	246-840-300	NEW	97-13-100
246-838-360	REP-P	97-07-074	246-839-720	REP-P	97-07-074	246-840-305	NEW-P	97-07-074
246-838-360	REP	97-13-100	246-839-720	REP	97-13-100	246-840-305	NEW	97-13-100
246-839	PREP-W	97-03-066	246-839-730	REP-P	97-07-074	246-840-310	NEW-P	97-07-074
246-839	PREP-W	97-03-067	246-839-730	REP	97-13-100	246-840-310	NEW	97-13-100
246-839-010	REP-P	97-07-074	246-839-740	REP-P	97-07-074	246-840-315	NEW-P	97-07-074
246-839-010	REP	97-13-100	246-839-740	REP	97-13-100	246-840-315	NEW	97-13-100
246-839-020	REP-P	97-07-074	246-839-745	REP-P	97-07-074	246-840-320	NEW-P	97-07-074
246-839-020	REP	97-13-100	246-839-745	REP	97-13-100	246-840-320	NEW	97-13-100
246-839-030	REP-P	97-08-093	246-839-750	REP-P	97-07-074	246-840-330	NEW-P	97-07-074
246-839-040	REP-P	97-07-074	246-839-750	REP	97-13-100	246-840-330	NEW	97-13-100
246-839-040	REP	97-13-100	246-839-760	REP-P	97-07-074	246-840-340	NEW-P	97-07-074
246-839-050	REP-P	97-07-074	246-839-760	REP	97-13-100	246-840-340	NEW	97-13-100
246-839-050	REP	97-13-100	246-839-770	REP-P	97-07-074	246-840-345	NEW-P	97-07-074
246-839-060	REP-P	97-07-074	246-839-770	REP	97-13-100	246-840-345	NEW	97-13-100
246-839-060	REP	97-13-100	246-839-780	REP-P	97-07-074	246-840-350	NEW-P	97-07-074
246-839-070	REP-P	97-07-074	246-839-780	REP	97-13-100	246-840-350	NEW	97-13-100
246-839-070	REP	97-13-100	246-839-800	REP-P	97-07-074	246-840-360	NEW-P	97-07-074
246-839-080	REP-P	97-07-074	246-839-800	REP	97-13-100	246-840-360	NEW	97-13-100
246-839-080	REP	97-13-100	246-839-810	REP-P	97-07-074	246-840-365	NEW-P	97-07-074
246-839-090	REP-P	97-07-074	246-839-810	REP	97-13-100	246-840-365	NEW	97-13-100
246-839-090	REP	97-13-100	246-839-820	REP-P	97-07-074	246-840-370	NEW-P	97-07-074
246-839-100	REP-P	97-07-074	246-839-820	REP	97-13-100	246-840-370	NEW	97-13-100
246-839-100	REP	97-13-100	246-839-830	REP-P	97-07-074	246-840-400	NEW-P	97-07-074
246-839-105	REP-P	97-07-074	246-839-830	REP	97-13-100	246-840-400	NEW	97-13-100
246-839-105	REP	97-13-100	246-839-840	REP-P	97-07-074	246-840-410	NEW-P	97-07-074
246-839-110	REP-P	97-07-074	246-839-840	REP	97-13-100	246-840-410	NEW	97-13-100
246-839-110	REP	97-13-100	246-839-850	REP-P	97-07-074	246-840-420	NEW-P	97-07-074
246-839-115	REP-P	97-07-074	246-839-850	REP	97-13-100	246-840-420	NEW	97-13-100
246-839-115	REP	97-13-100	246-839-860	REP-P	97-07-074	246-840-430	NEW-P	97-07-074
246-839-120	REP-P	97-07-074	246-839-860	REP-S	97-12-030	246-840-430	NEW	97-13-100
246-839-120	REP	97-13-100	246-839-870	REP-P	97-07-074	246-840-440	NEW-P	97-07-074
246-839-130	REP-P	97-07-074	246-839-870	REP	97-13-100	246-840-440	NEW	97-13-100
246-839-130	REP	97-13-100	246-839-880	REP-P	97-07-074	246-840-450	NEW-P	97-07-074
246-839-300	REP-P	97-07-074	246-839-880	REP	97-13-100	246-840-450	NEW	97-13-100
246-839-300	REP	97-13-100	246-839-890	REP-P	97-07-074	246-840-540	AMD-P	97-07-074
246-839-305	REP-P	97-07-074	246-839-890	REP	97-13-100	246-840-540	AMD	97-13-100
246-839-305	REP	97-13-100	246-839-900	REP-P	97-07-074	246-840-565	AMD-P	97-07-074
246-839-310	REP-P	97-07-074	246-839-900	REP	97-13-100	246-840-565	AMD	97-13-100
246-839-310	REP	97-13-100	246-840-010	NEW-P	97-07-074	246-840-700	NEW-P	97-07-074
246-839-315	REP-P	97-07-074	246-840-010	NEW	97-13-100	246-840-700	NEW	97-13-100
246-839-315	REP	97-13-100	246-840-020	NEW-P	97-07-074	246-840-705	NEW-P	97-07-074
246-839-320	REP-P	97-07-074	246-840-020	NEW	97-13-100	246-840-715	NEW	97-13-100
246-839-320	REP	97-13-100	246-840-030	NEW-P	97-07-074	246-840-710	NEW-P	97-07-074
246-839-330	REP-P	97-07-074	246-840-030	NEW-P	97-08-093	246-840-710	NEW	97-13-100
246-839-330	REP	97-13-100	246-840-030	NEW-W	97-09-061	246-840-715	NEW-P	97-07-074
246-839-340	REP-P	97-07-074	246-840-040	NEW-P	97-07-074	246-840-715	NEW	97-13-100
246-839-340	REP	97-13-100	246-840-040	NEW	97-13-100	246-840-720	NEW-P	97-07-074
246-839-345	REP-P	97-07-074	246-840-050	NEW-P	97-07-074	246-840-720	NEW	97-13-100
246-839-345	REP	97-13-100	246-840-050	NEW	97-13-100	246-840-730	NEW-P	97-07-074
246-839-350	REP-P	97-07-074	246-840-060	NEW-P	97-07-074	246-840-730	NEW	97-13-100
246-839-350	REP	97-13-100	246-840-060	NEW	97-13-100	246-840-745	NEW-P	97-07-074
246-839-360	REP-P	97-07-074	246-840-070	NEW-P	97-07-074	246-840-745	NEW	97-13-100
246-839-360	REP	97-13-100	246-840-070	NEW	97-13-100	246-840-747	NEW-P	97-07-074
246-839-365	REP-P	97-07-074	246-840-080	NEW-P	97-07-074	246-840-747	NEW	97-13-100
246-839-365	REP	97-13-100	246-840-080	NEW	97-13-100	246-840-750	NEW-P	97-07-074

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-840-750	NEW	97-13-100	249A-02-080	NEW-W	97-09-043	260-24-250	REP-P	97-04-060
246-840-760	NEW-P	97-07-074	249A-02-100	NEW-W	97-09-043	260-24-260	REP-P	97-04-060
246-840-760	NEW	97-13-100	249A-02-200	NEW-W	97-09-043	260-24-270	REP-P	97-04-060
246-840-770	NEW-P	97-07-074	249A-02-210	NEW-W	97-09-043	260-24-280	REP-P	97-04-060
246-840-770	NEW	97-13-100	249A-02-220	NEW-W	97-09-043	260-24-290	REP-P	97-04-060
246-840-780	NEW-P	97-07-074	249A-02-250	NEW-W	97-09-043	260-24-300	REP-P	97-04-060
246-840-780	NEW	97-13-100	249A-02-300	NEW-W	97-09-043	260-24-310	REP-P	97-04-060
246-840-800	NEW-P	97-07-074	249A-02-350	NEW-W	97-09-043	260-24-320	REP-P	97-04-060
246-840-800	NEW	97-13-100	249A-02-360	NEW-W	97-09-043	260-24-330	REP-P	97-04-060
246-840-810	NEW-P	97-07-074	249A-02-410	NEW-W	97-09-043	260-24-340	REP-P	97-04-060
246-840-810	NEW	97-13-100	249A-02-420	NEW-W	97-09-043	260-24-350	REP-P	97-04-060
246-840-820	NEW-P	97-07-074	249A-02-430	NEW-W	97-09-043	260-24-360	REP-P	97-04-060
246-840-820	NEW	97-13-100	249A-02-440	NEW-W	97-09-043	260-24-370	REP-P	97-04-060
246-840-830	NEW-P	97-07-074	249A-02-450	NEW-W	97-09-043	260-24-380	REP-P	97-04-060
246-840-830	NEW	97-13-100	249A-02-460	NEW-W	97-09-043	260-24-390	REP-P	97-04-060
246-840-840	NEW-P	97-07-074	249A-02-470	NEW-W	97-09-043	260-24-400	REP-P	97-04-060
246-840-840	NEW	97-13-100	249A-02-510	NEW-W	97-09-043	260-24-410	REP-P	97-04-060
246-840-850	NEW-P	97-07-074	249A-02-520	NEW-W	97-09-043	260-24-420	REP-P	97-04-060
246-840-850	NEW	97-13-100	249A-02-540	NEW-W	97-09-043	260-24-430	REP-P	97-04-060
246-840-860	NEW-P	97-07-074	249A-02-560	NEW-W	97-09-043	260-24-440	REP-P	97-04-060
246-840-860	NEW-S	97-12-030	249A-02-600	NEW-W	97-09-043	260-24-450	REP-P	97-04-060
246-840-870	NEW-P	97-07-074	249A-02-650	NEW-W	97-09-043	260-24-460	REP-P	97-04-060
246-840-870	NEW	97-13-100	249A-02-810	NEW-W	97-09-043	260-24-465	REP-P	97-04-060
246-840-880	NEW-P	97-07-074	249A-02-830	NEW-W	97-09-043	260-24-470	REP-P	97-04-060
246-840-880	NEW	97-13-100	249A-02-860	NEW-W	97-09-043	260-24-480	REP-P	97-04-060
246-840-890	NEW-P	97-07-074	251-01-045	AMD-P	97-08-090	260-24-500	NEW-P	97-04-060
246-840-890	NEW	97-13-100	251-01-045	AMD-W	97-10-088	260-24-510	NEW-P	97-04-060
246-840-900	NEW-P	97-07-074	251-01-110	AMD-P	97-08-090	260-24-520	NEW-P	97-04-060
246-840-900	NEW	97-13-100	251-01-110	AMD-W	97-10-088	260-24-530	NEW-P	97-04-060
246-840-930	AMD-P	97-07-074	251-04-040	AMD-P	97-08-090	260-24-540	NEW-P	97-04-060
246-840-930	AMD	97-13-100	251-04-040	AMD-W	97-10-088	260-24-550	NEW-P	97-04-060
246-840-940	AMD-P	97-07-074	251-04-050	AMD-P	97-08-090	260-24-560	NEW-P	97-04-060
246-840-940	AMD	97-13-100	251-04-050	AMD-W	97-10-088	260-24-570	NEW-P	97-04-060
246-851-090	AMD-P	97-08-094	251-10-030	AMD-P	97-08-090	260-24-580	NEW-P	97-04-060
246-851-090	AMD	97-12-088	251-10-030	AMD-W	97-10-088	260-24-590	NEW-P	97-04-060
246-851-100	AMD-P	97-08-094	251-12-270	REP-P	97-08-090	260-24-600	NEW-P	97-04-060
246-851-100	AMD	97-12-088	251-12-270	REP-W	97-10-088	260-24-610	NEW-P	97-04-060
246-851-110	AMD-P	97-08-094	251-12-270	REP-P	97-10-089	260-24-620	NEW-P	97-04-060
246-851-110	AMD	97-12-088	251-12-270	REP	97-13-045	260-24-630	NEW-P	97-04-060
246-851-120	AMD-P	97-08-094	251-12-600	AMD-P	97-08-090	260-24-640	NEW-P	97-04-060
246-851-120	AMD	97-12-088	251-12-600	AMD-W	97-10-088	260-24-650	NEW-P	97-04-060
246-851-140	AMD-P	97-08-094	251-12-600	AMD-P	97-10-089	260-24-660	NEW-P	97-04-060
246-851-140	AMD	97-12-088	251-12-600	AMD	97-13-045	260-24-670	NEW-P	97-04-060
246-851-150	AMD-P	97-08-094	251-14-060	AMD	97-06-012	260-24-680	NEW-P	97-04-060
246-851-150	AMD	97-12-088	251-14-120	AMD	97-06-012	260-24-690	NEW-P	97-04-060
246-851-160	AMD-P	97-08-094	251-20-020	AMD-P	97-08-090	260-24-700	NEW-P	97-04-060
246-851-160	AMD	97-12-088	251-20-020	AMD-W	97-10-088	260-32	PREP	97-04-059
246-851-170	AMD-P	97-08-094	251-20-020	AMD-P	97-10-089	260-48	PREP	97-04-058
246-851-170	AMD	97-12-088	251-20-020	AMD	97-13-045	262-01-030	PREP	97-06-112
246-851-180	AMD-P	97-08-094	260-24-010	REP-P	97-04-060	262-01-030	AMD-P	97-09-091
246-851-180	AMD	97-12-088	260-24-020	REP-P	97-04-060	262-01-030	AMD-W	97-10-060
246-851-190	AMD-P	97-08-094	260-24-030	REP-P	97-04-060	262-01-030	AMD-P	97-11-065
246-851-190	AMD	97-12-088	260-24-040	REP-P	97-04-060	262-02-020	PREP	97-06-112
246-851-200	AMD-P	97-08-094	260-24-050	REP-P	97-04-060	262-02-020	AMD-P	97-09-090
246-851-200	AMD	97-12-088	260-24-060	REP-P	97-04-060	262-02-020	AMD-W	97-10-060
246-851-210	REP-P	97-08-094	260-24-070	REP-P	97-04-060	262-02-020	AMD-P	97-11-064
246-851-210	REP	97-12-088	260-24-080	REP-P	97-04-060	262-02-030	PREP	97-06-112
246-851-220	AMD-P	97-08-094	260-24-090	REP-P	97-04-060	262-02-030	AMD-P	97-09-090
246-851-220	AMD	97-12-088	260-24-100	REP-P	97-04-060	262-02-030	AMD-W	97-10-060
246-851-230	AMD-P	97-08-094	260-24-110	REP-P	97-04-060	262-02-030	AMD-P	97-11-064
246-851-230	AMD	97-12-088	260-24-120	REP-P	97-04-060	262-03	PREP	97-07-068
246-851-240	AMD-P	97-08-094	260-24-130	REP-P	97-04-060	262-03-010	NEW-P	97-11-063
246-851-240	AMD	97-12-088	260-24-140	REP-P	97-04-060	262-03-020	NEW-P	97-11-063
246-865	PREP	97-11-038	260-24-150	REP-P	97-04-060	262-03-030	NEW-P	97-11-063
246-907-020	AMD	97-06-019	260-24-160	REP-P	97-04-060	262-03-040	NEW-P	97-11-063
246-907-030	AMD	97-06-019	260-24-170	REP-P	97-04-060	262-03-050	NEW-P	97-11-063
246-919-990	AMD-P	97-12-085	260-24-180	REP-P	97-04-060	262-03-060	NEW-P	97-11-063
249A-02-010	NEW-W	97-09-043	260-24-190	REP-P	97-04-060	262-03-070	NEW-P	97-11-063
249A-02-020	NEW-W	97-09-043	260-24-200	REP-P	97-04-060	262-03-080	NEW-P	97-11-063
249A-02-030	NEW-W	97-09-043	260-24-210	REP-P	97-04-060	262-03-090	NEW-P	97-11-063
249A-02-040	NEW-W	97-09-043	260-24-220	REP-P	97-04-060	275-27-023	AMD-E	97-03-033
249A-02-050	NEW-W	97-09-043	260-24-230	REP-P	97-04-060	275-27-023	AMD-P	97-08-007
249A-02-060	NEW-W	97-09-043	260-24-240	REP-P	97-04-060	275-27-023	AMD-E	97-11-009

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
275-27-023	AMD	97-13-051	284-43-610	NEW-W	97-08-044	296-11-200	DECOD	97-08-042
275-27-220	AMD-E	97-03-033	284-43-620	NEW-W	97-08-044	296-11-210	DECOD	97-08-042
275-27-220	AMD-P	97-08-007	284-43-630	NEW-W	97-08-044	296-11-220	DECOD	97-08-042
275-27-220	AMD-E	97-11-009	284-43-640	NEW-W	97-08-044	296-11-230	DECOD	97-08-042
275-27-220	AMD	97-13-051	284-43-650	NEW-W	97-08-044	296-11-240	DECOD	97-08-042
275-27-221	REP-E	97-03-033	284-43-700	NEW-C	97-05-006	296-11-250	DECOD	97-08-042
275-27-221	REP-P	97-08-007	284-43-700	NEW-C	97-08-046	296-11-260	DECOD	97-08-042
275-27-221	REP-E	97-11-009	284-43-700	NEW-W	97-11-001	296-11-270	DECOD	97-08-042
275-27-221	REP	97-13-051	284-44-240	REP-W	97-08-044	296-11-280	DECOD	97-08-042
275-27-222	NEW-P	97-08-007	284-44-410	REP-W	97-08-044	296-11-290	DECOD	97-08-042
275-27-222	NEW-E	97-11-009	284-46-575	REP-W	97-08-044	296-11-300	DECOD	97-08-042
275-27-222	NEW	97-13-051	284-51-050	PREP	97-04-074	296-11-310	DECOD	97-08-042
275-27-223	AMD-E	97-03-033	286-13-040	PREP	97-08-079	296-11-320	DECOD	97-08-042
275-27-223	AMD-P	97-08-007	286-13-040	AMD-P	97-12-027	296-11-330	DECOD	97-08-042
275-27-223	AMD-E	97-11-009	286-13-045	AMD-P	97-04-006	296-11-340	DECOD	97-08-042
275-27-223	AMD	97-13-051	286-13-045	AMD	97-08-003	296-11-350	DECOD	97-08-042
275-27-400	AMD-E	97-03-033	286-13-085	AMD-P	97-04-006	296-11-360	DECOD	97-08-042
275-27-400	AMD-P	97-08-007	286-13-085	AMD	97-08-003	296-11-370	DECOD	97-08-042
275-27-400	AMD-E	97-11-009	286-13-110	AMD-P	97-04-006	296-11-380	DECOD	97-08-042
275-27-400	AMD	97-13-051	286-13-110	AMD	97-08-003	296-11-390	DECOD	97-08-042
275-155	AMD-P	97-11-044	286-13-110	PREP	97-08-079	296-11-400	DECOD	97-08-042
275-155-005	AMD-P	97-11-044	286-13-110	AMD-P	97-12-027	296-11-410	DECOD	97-08-042
275-155-010	AMD-P	97-11-044	286-13-115	PREP	97-08-079	296-11-420	DECOD	97-08-042
275-155-070	NEW-P	97-11-044	286-13-115	AMD-P	97-12-027	296-11-430	DECOD	97-08-042
275-155-080	NEW-P	97-11-044	286-26-080	AMD-P	97-04-006	296-11-440	DECOD	97-08-042
275-155-090	NEW-P	97-11-044	286-26-080	AMD	97-08-003	296-11-450	DECOD	97-08-042
275-155-100	NEW-P	97-11-044	286-27-040	AMD-P	97-04-006	296-11-460	DECOD	97-08-042
275-155-110	NEW-P	97-11-044	286-27-040	AMD	97-08-003	296-11-470	DECOD	97-08-042
275-155-120	NEW-P	97-11-044	286-27-050	REP-P	97-04-006	296-11-480	DECOD	97-08-042
275-155-130	NEW-P	97-11-044	286-27-050	REP	97-08-003	296-11-490	DECOD	97-08-042
275-155-140	NEW-P	97-11-044	286-35-030	AMD-P	97-04-006	296-11-500	DECOD	97-08-042
284-04	NEW-C	97-03-023	286-35-030	AMD	97-08-003	296-11-510	DECOD	97-08-042
284-04	NEW-C	97-03-120	286-35-040	REP-P	97-04-006	296-11-520	DECOD	97-08-042
284-04	NEW-C	97-08-091	286-35-040	REP	97-08-003	296-11-530	DECOD	97-08-042
284-04	NEW-W	97-10-072	286-40-020	AMD-P	97-04-006	296-11-540	DECOD	97-08-042
284-13-505	NEW	97-05-012	286-40-020	AMD	97-08-003	296-11-550	DECOD	97-08-042
284-13-515	NEW	97-05-012	292-09-010	AMD-P	97-05-022	296-11-560	DECOD	97-08-042
284-13-520	AMD	97-05-012	292-09-010	AMD	97-13-069	296-11-570	DECOD	97-08-042
284-13-530	NEW	97-05-012	292-11-010	NEW-S	97-05-023	296-11-580	DECOD	97-08-042
284-13-535	NEW	97-05-012	292-11-010	NEW	97-13-075	296-11-590	DECOD	97-08-042
284-13-540	AMD	97-05-012	292-11-020	NEW-S	97-05-023	296-17-45003	AMD	97-06-007
284-13-550	AMD	97-05-012	292-11-020	NEW	97-13-075	296-17-45003	AMD-E	97-08-043
284-13-560	AMD	97-05-012	292-11-030	NEW-W	97-09-057	296-17-45003	AMD-P	97-08-051
284-13-570	AMD	97-05-012	292-110-010	PREP	97-13-006	296-17-45003	AMD	97-12-011
284-13-590	AMD	97-05-012	292-120-010	NEW-P	97-03-133	296-17-45006	NEW	97-06-007
284-13-595	NEW	97-05-012	292-120-010	NEW	97-07-058	296-17-45006	AMD-E	97-08-043
284-30-395	NEW-S	97-03-090	292-120-020	NEW-P	97-03-133	296-17-45006	AMD-P	97-08-051
284-30-395	NEW-C	97-08-045	292-120-020	NEW	97-07-058	296-17-45006	AMD	97-12-011
284-30-395	NEW-C	97-11-010	292-120-030	NEW-P	97-03-133	296-17-52107	REP	97-06-007
284-30-395	NEW	97-13-005	292-120-030	NEW	97-07-058	296-17-52112	REP	97-06-007
284-43-110	NEW-W	97-08-044	292-120-040	NEW-P	97-03-133	296-17-52114	NEW	97-06-007
284-43-120	NEW-W	97-08-044	292-120-040	NEW	97-07-058	296-17-52114	REP-E	97-08-043
284-43-130	NEW-W	97-08-044	296-11-001	DECOD	97-08-042	296-17-52114	REP-P	97-08-051
284-43-200	NEW-W	97-08-044	296-11-003	DECOD	97-08-042	296-17-52114	REP	97-12-011
284-43-210	NEW-W	97-08-044	296-11-010	DECOD	97-08-042	296-17-52115	NEW	97-06-007
284-43-300	NEW-W	97-08-044	296-11-020	DECOD	97-08-042	296-17-52115	REP-E	97-08-043
284-43-310	NEW-W	97-08-044	296-11-030	DECOD	97-08-042	296-17-52115	REP-P	97-08-051
284-43-320	NEW-W	97-08-044	296-11-040	DECOD	97-08-042	296-17-52115	REP	97-12-011
284-43-330	NEW-W	97-08-044	296-11-050	DECOD	97-08-042	296-17-52116	NEW	97-06-007
284-43-340	NEW-W	97-08-044	296-11-060	DECOD	97-08-042	296-17-52117	NEW	97-06-007
284-43-350	NEW-W	97-08-044	296-11-070	DECOD	97-08-042	296-17-52117	REP-E	97-08-043
284-43-360	NEW-W	97-08-044	296-11-080	DECOD	97-08-042	296-17-52117	REP-P	97-08-051
284-43-400	NEW-W	97-08-044	296-11-090	DECOD	97-08-042	296-17-52117	REP	97-12-011
284-43-410	NEW-W	97-08-044	296-11-100	DECOD	97-08-042	296-17-52118	NEW-E	97-08-043
284-43-420	NEW-W	97-08-044	296-11-110	DECOD	97-08-042	296-17-52118	NEW-P	97-08-051
284-43-500	NEW-W	97-08-044	296-11-120	DECOD	97-08-042	296-17-52118	NEW	97-12-011
284-43-510	NEW-W	97-08-044	296-11-130	DECOD	97-08-042	296-17-52119	NEW-E	97-08-043
284-43-520	NEW-W	97-08-044	296-11-140	DECOD	97-08-042	296-17-52119	NEW-P	97-08-051
284-43-530	NEW-W	97-08-044	296-11-150	DECOD	97-08-042	296-17-52119	NEW	97-12-011
284-43-540	NEW-W	97-08-044	296-11-160	DECOD	97-08-042	296-17-52120	NEW-E	97-08-043
284-43-550	NEW-W	97-08-044	296-11-170	DECOD	97-08-042	296-17-52120	NEW-P	97-08-051
284-43-560	NEW-W	97-08-044	296-11-180	DECOD	97-08-042	296-17-52120	NEW	97-12-011
284-43-600	NEW-W	97-08-044	296-11-190	DECOD	97-08-042	296-17-52121	NEW-E	97-08-043

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-17-52121	NEW-P	97-08-051	296-23A-0470	NEW	97-06-066	296-46-090	AMD	97-12-016
296-17-52121	NEW	97-12-011	296-23A-0480	NEW	97-06-066	296-46-130	AMD-P	97-03-083
296-17-52122	NEW-E	97-08-043	296-23A-0490	NEW	97-06-066	296-46-130	AMD	97-12-016
296-17-52122	NEW-P	97-08-051	296-23A-0500	NEW	97-06-066	296-46-140	AMD-P	97-03-083
296-17-52122	NEW	97-12-011	296-23A-0520	NEW	97-06-066	296-46-140	AMD	97-12-016
296-17-52123	NEW-E	97-08-043	296-23A-0530	NEW	97-06-066	296-46-150	REP-P	97-03-083
296-17-52123	NEW-P	97-08-051	296-23A-0540	NEW	97-06-066	296-46-150	REP	97-12-016
296-17-52123	NEW	97-12-011	296-23A-0550	NEW	97-06-066	296-46-21008	AMD-P	97-03-083
296-17-52124	NEW-E	97-08-043	296-23A-0560	NEW	97-06-066	296-46-21008	AMD	97-12-016
296-17-52124	NEW-P	97-08-051	296-23A-0570	NEW	97-06-066	296-46-21052	AMD-P	97-03-083
296-17-52124	NEW	97-12-011	296-23A-0575	NEW	97-06-066	296-46-21052	AMD	97-12-016
296-17-52125	NEW-E	97-08-043	296-23A-0580	NEW	97-06-066	296-46-225	AMD-P	97-03-083
296-17-52125	NEW-P	97-08-051	296-23A-0600	NEW	97-06-066	296-46-225	AMD	97-12-016
296-17-52125	NEW	97-12-011	296-23A-0610	NEW	97-06-066	296-46-23028	AMD-P	97-03-083
296-17-52126	NEW-E	97-08-043	296-23A-0620	NEW	97-06-066	296-46-23028	AMD	97-12-016
296-17-52126	NEW-P	97-08-051	296-23A-100	REP	97-06-066	296-46-23062	AMD-P	97-03-083
296-17-52126	NEW	97-12-011	296-23A-105	REP	97-06-066	296-46-23062	AMD	97-12-016
296-17-89502	NEW	97-06-007	296-23A-106	REP	97-06-066	296-46-30001	AMD-P	97-03-083
296-17-89502	AMD-E	97-08-043	296-23A-110	REP	97-06-066	296-46-30001	AMD	97-12-016
296-17-89502	AMD-P	97-08-051	296-23A-115	REP	97-06-066	296-46-360	AMD-P	97-03-083
296-17-89502	AMD	97-12-011	296-23A-120	REP	97-06-066	296-46-360	AMD	97-12-016
296-20	PREP	97-02-096	296-23A-125	REP	97-06-066	296-46-370	AMD-P	97-03-083
296-20-125	PREP	97-02-097	296-23A-130	REP	97-06-066	296-46-370	AMD	97-12-016
296-20-135	PREP	97-02-097	296-23A-135	REP	97-06-066	296-46-514	AMD-P	97-03-083
296-20-135	AMD-P	97-05-076	296-23A-140	REP	97-06-066	296-46-514	AMD	97-12-016
296-20-135	AMD	97-10-017	296-23A-145	REP	97-06-066	296-46-553	NEW-P	97-03-083
296-20-200	AMD	97-09-036	296-23A-150	REP	97-06-066	296-46-553	NEW	97-12-016
296-20-210	AMD	97-09-036	296-23A-155	REP	97-06-066	296-46-700	AMD-P	97-03-083
296-20-220	AMD	97-09-036	296-23A-160	REP	97-06-066	296-46-700	AMD	97-12-016
296-23	PREP	97-02-096	296-23A-165	REP	97-06-066	296-46-725	AMD-P	97-03-083
296-23-220	PREP	97-02-097	296-23A-170	REP	97-06-066	296-46-725	AMD	97-12-016
296-23-220	AMD-P	97-05-076	296-23A-175	REP	97-06-066	296-46-910	AMD-P	97-03-083
296-23-220	AMD	97-10-017	296-23A-180	REP	97-06-066	296-46-910	AMD-E	97-10-064
296-23-230	PREP	97-02-097	296-23A-185	REP	97-06-066	296-46-910	AMD	97-12-016
296-23-230	AMD-P	97-05-076	296-23A-190	REP	97-06-066	296-46-915	AMD-P	97-03-083
296-23-230	AMD	97-10-017	296-23A-200	REP	97-06-066	296-46-915	AMD	97-12-016
296-23-265	AMD	97-09-036	296-23A-205	REP	97-06-066	296-46-920	AMD-P	97-03-083
296-23-26501	NEW	97-09-036	296-23A-210	REP	97-06-066	296-46-920	AMD	97-12-016
296-23-26502	NEW	97-09-036	296-23A-215	REP	97-06-066	296-49	PREP	97-03-082
296-23-26503	NEW	97-09-036	296-23A-220	REP	97-06-066	296-49-005	REP-P	97-09-039
296-23-26504	NEW	97-09-036	296-23A-225	REP	97-06-066	296-49-010	REP-P	97-09-039
296-23-26505	NEW	97-09-036	296-23A-230	REP	97-06-066	296-49-015	REP-P	97-09-039
296-23-26506	NEW	97-09-036	296-23A-235	REP	97-06-066	296-49-020	REP-P	97-09-039
296-23-267	NEW	97-09-036	296-23A-300	REP	97-06-066	296-49-025	REP-P	97-09-039
296-23A	PREP	97-02-097	296-23A-310	REP	97-06-066	296-49-030	REP-P	97-09-039
296-23A-0100	NEW	97-06-066	296-23A-315	REP	97-06-066	296-49-035	REP-P	97-09-039
296-23A-0110	NEW	97-06-066	296-23A-320	REP	97-06-066	296-49-040	REP-P	97-09-039
296-23A-0120	NEW	97-06-066	296-23A-400	REP	97-06-066	296-49-045	REP-P	97-09-039
296-23A-0130	NEW	97-06-066	296-23A-430	REP	97-06-066	296-49-050	REP-P	97-09-039
296-23A-0140	NEW	97-06-066	296-24	PREP	97-11-051	296-49-055	REP-P	97-09-039
296-23A-0150	NEW	97-06-066	296-24-07801	AMD-P	97-03-085	296-49-060	REP-P	97-09-039
296-23A-0160	NEW	97-06-066	296-24-07801	AMD	97-11-055	296-49-065	REP-P	97-09-039
296-23A-0170	NEW	97-06-066	296-24-084	AMD-P	97-03-085	296-49A-010	NEW-P	97-09-039
296-23A-0180	NEW	97-06-066	296-24-084	AMD	97-11-055	296-49A-020	NEW-P	97-09-039
296-23A-0190	NEW	97-06-066	296-24-088	AMD-P	97-03-085	296-49A-030	NEW-P	97-09-039
296-23A-0195	NEW	97-06-066	296-24-088	AMD	97-11-055	296-49A-040	NEW-P	97-09-039
296-23A-0200	NEW	97-06-066	296-24-67501	AMD-P	97-13-062	296-49A-050	NEW-P	97-09-039
296-23A-0210	NEW	97-06-066	296-24-67505	AMD-P	97-13-062	296-49A-060	NEW-P	97-09-039
296-23A-0220	NEW	97-06-066	296-24-67507	AMD-P	97-13-062	296-49A-070	NEW-P	97-09-039
296-23A-0230	NEW	97-06-066	296-24-67509	AMD-P	97-13-062	296-49A-080	NEW-P	97-09-039
296-23A-0240	NEW	97-06-066	296-24-67511	AMD-P	97-13-062	296-49A-090	NEW-P	97-09-039
296-23A-0250	NEW	97-06-066	296-24-67513	AMD-P	97-13-062	296-49A-100	NEW-P	97-09-039
296-23A-0300	NEW	97-06-066	296-24-67515	AMD-P	97-13-062	296-49A-110	NEW-P	97-09-039
296-23A-0310	NEW	97-06-066	296-24-67517	AMD-P	97-13-062	296-54	PREP	97-10-071
296-23A-0350	NEW	97-06-066	296-24-67519	AMD-P	97-13-062	296-62	PREP	97-05-047
296-23A-0360	NEW	97-06-066	296-24-67520	NEW-P	97-13-062	296-62	PREP	97-06-101
296-23A-0400	NEW	97-06-066	296-24-67521	NEW-P	97-13-062	296-62	PREP	97-09-078
296-23A-0410	NEW	97-06-066	296-24-677	REP-P	97-13-062	296-62-05413	AMD-P	97-03-085
296-23A-0420	NEW	97-06-066	296-24-67701	REP-P	97-13-062	296-62-05413	AMD	97-11-055
296-23A-0430	NEW	97-06-066	296-27-15503	AMD-P	97-03-085	296-62-07113	AMD-P	97-09-079
296-23A-0440	NEW	97-06-066	296-27-15503	AMD	97-11-054	296-62-07460	NEW-P	97-09-079
296-23A-0450	NEW	97-06-066	296-46	PREP	97-02-095	296-62-07470	NEW-P	97-13-063
296-23A-0460	NEW	97-06-066	296-46-090	AMD-P	97-03-083	296-62-07473	NEW-P	97-13-063

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-62-07475	NEW-P	97-13-063	296-116-085	DECOD	97-08-042	296-150P-0720	NEW-P	97-09-039
296-62-07477	NEW-P	97-13-063	296-116-110	DECOD	97-08-042	296-150P-1000	NEW-P	97-09-039
296-62-075	AMD-P	97-09-079	296-116-115	DECOD	97-08-042	296-150P-1010	NEW-P	97-09-039
296-62-07501	AMD-P	97-09-079	296-116-120	DECOD	97-08-042	296-150P-1020	NEW-P	97-09-039
296-62-07510	AMD-P	97-09-079	296-116-140	DECOD	97-08-042	296-150P-2000	NEW-P	97-09-039
296-62-07515	AMD-P	97-09-079	296-116-150	DECOD	97-08-042	296-150P-2010	NEW-P	97-09-039
296-62-07711	AMD-P	97-09-079	296-116-170	DECOD	97-08-042	296-150P-2020	NEW-P	97-09-039
296-62-07712	AMD-P	97-09-079	296-116-175	DECOD	97-08-042	296-150P-2030	NEW-P	97-09-039
296-62-07715	AMD-P	97-09-079	296-116-185	DECOD	97-08-042	296-150P-3000	NEW-P	97-09-039
296-62-07717	AMD-P	97-09-079	296-116-200	AMD	97-06-106	296-150R	PREP	97-03-082
296-62-07721	AMD-P	97-09-079	296-116-200	DECOD	97-08-042	296-150R	AMD-P	97-09-039
296-62-07725	AMD-P	97-09-079	296-116-205	DECOD	97-08-042	296-150R-0010	AMD-P	97-09-039
296-62-07728	AMD-P	97-09-079	296-116-2051	DECOD	97-08-042	296-150R-0020	AMD-P	97-09-039
296-62-07761	REP-P	97-09-079	296-116-300	AMD-P	97-08-041	296-150R-0030	AMD-P	97-09-039
296-62-11015	AMD-P	97-13-062	296-116-300	DECOD	97-08-042	296-150R-0040	AMD-P	97-09-039
296-65-001	AMD-P	97-09-079	296-116-315	DECOD	97-08-042	296-150R-0060	AMD-P	97-09-039
296-65-030	AMD-P	97-09-079	296-116-35001	DECOD	97-08-042	296-150R-0100	AMD-P	97-09-039
296-86-020	AMD-P	97-03-132	296-116-360	AMD-P	97-06-103	296-150R-0110	AMD-P	97-09-039
296-86-020	AMD	97-11-053	296-116-360	AMD-E	97-06-104	296-150R-0120	AMD-P	97-09-039
296-86-030	AMD-P	97-03-132	296-116-360	DECOD	97-08-042	296-150R-0130	AMD-P	97-09-039
296-86-030	AMD	97-11-053	296-116-370	DECOD	97-08-042	296-150R-0200	AMD-P	97-09-039
296-86-050	AMD-P	97-03-132	296-116-400	DECOD	97-08-042	296-150R-0250	AMD-P	97-09-039
296-86-050	AMD	97-11-053	296-116-410	DECOD	97-08-042	296-150R-0280	AMD-P	97-09-039
296-86-060	AMD-P	97-03-132	296-116-420	DECOD	97-08-042	296-150R-0400	AMD-P	97-09-039
296-86-060	AMD	97-11-053	296-116-500	DECOD	97-08-042	296-150R-0640	AMD-P	97-09-039
296-86-070	AMD-P	97-03-132	296-128-013	NEW-W	97-03-073	296-150R-0850	AMD-P	97-09-039
296-86-070	AMD	97-11-053	296-150C-0040	AMD-P	97-09-039	296-150R-1000	AMD-P	97-09-039
296-86-075	AMD-P	97-03-132	296-150C-0090	NEW-W	97-04-070	296-150R-2000	AMD-P	97-09-039
296-86-075	AMD	97-11-053	296-150C-0100	AMD-P	97-09-039	296-150R-2020	AMD-P	97-09-039
296-86-080	AMD-P	97-03-132	296-150C-1010	NEW-W	97-04-070	296-150R-3000	AMD-P	97-03-132
296-86-080	AMD	97-11-053	296-150C-3000	AMD-P	97-03-132	296-150R-3000	AMD-P	97-09-039
296-86-090	NEW-P	97-03-132	296-150C-3000	AMD	97-11-053	296-150R-3000	AMD	97-11-053
296-86-090	NEW	97-11-053	296-150F-0040	AMD-P	97-09-039	296-155	PREP	97-10-095
296-93-300	AMD-P	97-03-132	296-150F-0100	AMD-P	97-09-039	296-155-527	AMD-P	97-03-085
296-93-300	AMD	97-11-053	296-150F-3000	AMD-P	97-03-132	296-155-527	AMD	97-11-055
296-93-320	REP-P	97-03-132	296-150F-3000	AMD	97-11-053	296-200	PREP	97-03-081
296-93-320	REP	97-11-053	296-150M-0040	AMD-P	97-09-039	296-200-025	AMD-P	97-03-132
296-93-330	AMD-P	97-03-132	296-150M-0100	AMD-P	97-09-039	296-200-025	AMD	97-11-053
296-93-330	AMD	97-11-053	296-150M-3000	AMD-P	97-03-132	296-200-050	AMD-P	97-03-132
296-99-010	AMD-P	97-09-079	296-150M-3000	AMD	97-11-053	296-200-050	AMD	97-11-053
296-99-015	AMD-P	97-09-079	296-150P-0010	NEW-P	97-09-039	296-200-900	AMD-P	97-03-132
296-99-020	AMD-P	97-09-079	296-150P-0020	NEW-P	97-09-039	296-200-900	AMD	97-11-053
296-99-025	AMD-P	97-09-079	296-150P-0030	NEW-P	97-09-039	296-304-010	AMD-P	97-13-062
296-99-030	AMD-P	97-09-079	296-150P-0040	NEW-P	97-09-039	296-304-01001	AMD-P	97-13-062
296-99-035	AMD-P	97-09-079	296-150P-0060	NEW-P	97-09-039	296-304-03001	AMD-P	97-13-062
296-99-040	AMD-P	97-09-079	296-150P-0100	NEW-P	97-09-039	296-304-03003	AMD-P	97-13-062
296-99-045	AMD-P	97-09-079	296-150P-0110	NEW-P	97-09-039	296-304-03005	AMD-P	97-13-062
296-99-050	AMD-P	97-09-079	296-150P-0120	NEW-P	97-09-039	296-304-03007	AMD-P	97-13-062
296-99-055	AMD-P	97-09-079	296-150P-0130	NEW-P	97-09-039	296-304-05007	AMD-P	97-13-062
296-99-060	AMD-P	97-09-079	296-150P-0200	NEW-P	97-09-039	296-304-05013	AMD-P	97-13-062
296-99-065	AMD-P	97-09-079	296-150P-0210	NEW-P	97-09-039	296-304-06013	AMD-P	97-13-062
296-99-070	AMD-P	97-09-079	296-150P-0220	NEW-P	97-09-039	296-304-07013	AMD-P	97-13-062
296-99-075	AMD-P	97-09-079	296-150P-0250	NEW-P	97-09-039	296-304-08007	AMD-P	97-13-062
296-99-080	AMD-P	97-09-079	296-150P-0280	NEW-P	97-09-039	296-304-08009	AMD-P	97-13-062
296-99-085	AMD-P	97-09-079	296-150P-0290	NEW-P	97-09-039	296-304-090	AMD-P	97-13-062
296-99-090	AMD-P	97-09-079	296-150P-0300	NEW-P	97-09-039	296-304-09001	AMD-P	97-13-062
296-99-093	AMD-P	97-09-079	296-150P-0310	NEW-P	97-09-039	296-304-09003	AMD-P	97-13-062
296-99-095	AMD-P	97-09-079	296-150P-0320	NEW-P	97-09-039	296-304-09005	AMD-P	97-13-062
296-104	PREP	97-11-004	296-150P-0330	NEW-P	97-09-039	296-304-09007	AMD-P	97-13-062
296-116-010	DECOD	97-08-042	296-150P-0340	NEW-P	97-09-039	296-304-09009	NEW-P	97-13-062
296-116-020	DECOD	97-08-042	296-150P-0350	NEW-P	97-09-039	296-304-09011	NEW-P	97-13-062
296-116-030	DECOD	97-08-042	296-150P-0400	NEW-P	97-09-039	296-304-09013	NEW-P	97-13-062
296-116-050	DECOD	97-08-042	296-150P-0410	NEW-P	97-09-039	296-304-09015	NEW-P	97-13-062
296-116-060	DECOD	97-08-042	296-150P-0420	NEW-P	97-09-039	296-304-09017	NEW-P	97-13-062
296-116-070	AMD	97-06-105	296-150P-0440	NEW-P	97-09-039	296-304-09019	NEW-P	97-13-062
296-116-070	DECOD	97-08-042	296-150P-0450	NEW-P	97-09-039	296-304-09021	NEW-P	97-13-062
296-116-075	DECOD	97-08-042	296-150P-0600	NEW-P	97-09-039	296-304-09023	NEW-P	97-13-062
296-116-080	DECOD	97-08-042	296-150P-0610	NEW-P	97-09-039	296-306-060	REP-P	97-03-131
296-116-081	DECOD	97-08-042	296-150P-0620	NEW-P	97-09-039	296-306-060	REP-E	97-06-040
296-116-082	PREP	97-06-102	296-150P-0630	NEW-P	97-09-039	296-306-060	REP	97-08-051A
296-116-082	AMD-E	97-08-040	296-150P-0640	NEW-P	97-09-039	296-306-060	REP-W	97-12-063
296-116-082	DECOD	97-08-042	296-150P-0700	NEW-P	97-09-039	296-306-330	REP-P	97-03-131
296-116-083	DECOD	97-08-042	296-150P-0710	NEW-P	97-09-039	296-306-330	REP-E	97-06-040

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-400A-070	NEW-P	97-03-085	308-17-020	AMD-P	97-13-080	308-56A-065	AMD	97-03-076
296-400A-070	NEW	97-11-052	308-17-030	AMD-P	97-13-080	308-56A-070	AMD	97-03-076
296-400A-100	NEW-P	97-03-085	308-17-100	AMD-P	97-13-080	308-56A-075	AMD	97-03-076
296-400A-100	NEW	97-11-052	308-17-105	AMD-P	97-13-080	308-56A-150	AMD	97-07-014
296-400A-110	NEW-P	97-03-085	308-17-110	AMD-P	97-13-080	308-56A-160	AMD	97-07-014
296-400A-110	NEW	97-11-052	308-17-120	AMD-P	97-13-080	308-56A-200	AMD-P	97-09-002
296-400A-120	NEW-P	97-03-085	308-17-130	AMD-P	97-13-080	308-56A-200	AMD-W	97-13-009
296-400A-120	NEW	97-11-052	308-17-140	AMD-P	97-13-080	308-56A-205	AMD-P	97-09-002
296-400A-121	NEW-P	97-03-085	308-17-150	AMD-P	97-13-080	308-56A-205	AMD-W	97-13-009
296-400A-121	NEW	97-11-052	308-17-160	AMD-P	97-13-080	308-56A-210	AMD-P	97-09-002
296-400A-130	NEW-P	97-03-085	308-17-165	AMD-P	97-13-080	308-56A-210	AMD-W	97-13-009
296-400A-130	NEW	97-11-052	308-17-170	AMD-P	97-13-080	308-56A-215	AMD-P	97-09-002
296-400A-140	NEW-P	97-03-085	308-17-180	NEW-P	97-13-080	308-56A-215	AMD-W	97-13-009
296-400A-140	NEW	97-11-052	308-17-185	NEW-P	97-13-080	308-56A-250	AMD-P	97-09-002
296-400A-300	NEW-P	97-03-085	308-17-190	NEW-P	97-13-080	308-56A-250	AMD-W	97-13-009
296-400A-300	NEW	97-11-052	308-17-205	AMD-P	97-13-080	308-56A-255	REP-P	97-09-002
296-400A-400	NEW-P	97-03-085	308-17-210	AMD-P	97-13-080	308-56A-255	REP-W	97-13-009
296-400A-400	NEW	97-11-052	308-17-230	AMD-P	97-13-080	308-56A-265	AMD-P	97-09-002
296-400A-425	NEW-P	97-03-085	308-17-240	AMD-P	97-13-080	308-56A-265	AMD-W	97-13-009
296-400A-425	NEW	97-11-052	308-17-300	AMD-P	97-13-080	308-56A-270	AMD-P	97-09-002
296-401	PREP	97-02-095	308-17-310	AMD-P	97-13-080	308-56A-270	AMD-W	97-13-009
296-401-080	AMD-P	97-03-083	308-17-320	AMD-P	97-13-080	308-56A-275	AMD-P	97-09-002
296-401-080	AMD	97-12-016	308-18-020	AMD-P	97-13-081	308-56A-275	AMD-W	97-13-009
296-401-090	AMD-P	97-03-083	308-18-030	AMD-P	97-13-081	308-56A-280	AMD-P	97-09-002
296-401-090	AMD	97-12-016	308-18-100	AMD-P	97-13-081	308-56A-280	AMD-W	97-13-009
296-401-100	AMD-P	97-03-083	308-18-110	AMD-P	97-13-081	308-56A-285	AMD-P	97-09-002
296-401-100	AMD	97-12-016	308-18-120	AMD-P	97-13-081	308-56A-285	AMD-W	97-13-009
296-401-120	AMD-P	97-03-083	308-18-140	AMD-P	97-13-081	308-56A-300	AMD-P	97-09-002
296-401-120	AMD	97-12-016	308-18-150	AMD-P	97-13-081	308-56A-300	AMD-W	97-13-009
296-401-165	AMD-P	97-03-083	308-18-170	AMD-P	97-13-081	308-56A-305	AMD-P	97-09-002
296-401-165	AMD	97-12-016	308-18-180	NEW-P	97-13-081	308-56A-305	AMD-W	97-13-009
296-401-175	AMD-P	97-03-083	308-18-185	NEW-P	97-13-081	308-56A-310	AMD-P	97-09-002
296-401-175	AMD	97-12-016	308-18-190	NEW-P	97-13-081	308-56A-310	AMD-W	97-13-009
308-11-140	NEW-P	97-07-035	308-18-240	AMD-P	97-13-081	308-56A-315	AMD-P	97-09-002
308-11-140	NEW	97-10-046	308-18-240	AMD-P	97-13-081	308-56A-315	AMD-W	97-13-009
308-11-150	NEW-P	97-07-035	308-18-300	AMD-P	97-13-081	308-56A-320	AMD-P	97-09-002
308-11-150	NEW	97-10-046	308-19-400	NEW-P	97-07-026	308-56A-320	AMD-W	97-13-009
308-11-160	NEW-P	97-07-035	308-19-400	NEW	97-10-047	308-56A-320	AMD-W	97-13-009
308-11-160	NEW	97-10-046	308-19-410	NEW-P	97-07-026	308-56A-325	AMD-P	97-09-002
308-12-025	AMD	97-03-121	308-19-410	NEW	97-10-047	308-56A-325	AMD-W	97-13-009
308-12-031	AMD	97-03-121	308-19-420	NEW-P	97-07-026	308-56A-330	AMD-P	97-09-002
308-12-040	AMD	97-03-121	308-19-420	NEW	97-10-047	308-56A-330	AMD-W	97-13-009
308-12-050	AMD	97-03-121	308-20-710	NEW-P	97-07-032	308-56A-335	AMD-P	97-09-002
308-12-140	REP	97-03-121	308-20-710	NEW	97-10-049	308-56A-335	AMD-W	97-13-009
308-12-145	REP	97-03-121	308-20-720	NEW-P	97-07-032	308-56A-340	REP-P	97-09-002
308-12-210	NEW	97-03-121	308-20-720	NEW	97-10-049	308-56A-340	REP-W	97-13-009
308-12-220	NEW	97-03-121	308-20-730	NEW-P	97-07-032	308-56A-345	REP-P	97-09-002
308-12-230	NEW	97-03-121	308-20-730	NEW	97-10-049	308-56A-345	REP-W	97-13-009
308-12-240	NEW-W	97-03-065	308-29-090	NEW-P	97-07-033	308-56A-350	AMD-P	97-09-002
308-12-240	NEW	97-03-121	308-29-090	NEW-W	97-09-022	308-56A-350	AMD-W	97-13-009
308-12-250	NEW-W	97-03-065	308-29-100	NEW-P	97-07-033	308-56A-355	REP-P	97-09-002
308-12-260	NEW-W	97-03-065	308-29-100	NEW-W	97-09-022	308-56A-355	REP-W	97-13-009
308-12-320	AMD	97-06-064	308-29-110	NEW-P	97-07-033	308-56A-360	AMD-P	97-09-002
308-12-324	AMD	97-03-121	308-29-110	NEW-W	97-09-022	308-56A-360	AMD-W	97-13-009
308-12-326	AMD	97-06-064	308-30-170	NEW-P	97-07-029	308-56A-360	AMD-P	97-09-002
308-12-326	AMD-P	97-10-080	308-30-170	NEW	97-10-052	308-56A-365	AMD-W	97-13-009
308-12-326	AMD	97-13-095	308-30-180	NEW-P	97-07-029	308-56A-365	AMD-W	97-13-009
308-13-045	NEW-P	97-03-022	308-30-180	NEW	97-10-052	308-56A-370	NEW-P	97-09-002
308-13-045	NEW	97-06-065	308-30-190	NEW-P	97-07-029	308-56A-370	NEW-W	97-13-009
308-13-160	AMD-P	97-03-022	308-30-190	NEW	97-10-052	308-56A-400	REP-P	97-09-002
308-13-160	AMD	97-06-065	308-32-100	NEW-P	97-07-027	308-56A-400	REP-W	97-13-009
308-13-210	NEW	97-10-026	308-32-100	NEW	97-10-050	308-56A-405	REP-P	97-09-002
308-13-220	NEW	97-10-026	308-32-110	NEW-P	97-07-027	308-56A-405	REP-W	97-13-009
308-13-230	NEW	97-10-026	308-32-110	NEW	97-10-050	308-56A-410	REP-P	97-09-002
308-13-240	NEW	97-10-026	308-32-120	NEW-P	97-07-027	308-56A-410	REP-W	97-13-009
308-14-210	NEW-P	97-07-031	308-32-120	NEW	97-10-050	308-56A-415	REP-P	97-09-002
308-14-210	NEW	97-10-053	308-33-110	NEW-P	97-07-030	308-56A-415	REP-W	97-13-009
308-14-220	NEW-P	97-07-031	308-33-110	NEW	97-10-054	308-56A-470	AMD	97-07-014
308-14-220	NEW	97-10-053	308-33-120	NEW-P	97-07-030	308-56A-610	AMD-P	97-06-028
308-14-230	NEW-P	97-07-031	308-33-120	NEW	97-10-054	308-56A-610	AMD-S	97-09-038
308-14-230	NEW	97-10-053	308-33-130	NEW-P	97-07-030	308-56A-620	AMD-P	97-06-028
308-17	AMD-P	97-13-080	308-33-130	NEW	97-10-054	308-56A-620	AMD-S	97-09-038
308-17-010	AMD-P	97-13-080	308-56A-060	AMD-P	97-09-002	308-56A-630	REP-P	97-06-028
			308-56A-060	AMD-W	97-13-009	308-56A-630	REP-S	97-09-038
						308-56A-640	AMD-P	97-06-028

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
308-56A-640	AMD-S	97-09-038	308-96A-072	AMD-P	97-03-028	308-420-270	NEW-P	97-07-034
308-56A-650	AMD-P	97-06-028	308-96A-072	AMD	97-07-013	308-420-270	NEW	97-10-048
308-56A-650	AMD-S	97-09-038	308-96A-073	AMD	97-07-014	314-60-040	PREP	97-13-070
308-56A-660	AMD-P	97-06-028	308-96A-074	AMD	97-07-014	315-06	PREP	97-11-057
308-56A-660	AMD-S	97-09-038	308-96A-075	REP	97-07-014	315-10-010	AMD	97-04-047
308-56A-670	AMD-P	97-06-028	308-96A-136	AMD-P	97-03-028	315-10-020	AMD	97-04-047
308-56A-670	AMD-S	97-09-038	308-96A-136	AMD	97-07-013	315-10-022	NEW	97-04-047
308-56A-680	AMD-P	97-06-028	308-96A-161	AMD-P	97-06-027	315-10-025	NEW	97-04-047
308-56A-680	AMD-S	97-09-038	308-96A-161	AMD	97-09-003	315-10-030	AMD	97-04-047
308-56A-690	AMD-P	97-06-028	308-96A-162	AMD-P	97-06-027	315-10-035	NEW	97-04-047
308-56A-690	AMD-S	97-09-038	308-96A-162	AMD	97-09-003	315-10-055	NEW	97-04-047
308-57-005	AMD-P	97-07-069	308-125-120	PREP	97-09-082	315-10-060	AMD	97-04-047
308-57-005	AMD	97-12-015	308-125-120	PREP	97-09-083	315-10-062	NEW	97-04-047
308-57-010	AMD-P	97-07-069	308-125-120	PREP	97-11-059	315-10-065	NEW	97-04-047
308-57-010	AMD	97-12-015	308-125-120	AMD-P	97-13-030	315-10-070	AMD	97-04-047
308-57-020	AMD-P	97-07-069	308-127-310	NEW-P	97-07-028	315-10-075	NEW	97-04-047
308-57-020	AMD	97-12-015	308-127-310	NEW	97-10-051	315-11A-184	AMD-P	97-03-123
308-57-030	AMD-P	97-07-069	308-127-320	NEW-P	97-07-028	315-11A-184	AMD	97-07-063
308-57-030	AMD	97-12-015	308-127-320	NEW	97-10-051	315-11A-187	NEW-P	97-03-123
308-57-110	AMD-P	97-07-069	308-127-330	NEW-P	97-07-028	315-11A-187	NEW	97-07-063
308-57-110	AMD	97-12-015	308-127-330	NEW	97-10-051	315-11A-188	NEW-P	97-03-123
308-57-120	AMD-P	97-07-069	308-330-121	REP-P	97-07-015	315-11A-188	NEW	97-07-063
308-57-120	AMD	97-12-015	308-330-121	REP	97-10-068	315-11A-189	NEW-P	97-03-123
308-57-130	AMD-P	97-07-069	308-330-123	REP-P	97-07-015	315-11A-189	NEW	97-07-063
308-57-130	AMD	97-12-015	308-330-123	REP	97-10-068	315-11A-190	NEW-P	97-03-123
308-57-135	NEW-P	97-07-069	308-330-197	AMD-P	97-07-015	315-11A-190	NEW	97-07-063
308-57-135	NEW	97-12-015	308-330-197	AMD	97-10-068	315-11A-191	NEW-P	97-03-123
308-57-140	AMD-P	97-07-069	308-330-200	AMD-P	97-07-015	315-11A-191	NEW	97-07-063
308-57-140	AMD	97-12-015	308-330-200	AMD	97-10-068	315-11A-192	NEW-P	97-07-062
308-57-210	AMD-P	97-07-069	308-330-200	AMD-P	97-07-015	315-11A-192	NEW	97-11-003
308-57-210	AMD	97-12-015	308-330-300	AMD	97-10-068	315-11A-192	NEW	97-11-003
308-57-220	REP-P	97-07-069	308-330-300	AMD-P	97-07-015	315-11A-193	NEW-P	97-07-062
308-57-220	REP	97-12-015	308-330-305	AMD-P	97-07-015	315-11A-193	NEW	97-11-003
308-57-230	AMD-P	97-07-069	308-330-305	AMD	97-10-068	315-11A-194	NEW-P	97-07-062
308-57-230	AMD	97-12-015	308-330-307	AMD-P	97-07-015	315-11A-194	NEW	97-11-003
308-57-240	AMD-P	97-07-069	308-330-307	AMD	97-10-068	315-11A-194	NEW	97-11-003
308-57-240	AMD	97-12-015	308-330-307	AMD-E	97-12-043	315-11A-195	NEW-P	97-07-062
308-57-250	REP-P	97-07-069	308-330-307	AMD-P	97-12-044	315-11A-195	NEW	97-11-003
308-57-250	REP	97-12-015	308-330-316	AMD-P	97-07-015	315-11A-196	NEW-P	97-11-058
308-57-310	REP-P	97-07-069	308-330-316	AMD	97-10-068	315-11A-197	NEW-P	97-11-058
308-57-310	REP	97-12-015	308-330-322	AMD-P	97-07-015	315-11A-197	NEW-P	97-11-058
308-57-320	REP-P	97-07-069	308-330-322	AMD	97-10-068	315-11A-199	NEW-P	97-11-058
308-57-320	REP	97-12-015	308-330-329	REP-P	97-07-015	315-11A-200	NEW-P	97-11-058
308-57-410	REP-P	97-07-069	308-330-329	REP	97-10-068	315-11A-201	NEW-P	97-11-058
308-57-410	REP	97-12-015	308-330-370	AMD-P	97-07-015	315-11A-202	NEW-P	97-11-058
308-57-420	REP-P	97-07-069	308-330-370	AMD	97-10-068	315-11A-203	NEW-P	97-11-058
308-57-420	REP	97-12-015	308-330-375	REP-P	97-07-015	315-12-020	AMD-P	97-03-123
308-57-430	REP-P	97-07-069	308-330-375	REP	97-10-068	315-12-020	AMD	97-07-063
308-57-430	REP	97-12-015	308-330-400	AMD-P	97-07-015	315-12-030	PREP	97-07-061
308-57-440	REP-P	97-07-069	308-330-400	AMD	97-10-068	315-12-030	AMD-P	97-11-058
308-57-440	REP	97-12-015	308-330-406	AMD-P	97-07-015	315-12-080	AMD-P	97-03-123
308-58-010	AMD-P	97-03-096	308-330-406	AMD	97-10-068	315-12-080	AMD	97-07-063
308-58-010	AMD-S	97-08-005	308-330-408	AMD-P	97-07-015	315-12-090	AMD-P	97-03-123
308-58-030	AMD-P	97-11-049	308-330-408	AMD	97-10-068	315-12-090	AMD	97-07-063
308-58-030	AMD-S	97-08-005	308-330-415	AMD-P	97-07-015	315-34	PREP	97-11-057
308-58-030	AMD	97-11-049	308-330-415	AMD	97-10-068	317-31-200	AMD-P	97-07-065
308-58-040	AMD-P	97-03-096	308-330-421	AMD-P	97-07-015	317-31-200	AMD	97-10-097
308-58-040	AMD	97-11-049	308-330-421	AMD	97-10-068	317-31-220	AMD-P	97-07-065
308-58-040	AMD-P	97-03-096	308-330-425	AMD-P	97-07-015	317-31-220	AMD	97-10-097
308-58-040	AMD-S	97-08-005	308-330-425	AMD	97-10-068	317-31-230	AMD-P	97-07-065
308-58-050	NEW-P	97-03-096	308-330-425	AMD-E	97-12-043	317-31-230	AMD	97-10-097
308-58-050	NEW-S	97-08-005	308-330-425	AMD-P	97-12-044	317-40	PREP	97-07-066
308-58-050	NEW	97-11-049	308-330-436	AMD-P	97-07-015	317-50-010	NEW-P	97-07-064
308-93	PREP	97-12-026	308-330-436	AMD	97-10-068	317-50-010	NEW	97-10-096
308-96A	PREP	97-12-067	308-330-462	AMD-P	97-07-015	317-50-020	NEW-P	97-07-064
308-96A-005	AMD-P	97-06-027	308-330-462	AMD	97-10-068	317-50-020	NEW	97-10-096
308-96A-005	AMD	97-10-003	308-330-800	AMD-P	97-07-015	317-50-030	NEW-P	97-07-064
308-96A-046	AMD-P	97-03-028	308-330-800	AMD	97-10-068	317-50-030	NEW	97-10-096
308-96A-046	AMD	97-07-013	308-330-825	AMD-P	97-07-015	317-50-040	NEW-P	97-07-064
308-96A-056	AMD-P	97-03-028	308-330-825	AMD	97-10-068	317-50-040	NEW	97-10-096
308-96A-056	AMD	97-07-013	308-420-250	NEW-P	97-07-034	317-50-050	NEW-P	97-07-064
308-96A-057	AMD-P	97-03-028	308-420-250	NEW	97-10-048	317-50-050	NEW	97-10-096
308-96A-057	AMD-P	97-03-028	308-420-260	NEW-P	97-07-034	317-50-060	NEW-P	97-07-064
308-96A-057	AMD	97-07-013	308-420-260	NEW	97-10-048	317-50-060	NEW	97-10-096
308-96A-057	AMD	97-07-013				317-50-070	NEW-P	97-07-064

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
317-50-070	NEW	97-10-096	363-11-250	RECOD	97-08-042	365-135-035	NEW	97-02-093
317-50-080	NEW-P	97-07-064	363-11-260	RECOD	97-08-042	365-135-040	AMD	97-02-093
317-50-080	NEW	97-10-096	363-11-270	RECOD	97-08-042	365-135-050	AMD	97-02-093
317-50-900	NEW-P	97-07-064	363-11-280	RECOD	97-08-042	365-135-060	AMD	97-02-093
317-50-900	NEW	97-10-096	363-11-290	RECOD	97-08-042	365-135-070	AMD	97-02-093
326-02-034	AMD-P	97-09-094	363-11-300	RECOD	97-08-042	371-08-310	AMD-E	97-12-003
326-30-041	PREP	97-09-093	363-11-310	RECOD	97-08-042	371-08-335	AMD-E	97-12-003
326-30-041	AMD-P	97-13-067	363-11-320	RECOD	97-08-042	374-70-020	AMD-P	97-03-113
332-24-221	AMD-P	97-09-065	363-11-330	RECOD	97-08-042	374-70-020	AMD	97-06-080
332-24-221	AMD	97-12-033	363-11-340	RECOD	97-08-042	374-70-020	AMD-E	97-07-049
332-24-720	AMD	97-05-066	363-11-350	RECOD	97-08-042	374-70-030	AMD-P	97-03-113
332-24-730	AMD	97-05-066	363-11-360	RECOD	97-08-042	374-70-030	AMD	97-06-080
352-32-235	PREP	97-06-063	363-11-370	RECOD	97-08-042	374-70-030	AMD-E	97-07-049
352-32-235	AMD-P	97-09-081	363-11-380	RECOD	97-08-042	374-70-060	AMD-P	97-03-113
352-32-235	AMD-W	97-09-113	363-11-390	RECOD	97-08-042	374-70-060	AMD	97-06-080
352-32-235	AMD-P	97-09-114	363-11-400	RECOD	97-08-042	374-70-060	AMD-E	97-07-049
352-32-235	AMD	97-12-042	363-11-410	RECOD	97-08-042	374-70-070	AMD-P	97-03-113
356-05-055	AMD-P	97-08-089	363-11-420	RECOD	97-08-042	374-70-070	AMD	97-06-080
356-05-055	AMD-W	97-10-088	363-11-430	RECOD	97-08-042	374-70-070	AMD-E	97-07-049
356-05-075	AMD-P	97-12-079	363-11-440	RECOD	97-08-042	374-70-080	AMD-P	97-03-113
356-05-422	NEW-P	97-12-079	363-11-450	RECOD	97-08-042	374-70-080	AMD	97-06-080
356-06-020	AMD-P	97-08-089	363-11-460	RECOD	97-08-042	374-70-080	AMD-E	97-07-049
356-06-020	AMD-W	97-10-088	363-11-470	RECOD	97-08-042	374-70-090	AMD-P	97-03-113
356-06-060	AMD-P	97-08-089	363-11-480	RECOD	97-08-042	374-70-090	AMD	97-06-080
356-06-060	AMD-W	97-10-088	363-11-490	RECOD	97-08-042	374-70-090	AMD-E	97-07-049
356-06-070	REP-P	97-08-089	363-11-500	RECOD	97-08-042	374-70-100	AMD-P	97-03-113
356-06-070	REP-W	97-10-088	363-11-510	RECOD	97-08-042	374-70-100	AMD	97-06-080
356-06-080	REP-P	97-08-089	363-11-520	RECOD	97-08-042	374-70-100	AMD-E	97-07-049
356-06-080	REP-W	97-10-088	363-11-530	RECOD	97-08-042	374-70-110	REP-P	97-03-113
356-06-090	REP-P	97-08-089	363-11-540	RECOD	97-08-042	374-70-110	REP	97-06-080
356-06-090	REP-W	97-10-088	363-11-550	RECOD	97-08-042	374-70-110	REP-E	97-07-049
356-10-030	AMD-P	97-08-089	363-11-560	RECOD	97-08-042	374-70-120	AMD-P	97-03-113
356-10-030	AMD-W	97-10-088	363-11-570	RECOD	97-08-042	374-70-120	AMD	97-06-080
356-14-010	AMD-P	97-12-079	363-11-580	RECOD	97-08-042	374-70-120	AMD-E	97-07-049
356-14-069	NEW-P	97-12-079	363-11-590	RECOD	97-08-042	374-70-130	AMD-P	97-03-113
356-14-110	AMD-P	97-12-079	363-116-010	RECOD	97-08-042	374-70-130	AMD	97-06-080
356-14-120	AMD-P	97-12-079	363-116-020	RECOD	97-08-042	374-70-130	AMD-E	97-07-049
356-14-140	AMD-P	97-12-079	363-116-030	RECOD	97-08-042	388-11	PREP	97-09-109
356-14-160	AMD-P	97-12-079	363-116-050	RECOD	97-08-042	388-11-032	PREP	97-09-111
356-30-065	AMD-E	97-09-028	363-116-060	RECOD	97-08-042	388-11-045	PREP	97-09-111
356-30-065	AMD-P	97-10-090	363-116-070	RECOD	97-08-042	388-11-048	PREP	97-09-111
356-30-065	AMD-W	97-13-044	363-116-075	RECOD	97-08-042	388-11-285	AMD-P	97-09-019
356-30-067	AMD-E	97-09-028	363-116-080	RECOD	97-08-042	388-11-285	AMD-W	97-10-083
356-30-067	AMD-P	97-10-090	363-116-081	RECOD	97-08-042	388-11-400	AMD-P	97-13-087
356-30-067	AMD-W	97-13-044	363-116-082	RECOD	97-08-042	388-11-405	REP-P	97-13-087
356-30-330	AMD-P	97-12-079	363-116-082	AMD-P	97-10-084	388-11-410	AMD-P	97-13-087
356-34-020	AMD-P	97-12-079	363-116-083	RECOD	97-08-042	388-11-415	AMD-P	97-13-087
363-11-001	RECOD	97-08-042	363-116-085	RECOD	97-08-042	388-11-420	AMD-P	97-13-087
363-11-003	RECOD	97-08-042	363-116-110	RECOD	97-08-042	388-11-425	AMD-P	97-13-087
363-11-010	RECOD	97-08-042	363-116-115	RECOD	97-08-042	388-11-430	AMD-P	97-13-087
363-11-020	RECOD	97-08-042	363-116-120	RECOD	97-08-042	388-14-020	AMD-P	97-09-020
363-11-030	RECOD	97-08-042	363-116-140	RECOD	97-08-042	388-14-020	AMD	97-13-092
363-11-040	RECOD	97-08-042	363-116-150	RECOD	97-08-042	388-14-030	AMD-P	97-09-020
363-11-050	RECOD	97-08-042	363-116-170	RECOD	97-08-042	388-14-030	PREP	97-09-110
363-11-060	RECOD	97-08-042	363-116-175	RECOD	97-08-042	388-14-030	AMD-W	97-10-082
363-11-070	RECOD	97-08-042	363-116-185	RECOD	97-08-042	388-14-260	AMD-P	97-09-020
363-11-080	RECOD	97-08-042	363-116-185	AMD-P	97-10-062	388-14-260	AMD	97-13-092
363-11-090	RECOD	97-08-042	363-116-200	RECOD	97-08-042	388-14-270	AMD-P	97-09-020
363-11-100	RECOD	97-08-042	363-116-205	RECOD	97-08-042	388-14-270	AMD	97-13-092
363-11-110	RECOD	97-08-042	363-116-2051	RECOD	97-08-042	388-14-271	NEW-P	97-09-020
363-11-120	RECOD	97-08-042	363-116-300	RECOD	97-08-042	388-14-271	NEW	97-13-092
363-11-130	RECOD	97-08-042	363-116-300	AMD	97-12-017	388-14-272	NEW-P	97-09-020
363-11-140	RECOD	97-08-042	363-116-315	RECOD	97-08-042	388-14-272	NEW	97-13-092
363-11-150	RECOD	97-08-042	363-116-35001	RECOD	97-08-042	388-14-274	NEW-P	97-09-020
363-11-160	RECOD	97-08-042	363-116-360	RECOD	97-08-042	388-14-274	NEW	97-13-092
363-11-170	RECOD	97-08-042	363-116-360	AMD	97-12-018	388-14-276	NEW-P	97-09-020
363-11-180	RECOD	97-08-042	363-116-370	RECOD	97-08-042	388-14-276	NEW	97-13-092
363-11-190	RECOD	97-08-042	363-116-400	RECOD	97-08-042	388-14-300	NEW-P	97-09-020
363-11-200	RECOD	97-08-042	363-116-410	RECOD	97-08-042	388-14-300	AMD	97-13-092
363-11-210	RECOD	97-08-042	363-116-420	RECOD	97-08-042	388-14-375	NEW-P	97-09-020
363-11-220	RECOD	97-08-042	363-116-500	RECOD	97-08-042	388-14-376	NEW	97-13-092
363-11-230	RECOD	97-08-042	365-135-010	AMD	97-02-093	388-14-385	AMD-P	97-09-020
363-11-240	RECOD	97-08-042	365-135-020	AMD	97-02-093	388-14-385	AMD	97-13-092

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-14-390	AMD-P	97-09-020	388-49-385	NEW	97-09-012	388-216-2900	AMD	97-06-078
388-14-390	AMD	97-13-092	388-49-470	AMD	97-05-002	388-218-1210	PREP	97-11-079
388-14-400	REP-P	97-09-020	388-49-640	AMD	97-04-024	388-218-1300	PREP	97-11-079
388-14-400	REP	97-13-092	388-49-670	AMD	97-04-023	388-218-1350	PREP	97-11-079
388-14-405	REP-P	97-09-020	388-76	PREP	97-12-047	388-218-1410	PREP	97-11-079
388-14-405	REP	97-13-092	388-87-020	AMD	97-04-005	388-218-1420	PREP	97-11-079
388-14-415	AMD-P	97-09-020	388-86-010	PREP	97-06-072	388-218-1430	PREP	97-11-079
388-14-415	AMD	97-13-092	388-96-010	AMD-P	97-12-082	388-218-1440	PREP	97-11-079
388-14-420	AMD-P	97-09-020	388-96-220	PREP	97-06-072	388-218-1450	PREP	97-11-079
388-14-420	AMD	97-13-092	388-96-221	PREP	97-06-072	388-218-1460	PREP	97-11-079
388-14-425	REP-P	97-09-020	388-96-224	PREP	97-06-072	388-218-1470	PREP	97-11-079
388-14-425	REP	97-13-092	388-96-224	AMD-P	97-12-082	388-218-1480	PREP	97-11-079
388-14-430	REP-P	97-09-020	388-96-505	PREP	97-06-072	388-218-1530	AMD-E	97-03-047
388-14-430	REP	97-13-092	388-96-505	AMD-P	97-12-082	388-218-1530	AMD-P	97-03-051
388-14-435	AMD-P	97-09-020	388-96-534	PREP	97-06-072	388-218-1530	AMD	97-06-078
388-14-435	AMD	97-13-092	388-96-534	AMD-P	97-12-082	388-218-1630	PREP	97-11-079
388-14-440	AMD-P	97-09-020	388-96-553	PREP	97-06-072	388-218-1710	PREP	97-11-079
388-14-440	AMD	97-13-092	388-96-553	AMD-P	97-12-082	388-218-1730	PREP	97-11-079
388-14-445	AMD-P	97-09-020	388-96-554	PREP	97-06-072	388-218-1740	PREP	97-11-079
388-14-445	AMD	97-13-092	388-96-554	AMD-P	97-12-082	388-218-1820	AMD-E	97-03-047
388-14-450	AMD-P	97-09-020	388-96-559	PREP	97-06-072	388-218-1820	AMD-P	97-03-051
388-14-450	AMD	97-13-092	388-96-559	AMD-P	97-12-082	388-218-1820	AMD	97-06-078
388-14-460	AMD-P	97-09-020	388-96-565	PREP	97-06-072	388-230	PREP	97-13-085
388-14-460	AMD	97-13-092	388-96-565	AMD-P	97-12-082	388-233	PREP	97-13-083
388-14-495	NEW-P	97-09-020	388-96-585	PREP	97-06-072	388-250-1700	AMD-P	97-10-035
388-14-495	NEW	97-13-092	388-96-585	AMD-P	97-12-082	388-250-1700	AMD-E	97-10-036
388-14-496	NEW-P	97-09-020	388-96-709	PREP	97-06-072	388-265	PREP	97-13-084
388-14-496	NEW	97-13-092	388-96-709	AMD-P	97-12-082	388-265-1350	REP-P	97-05-071
388-14-500	NEW-P	97-09-020	388-96-719	AMD-P	97-12-082	388-265-1350	REP	97-08-033
388-14-500	NEW	97-13-092	388-96-735	AMD-P	97-12-082	388-265-1350	REP	97-10-042
388-15-120	AMD-P	97-11-083	388-96-745	PREP	97-06-072	388-265-1750	PREP	97-06-132
388-15-134	AMD-P	97-09-106	388-96-745	AMD-P	97-12-082	388-265-1750	AMD-E	97-06-133
388-15-134	AMD	97-13-002	388-96-754	AMD-P	97-12-082	388-265-1750	AMD-P	97-10-039
388-15-196	PREP	97-08-072	388-96-774	AMD-P	97-12-082	388-265-1750	AMD	97-13-091
388-15-196	AMD-P	97-13-090	388-96-776	PREP	97-06-072	388-320-225	AMD-E	97-03-046
388-46-110	AMD-P	97-05-070	388-96-776	AMD-P	97-12-082	388-320-225	AMD-P	97-03-053
388-46-110	AMD	97-10-038	388-97-027	PREP	97-06-131	388-320-225	AMD	97-07-008
388-46-120	NEW-P	97-05-070	388-110-110	PREP	97-11-043	388-330-035	AMD-P	97-09-106
388-46-120	NEW	97-10-038	388-200-1400	NEW-E	97-03-046	388-330-035	AMD	97-13-002
388-49-020	AMD	97-06-096	388-200-1400	NEW-P	97-03-053	388-500-0005	PREP	97-11-075
388-49-020	AMD-P	97-13-089	388-200-1400	NEW	97-07-008	388-501-0135	AMD	97-03-038
388-49-160	AMD-P	97-06-098	388-215-1000	AMD-E	97-04-050	388-503-0310	AMD	97-03-036
388-49-160	AMD	97-09-030	388-215-1000	AMD-P	97-04-051	388-503-0310	PREP	97-11-075
388-49-190	AMD-P	97-06-097	388-215-1000	AMD	97-07-024	388-505-0510	AMD-P	97-11-082
388-49-190	AMD	97-09-031	388-215-1115	NEW-P	97-05-068	388-505-0520	AMD-E	97-08-074
388-49-190	AMD-P	97-13-088	388-215-1115	NEW	97-08-032	388-505-0520	PREP	97-11-075
388-49-310	AMD	97-06-074	388-215-1115	NEW	97-10-041	388-505-0540	AMD	97-04-005
388-49-310	AMD-P	97-09-107	388-215-1375	AMD-P	97-09-108	388-506-0630	AMD	97-10-022
388-49-310	AMD	97-12-025	388-215-1400	AMD-P	97-05-071	388-507-0710	AMD-P	97-07-023
388-49-355	NEW	97-03-035	388-215-1400	AMD	97-08-033	388-507-0710	AMD	97-09-112
388-49-360	AMD-E	97-05-052	388-215-1400	AMD	97-10-042	388-507-0740	PREP	97-10-034
388-49-360	AMD-P	97-05-053	388-215-1550	NEW-E	97-03-049	388-508-0805	AMD-E	97-08-031
388-49-360	AMD	97-09-012	388-215-1550	NEW-P	97-03-052	388-508-0805	AMD-P	97-13-057
388-49-362	NEW-E	97-05-052	388-215-1550	NEW	97-06-077	388-509-0920	AMD-E	97-08-031
388-49-362	NEW-P	97-05-053	388-215-1570	NEW-P	97-05-069	388-509-0920	AMD-P	97-13-057
388-49-362	NEW	97-09-012	388-215-1570	NEW	97-08-034	388-509-0960	AMD-E	97-08-031
388-49-364	NEW-E	97-05-052	388-215-1570	NEW	97-10-040	388-509-0960	AMD-P	97-13-057
388-49-364	NEW-P	97-05-053	388-215-1650	AMD-E	97-03-054	388-510	PREP	97-11-075
388-49-364	NEW	97-09-012	388-215-1650	AMD-P	97-03-055	388-511-1105	AMD	97-03-036
388-49-366	NEW-E	97-05-052	388-215-1650	AMD	97-06-076	388-511-1130	AMD	97-10-022
388-49-366	NEW-P	97-05-053	388-215-1660	NEW-P	97-05-072	388-511-1140	AMD	97-10-022
388-49-366	NEW	97-09-012	388-215-1660	NEW-E	97-06-026	388-511-1160	AMD	97-03-034
388-49-368	NEW-E	97-05-052	388-215-1660	NEW-S	97-06-073	388-511-1160	PREP	97-08-035
388-49-368	NEW-P	97-05-053	388-215-1660	NEW	97-09-029	388-513-1315	PREP	97-12-023
388-49-368	NEW	97-09-012	388-216-2450	PREP	97-11-077	388-513-1320	AMD-P	97-11-082
388-49-369	NEW-E	97-05-052	388-216-2500	AMD-E	97-03-048	388-513-1330	AMD	97-10-022
388-49-369	NEW-P	97-05-053	388-216-2500	AMD-P	97-03-050	388-513-1350	AMD-P	97-07-023
388-49-369	NEW	97-09-012	388-216-2500	AMD	97-06-075	388-513-1350	AMD	97-09-112
388-49-380	AMD-E	97-05-052	388-216-2500	PREP	97-11-077	388-513-1365	AMD	97-05-040
388-49-380	AMD-P	97-05-053	388-216-2650	PREP	97-11-077	388-513-1380	AMD-E	97-08-031
388-49-380	AMD	97-09-012	388-216-2800	PREP	97-11-077	388-513-1380	AMD-W	97-12-062
388-49-385	NEW-E	97-05-052	388-216-2900	AMD-E	97-03-047	388-513-1380	AMD-P	97-13-057
388-49-385	NEW-P	97-05-053	388-216-2900	AMD-P	97-03-051	388-517-1720	AMD-E	97-08-031

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-517-1720	AMD-P	97-13-057	388-550-5600	NEW-P	97-11-008	434-40-225	NEW-E	97-13-003
388-517-1740	AMD-E	97-08-031	388-550-5700	NEW-P	97-11-008	434-40-230	AMD-E	97-13-003
388-517-1740	AMD-P	97-13-057	388-550-5800	NEW-P	97-11-008	434-40-235	NEW-E	97-13-003
388-517-1760	AMD-E	97-08-031	388-550-5900	NEW-P	97-11-008	434-40-310	REP-E	97-13-003
388-517-1760	AMD-P	97-13-057	388-550-6000	NEW-P	97-11-008	434-79-010	AMD-P	97-13-094
388-522-2205	AMD-E	97-08-030	388-550-6100	NEW-P	97-11-008	434-120-025	AMD-P	97-13-093
388-522-2205	AMD-P	97-12-081	388-550-6150	NEW-P	97-11-008	434-120-040	NEW-P	97-08-076
388-524-2405	AMD-E	97-08-030	388-550-6200	NEW-P	97-11-008	434-120-105	AMD-P	97-08-076
388-524-2405	AMD-P	97-12-081	388-550-6250	NEW-P	97-11-008	434-120-130	AMD-P	97-08-076
388-528-2810	REP	97-03-037	388-550-6300	NEW-P	97-11-008	434-120-210	AMD-P	97-13-093
388-538-070	PREP	97-11-076	388-550-6350	NEW-P	97-11-008	434-120-212	NEW-P	97-13-093
388-538-073	NEW-W	97-10-073	388-550-6400	NEW-P	97-11-008	434-120-215	AMD-P	97-08-076
388-538-074	NEW-W	97-10-073	388-550-6450	NEW-P	97-11-008	434-120-250	AMD-P	97-13-093
388-538-110	AMD	97-04-004	388-550-6500	NEW-P	97-11-008	434-120-255	AMD-P	97-08-076
388-540-005	PREP	97-11-081	388-550-6600	NEW-P	97-11-008	440-22-005	AMD	97-03-062
388-540-030	PREP	97-11-081	388-550-6700	NEW-P	97-11-008	440-22-005	AMD-S	97-08-073
388-540-060	PREP	97-11-081	390-16-041	AMD-P	97-03-117	440-22-005	AMD	97-13-050
388-550-1000	NEW-P	97-11-008	390-16-041	AMD	97-06-085	440-22-180	AMD-S	97-08-073
388-550-1050	NEW-P	97-11-008	390-16-313	AMD-P	97-06-086	440-22-180	AMD	97-13-050
388-550-1100	NEW-P	97-11-008	390-16-313	AMD	97-10-055	440-22-200	AMD-S	97-08-073
388-550-1200	NEW-P	97-11-008	392-121	PREP	97-09-010	440-22-200	AMD	97-13-050
388-550-1300	NEW-P	97-11-008	392-123-047	PREP	97-04-035	440-22-220	AMD-S	97-08-073
388-550-1400	NEW-P	97-11-008	392-132-010	AMD	97-03-044	440-22-220	AMD	97-13-050
388-550-1500	NEW-P	97-11-008	392-132-030	AMD	97-03-044	440-22-225	AMD-S	97-08-073
388-550-1600	NEW-P	97-11-008	392-132-040	AMD	97-03-044	440-22-225	AMD	97-13-050
388-550-1700	NEW-P	97-11-008	392-134	PREP	97-09-010	440-22-230	AMD-S	97-08-073
388-550-1750	NEW-P	97-11-008	392-137	PREP	97-09-010	440-22-230	AMD	97-13-050
388-550-1800	NEW-P	97-11-008	392-142	PREP	97-12-041	440-22-240	AMD-S	97-08-073
388-550-1900	NEW-P	97-11-008	392-320	PREP	97-04-022	440-22-240	AMD	97-13-050
388-550-2000	NEW-P	97-11-008	399-30-032	NEW-E	97-12-077	440-22-250	AMD-S	97-08-073
388-550-2100	NEW-P	97-11-008	399-30-033	NEW-E	97-12-077	440-22-250	AMD	97-13-050
388-550-2200	NEW-P	97-11-008	399-30-034	NEW-E	97-12-077	440-22-253	NEW-S	97-08-073
388-550-2300	NEW-P	97-11-008	415-112-0160	NEW	97-03-016	440-22-253	NEW	97-13-050
388-550-2400	NEW-P	97-11-008	415-112-330	AMD-S	97-05-010	440-22-255	NEW-S	97-08-073
388-550-2500	NEW-P	97-11-008	415-112-330	AMD	97-09-037	440-22-255	NEW	97-13-050
388-550-2600	NEW-P	97-11-008	415-112-335	NEW-S	97-05-010	440-22-257	NEW-S	97-08-073
388-550-2700	NEW-P	97-11-008	415-112-335	NEW	97-09-037	440-22-257	NEW	97-13-050
388-550-2750	NEW-P	97-11-008	415-112-410	REP	97-03-016	440-22-260	AMD-S	97-08-073
388-550-2800	NEW-P	97-11-008	415-112-411	REP	97-03-016	440-22-260	AMD	97-13-050
388-550-2900	NEW-P	97-11-008	415-112-414	REP	97-03-016	440-22-280	AMD-S	97-08-073
388-550-3000	NEW-P	97-11-008	415-112-444	NEW	97-03-016	440-22-280	AMD	97-13-050
388-550-3100	NEW-P	97-11-008	415-112-445	NEW	97-03-016	440-22-300	AMD-S	97-08-073
388-550-3150	NEW-P	97-11-008	415-112-450	NEW	97-03-016	440-22-300	AMD	97-13-050
388-550-3200	NEW-P	97-11-008	415-112-460	NEW	97-03-016	440-22-300	AMD-S	97-08-073
388-550-3250	NEW-P	97-11-008	415-112-4601	NEW	97-03-016	440-22-320	AMD-S	97-08-073
388-550-3300	NEW-P	97-11-008	415-112-4603	NEW	97-03-016	440-22-320	AMD	97-13-050
388-550-3350	NEW-P	97-11-008	415-112-4604	NEW	97-03-016	440-22-325	AMD-S	97-08-073
388-550-3400	NEW-P	97-11-008	415-112-4605	NEW	97-03-016	440-22-325	AMD	97-13-050
388-550-3450	NEW-P	97-11-008	415-112-4607	NEW	97-03-016	440-22-335	AMD-S	97-08-073
388-550-3500	NEW-P	97-11-008	415-112-4608	NEW	97-03-016	440-22-335	AMD	97-13-050
388-550-3600	NEW-P	97-11-008	415-112-4609	NEW	97-03-016	440-22-406	NEW	97-03-062
388-550-3700	NEW-P	97-11-008	415-112-470	NEW	97-03-016	446-16-010	AMD	97-05-048
388-550-3800	NEW-P	97-11-008	415-112-471	NEW	97-03-016	446-16-025	AMD	97-05-048
388-550-3900	NEW-P	97-11-008	415-112-473	NEW	97-03-016	446-16-030	AMD	97-05-048
388-550-4000	NEW-P	97-11-008	415-112-475	NEW	97-03-016	446-16-040	REP	97-05-048
388-550-4100	NEW-P	97-11-008	415-112-477	NEW	97-03-016	446-16-050	REP	97-05-048
388-550-4200	NEW-P	97-11-008	415-112-480	NEW	97-03-016	446-16-070	AMD	97-05-048
388-550-4300	NEW-P	97-11-008	415-112-482	NEW	97-03-016	446-16-080	AMD	97-05-048
388-550-4400	NEW-P	97-11-008	415-112-483	NEW	97-03-016	446-16-100	AMD	97-05-048
388-550-4500	NEW-P	97-11-008	415-112-485	NEW	97-03-016	446-16-110	AMD	97-05-048
388-550-4600	NEW-P	97-11-008	415-112-487	NEW	97-03-016	446-16-120	AMD	97-05-048
388-550-4700	NEW-P	97-11-008	415-112-489	NEW	97-03-016	446-20-050	AMD	97-05-048
388-550-4800	NEW-P	97-11-008	415-112-490	NEW	97-03-016	446-20-090	AMD	97-05-048
388-550-4900	NEW-P	97-11-008	415-112-491	NEW	97-03-016	446-20-100	AMD	97-05-048
388-550-5000	NEW-P	97-11-008	415-200-030	NEW-E	97-08-053	446-20-110	REP	97-05-048
388-550-5100	NEW-P	97-11-008	415-200-030	NEW-P	97-13-058	446-20-170	AMD	97-05-048
388-550-5150	NEW-P	97-11-008	415-200-040	NEW-E	97-08-053	446-20-280	AMD	97-05-048
388-550-5200	NEW-P	97-11-008	415-200-040	NEW-P	97-13-058	446-20-285	AMD	97-05-048
388-550-5250	NEW-P	97-11-008	415-512-090	AMD	97-05-009	446-20-500	AMD	97-05-048
388-550-5300	NEW-P	97-11-008	434-24-065	NEW-P	97-09-099	446-20-510	AMD	97-05-048
388-550-5350	NEW-P	97-11-008	434-24-065	NEW-E	97-12-039	446-20-520	AMD	97-05-048
388-550-5400	NEW-P	97-11-008	434-36-120	AMD-E	97-13-003	446-20-530	AMD	97-05-048
388-550-5500	NEW-P	97-11-008	434-36-180	AMD-E	97-13-003	458-10-010	NEW	97-08-068

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
458-10-020	NEW	97-08-068	468-16-120	AMD-P	97-05-007	478-116-055	REP-P	97-09-071
458-10-030	NEW	97-08-068	468-16-120	AMD	97-09-045	478-116-060	REP-P	97-09-071
458-10-040	NEW	97-08-068	468-16-130	AMD-P	97-05-007	478-116-061	NEW-P	97-09-071
458-10-050	NEW	97-08-068	468-16-130	AMD	97-09-045	478-116-070	REP-P	97-09-071
458-10-060	NEW	97-08-068	468-16-140	AMD-P	97-05-007	478-116-071	NEW-P	97-09-071
458-10-070	NEW	97-08-068	468-16-140	AMD	97-09-045	478-116-080	REP-P	97-09-071
458-20-101	AMD	97-08-050	468-16-150	AMD-P	97-05-007	478-116-088	REP-P	97-09-071
458-20-104	AMD	97-08-050	468-16-150	AMD	97-09-045	478-116-090	REP-P	97-09-071
458-20-14601	NEW	97-11-033	468-16-160	AMD-P	97-05-007	478-116-095	REP-P	97-09-071
458-20-174	AMD-P	97-07-079	468-16-160	AMD	97-09-045	478-116-100	REP-P	97-09-071
458-20-174	AMD	97-11-022	468-16-170	AMD-P	97-05-007	478-116-101	NEW-P	97-09-071
458-20-17401	AMD-P	97-07-079	468-16-170	AMD	97-09-045	478-116-110	REP-P	97-09-071
458-20-17401	AMD	97-11-022	468-16-180	AMD-P	97-05-007	478-116-111	NEW-P	97-09-071
458-20-263	NEW	97-03-027	468-16-180	AMD	97-09-045	478-116-114	NEW-P	97-09-071
458-40-540	AMD	97-07-041	468-66	PREP	97-09-070	478-116-116	NEW-P	97-09-071
458-40-540	AMD-W	97-11-060	468-66-010	AMD-P	97-13-028	478-116-120	REP-P	97-09-071
458-40-660	PREP	97-06-111	468-66-030	AMD-P	97-13-028	478-116-121	NEW-P	97-09-071
458-40-660	AMD-P	97-10-027	468-66-150	AMD-P	97-13-028	478-116-125	NEW-P	97-09-071
460-21B-050	AMD	97-03-122	468-86-010	NEW-P	97-06-005	478-116-130	REP-P	97-09-071
460-21B-080	REP	97-03-122	468-86-010	NEW	97-09-046	478-116-131	NEW-P	97-09-071
460-22B-070	REP	97-03-122	468-86-020	NEW-P	97-06-005	478-116-140	REP-P	97-09-071
460-22B-080	REP	97-03-122	468-86-020	NEW	97-09-046	478-116-141	NEW-P	97-09-071
460-22B-090	AMD-P	97-13-076	468-86-030	NEW-P	97-06-005	478-116-145	NEW-P	97-09-071
460-24A	PREP	97-08-059	468-86-030	NEW	97-09-046	478-116-147	NEW-P	97-09-071
460-24A-040	AMD-P	97-13-076	468-86-040	NEW-P	97-06-005	478-116-151	NEW-P	97-09-071
460-24A-045	AMD-P	97-13-076	468-86-040	NEW	97-09-046	478-116-160	REP-P	97-09-071
460-24A-046	REP	97-03-122	468-86-050	NEW-P	97-06-005	478-116-161	NEW-P	97-09-071
460-24A-050	AMD-P	97-13-076	468-86-050	NEW	97-09-046	478-116-163	NEW-P	97-09-071
460-24A-170	AMD-P	97-13-076	468-86-060	NEW-P	97-06-005	478-116-165	NEW-P	97-09-071
460-42A-082	NEW-P	97-13-077	468-86-060	NEW	97-09-046	478-116-167	NEW-P	97-09-071
460-44A-300	NEW-P	97-08-061	468-86-070	NEW-P	97-06-005	478-116-170	REP-P	97-09-071
460-44A-506	PREP	97-08-057	468-86-070	NEW	97-09-046	478-116-171	NEW-P	97-09-071
461-08-310	AMD-E	97-12-004	468-86-080	NEW-P	97-06-005	478-116-180	REP-P	97-09-071
466-02-010	REP-P	97-12-074	468-86-080	NEW	97-09-046	478-116-181	NEW-P	97-09-071
466-03-010	REP-P	97-12-074	468-86-090	NEW-P	97-06-005	478-116-184	NEW-P	97-09-071
466-03-020	REP-P	97-12-074	468-86-090	NEW	97-09-046	478-116-186	NEW-P	97-09-071
466-03-030	REP-P	97-12-074	468-86-100	NEW-P	97-06-005	478-116-190	REP-P	97-09-071
466-03-040	REP-P	97-12-074	468-86-100	NEW	97-09-046	478-116-191	NEW-P	97-09-071
466-03-050	REP-P	97-12-074	468-86-110	NEW-P	97-06-005	478-116-200	REP-P	97-09-071
466-03-060	REP-P	97-12-074	468-86-110	NEW	97-09-046	478-116-201	NEW-P	97-09-071
466-03-070	REP-P	97-12-074	468-86-120	NEW-P	97-06-005	478-116-210	REP-P	97-09-071
466-03-080	REP-P	97-12-074	468-86-120	NEW	97-09-046	478-116-211	NEW-P	97-09-071
466-03-090	REP-P	97-12-074	468-86-130	NEW-P	97-06-005	478-116-220	REP-P	97-09-071
466-03-100	REP-P	97-12-074	468-86-130	NEW	97-09-046	478-116-221	NEW-P	97-09-071
466-03-110	REP-P	97-12-074	468-86-140	NEW-P	97-06-005	478-116-223	NEW-P	97-09-071
466-03-120	REP-P	97-12-074	468-86-140	NEW	97-09-046	478-116-225	NEW-P	97-09-071
466-03-130	REP-P	97-12-074	468-86-150	NEW-P	97-06-005	478-116-227	NEW-P	97-09-071
466-03-900	REP-P	97-12-074	468-86-150	NEW	97-09-046	478-116-230	REP-P	97-09-071
466-04-010	REP-P	97-12-074	468-86-160	NEW-P	97-06-005	478-116-231	NEW-P	97-09-071
466-04-020	REP-P	97-12-074	468-86-160	NEW	97-09-046	478-116-240	REP-P	97-09-071
466-04-030	REP-P	97-12-074	468-105	PREP	97-08-016	478-116-241	NEW-P	97-09-071
466-04-040	REP-P	97-12-074	468-105-020	AMD-P	97-11-040	478-116-245	NEW-P	97-09-071
466-04-050	REP-P	97-12-074	468-105-040	AMD-P	97-11-040	478-116-250	REP-P	97-09-071
466-04-060	REP-P	97-12-074	468-105-050	AMD-P	97-11-040	478-116-251	NEW-P	97-09-071
466-04-070	REP-P	97-12-074	468-105-060	AMD-P	97-11-040	478-116-253	NEW-P	97-09-071
466-07-010	REP-P	97-12-074	468-105-070	AMD-P	97-11-040	478-116-255	NEW-P	97-09-071
466-08-010	REP-P	97-12-074	468-105-080	AMD-P	97-11-040	478-116-260	REP-P	97-09-071
466-08-020	REP-P	97-12-074	468-200-080	AMD	97-03-064	478-116-261	NEW-P	97-09-071
466-08-030	REP-P	97-12-074	468-200-160	AMD	97-03-064	478-116-270	REP-P	97-09-071
466-08-040	REP-P	97-12-074	468-200-350	AMD	97-03-064	478-116-271	NEW-P	97-09-071
466-08-050	REP-P	97-12-074	468-300-210	PREP	97-03-118	478-116-280	REP-P	97-09-071
466-08-060	REP-P	97-12-074	468-300-210	REP-P	97-12-074	478-116-281	NEW-P	97-09-071
466-08-070	REP-P	97-12-074	468-300-220	NEW-P	97-12-074	478-116-290	REP-P	97-09-071
466-08-080	REP-P	97-12-074	468-500-001	NEW	97-06-002	478-116-291	NEW-P	97-09-071
466-08-090	REP-P	97-12-074	478-04-020	AMD-P	97-08-062	478-116-300	REP-P	97-09-071
468-16-030	AMD-P	97-05-007	478-108-020	AMD-P	97-08-062	478-116-301	NEW-P	97-09-071
468-16-030	AMD	97-09-045	478-116-010	AMD-P	97-09-071	478-116-310	REP-P	97-09-071
468-16-080	AMD-P	97-05-007	478-116-020	AMD-P	97-09-071	478-116-311	NEW-P	97-09-071
468-16-080	AMD	97-09-045	478-116-030	AMD-P	97-09-071	478-116-320	REP-P	97-09-071
468-16-090	AMD-P	97-05-007	478-116-044	NEW-P	97-09-071	478-116-330	REP-P	97-09-071
468-16-090	AMD	97-09-045	478-116-046	NEW-P	97-09-071	478-116-340	REP-P	97-09-071
468-16-100	AMD-P	97-05-007	478-116-050	REP-P	97-09-071	478-116-345	REP-P	97-09-071
468-16-100	AMD	97-09-045	478-116-051	NEW-P	97-09-071	478-116-350	REP-P	97-09-071

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
478-116-355	REP-P	97-09-071	480-31-020	NEW	97-08-037	495A-141-160	NEW-P	97-07-002
478-116-360	REP-P	97-09-071	480-31-030	NEW	97-08-037	495A-141-160	NEW	97-12-038
478-116-370	REP-P	97-09-071	480-31-040	NEW	97-08-037	495A-141-165	NEW-P	97-07-002
478-116-380	REP-P	97-09-071	480-31-050	NEW	97-08-037	495A-141-165	NEW	97-12-038
478-116-390	REP-P	97-09-071	480-31-060	NEW	97-08-037	495A-141-170	NEW-P	97-07-002
478-116-400	REP-P	97-09-071	480-31-070	NEW	97-08-037	495A-141-170	NEW	97-12-038
478-116-401	NEW-P	97-09-071	480-31-080	NEW	97-08-037	495A-141-180	NEW-P	97-07-002
478-116-411	NEW-P	97-09-071	480-31-090	NEW	97-08-037	495A-141-180	NEW	97-12-038
478-116-421	NEW-P	97-09-071	480-31-100	NEW	97-08-037	495B-120-035	NEW-P	97-03-071
478-116-431	NEW-P	97-09-071	480-31-110	NEW	97-08-037	495B-120-035	NEW	97-11-014
478-116-440	REP-P	97-09-071	480-31-120	NEW	97-08-037	504-36-030	AMD-P	97-10-086
478-116-450	REP-P	97-09-071	480-31-130	NEW	97-08-037	516-12	PREP	97-06-014
478-116-460	REP-P	97-09-071	480-31-140	NEW	97-08-037	516-12-400	AMD-P	97-11-025
478-116-501	NEW-P	97-09-071	480-75-002	NEW	97-07-042	516-12-420	AMD-P	97-11-025
478-116-520	AMD-P	97-09-071	480-75-005	NEW	97-07-042	516-12-430	AMD-P	97-11-025
478-116-531	NEW-P	97-09-071	480-75-230	NEW	97-07-042	516-12-450	AMD-P	97-11-025
478-116-540	REP-P	97-09-071	480-120-042	AMD-P	97-11-072	516-12-460	AMD-P	97-11-025
478-116-541	NEW-P	97-09-071	480-120-106	PREP	97-11-071	516-12-470	AMD-P	97-11-025
478-116-550	REP-P	97-09-071	480-120-137	PREP	97-08-036	516-12-480	AMD-P	97-11-025
478-116-551	NEW-P	97-09-071	480-120-138	PREP	97-08-036			
478-116-561	NEW-P	97-09-071	480-120-139	NEW-P	97-11-072			
478-116-570	REP-P	97-09-071	480-120-141	PREP	97-08-036			
478-116-580	REP-P	97-09-071	480-120-142	PREP	97-08-036			
478-116-582	REP-P	97-09-071	484-20-103	AMD	97-06-013			
478-116-584	REP-P	97-09-071	484-20-120	AMD	97-06-013			
478-116-586	REP-P	97-09-071	490-500	PREP	97-13-086			
478-116-588	REP-P	97-09-071	495A-120-041	NEW-P	97-07-003			
478-116-589	REP-P	97-09-071	495A-120-042	NEW-P	97-07-003			
478-116-590	REP-P	97-09-071	495A-120-043	NEW-P	97-07-003			
478-116-601	REP-P	97-09-071	495A-141-010	NEW-P	97-07-002			
478-116-605	NEW-P	97-09-071	495A-141-010	NEW	97-12-038			
478-116-610	REP-P	97-09-071	495A-141-011	NEW-P	97-07-002			
478-116-611	NEW-P	97-09-071	495A-141-011	NEW	97-12-038			
478-116-620	NEW-P	97-09-071	495A-141-012	NEW-P	97-07-002			
478-116-630	NEW-P	97-09-071	495A-141-012	NEW	97-12-038			
478-116-640	NEW-P	97-09-071	495A-141-013	NEW-P	97-07-002			
478-116-650	NEW-P	97-09-071	495A-141-013	NEW	97-12-038			
478-116-660	NEW-P	97-09-071	495A-141-014	NEW-P	97-07-002			
478-116-670	NEW-P	97-09-071	495A-141-014	NEW	97-12-038			
478-136	PREP	97-10-077	495A-141-030	NEW-P	97-07-002			
478-160-035	AMD-P	97-08-062	495A-141-030	NEW	97-12-038			
478-160-040	AMD-P	97-08-062	495A-141-035	NEW-P	97-07-002			
478-160-050	AMD-P	97-08-062	495A-141-035	NEW	97-12-038			
478-160-060	AMD-P	97-08-062	495A-141-040	NEW-P	97-07-002			
478-160-065	AMD-P	97-08-062	495A-141-040	NEW	97-12-038			
478-160-085	AMD-P	97-08-062	495A-141-045	NEW-P	97-07-002			
478-160-105	AMD-P	97-08-062	495A-141-045	NEW	97-12-038			
478-160-110	AMD-P	97-08-062	495A-141-050	NEW-P	97-07-002			
478-160-120	AMD-P	97-08-062	495A-141-050	NEW	97-12-038			
478-160-125	AMD-P	97-08-062	495A-141-055	NEW-P	97-07-002			
478-160-130	AMD-P	97-08-062	495A-141-055	NEW	97-12-038			
478-160-140	AMD-P	97-08-062	495A-141-060	NEW-P	97-07-002			
478-160-160	AMD-P	97-08-062	495A-141-060	NEW	97-12-038			
478-160-162	AMD-P	97-08-062	495A-141-065	NEW-P	97-07-002			
478-160-175	AMD-P	97-08-062	495A-141-065	NEW	97-12-038			
478-160-210	AMD-P	97-08-062	495A-141-070	NEW-P	97-07-002			
478-160-230	AMD-P	97-08-062	495A-141-070	NEW	97-12-038			
478-160-246	AMD-P	97-08-062	495A-141-080	NEW-P	97-07-002			
478-160-290	AMD-P	97-08-062	495A-141-080	NEW	97-12-038			
478-160-295	AMD-P	97-08-062	495A-141-090	NEW-P	97-07-002			
478-160-310	AMD-P	97-08-062	495A-141-090	NEW	97-12-038			
478-160-320	AMD-P	97-08-062	495A-141-100	NEW-P	97-07-002			
478-250-050	AMD-P	97-08-062	495A-141-100	NEW	97-12-038			
478-250-060	AMD-P	97-08-062	495A-141-110	NEW-P	97-07-002			
478-276-030	REP-P	97-08-062	495A-141-110	NEW	97-12-038			
478-276-040	REP-P	97-08-062	495A-141-120	NEW-P	97-07-002			
478-276-060	AMD-P	97-08-062	495A-141-120	NEW	97-12-038			
478-276-070	AMD-P	97-08-062	495A-141-130	NEW-P	97-07-002			
478-276-080	AMD-P	97-08-062	495A-141-130	NEW	97-12-038			
478-276-100	AMD-P	97-08-062	495A-141-140	NEW-P	97-07-002			
478-276-105	NEW-P	97-08-062	495A-141-140	NEW	97-12-038			
478-276-140	AMD-P	97-08-062	495A-141-150	NEW-P	97-07-002			
480-31-010	NEW	97-08-037	495A-141-150	NEW	97-12-038			



Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

AGRICULTURE, DEPARTMENT OF

Adjudicative proceedings	PROP	97-08-086	meat products standards	PREP	97-04-065
Animal health			producer certification	PERM	97-02-008
brucellosis vaccine	PERM	97-01-067	Pesticide registration, commission on meetings	MISC	97-01-060
Animals				MISC	97-06-004
import permits for animals			Pesticides		
banned as pets	PERM	97-01-068	application permits	PROP	97-02-094
Apples				PROP	97-06-003
apple maggot quarantine	PROP	97-04-089	Potatoes		
	PERM	97-09-098	seed potato certification	PREP	97-01-125
controlled atmosphere storage, resealing	EMER	97-03-063		PROP	97-07-075
Asparagus				PERM	97-11-028
standards	PERM	97-01-081	Quarantine		
	PROP	97-02-098	apple maggot	PROP	97-04-089
	PERM	97-05-054		PERM	97-09-098
Asparagus commission meetings	MISC	97-01-050	lentil seed	PROP	97-04-090
	MISC	97-03-111		PROP	97-05-058
Barley commission meetings	MISC	97-01-120		PROP	97-05-059
Beef commission meetings	MISC	97-03-072	plum curculio	PERM	97-11-015
	MISC	97-09-005		PROP	97-04-089
Canola and rapeseed commission establishment	PROP	97-11-084	Red raspberry commission meetings	PERM	97-09-098
Cattle				MISC	97-02-018
brucellosis vaccine	PERM	97-01-067	Seeds		
Dry peas			certification fees and standards	PROP	97-11-050
assessments	PREP	97-08-083	lentil seed quarantine	PROP	97-04-090
	PROP	97-11-085		PROP	97-05-058
Fairs				PROP	97-05-059
state fair fund allocation	PROP	97-01-080	Weights and measures	PERM	97-11-015
	PROP	97-04-077	calibration services, fee schedule	PREP	97-05-037
	PERM	97-04-078		PROP	97-09-103
	PROP	97-09-025	equipment, compliance with national standards	PERM	97-12-024
	PERM	97-12-028		PROP	97-09-102
Farmed salmon commission			standards update	PERM	97-12-076
assessments	PREP	97-10-098		PREP	97-05-038
membership	PREP	97-10-098	ARTS COMMISSION	PROP	97-09-080
Food products			Meetings	PERM	97-12-075
quality standards, adoption of federal regulations	PERM	97-02-036		MISC	97-03-040
violations, penalty assessments	PREP	97-13-066	ATTORNEY GENERAL'S OFFICE		
Ginseng management program	EMER	97-04-020	Notice of request for attorney general's opinion	MISC	97-02-061
Hop commission				MISC	97-05-063
assessments	PREP	97-05-067		MISC	97-06-099
	PROP	97-09-095		MISC	97-07-047
meetings	MISC	97-01-051		MISC	97-10-056
	MISC	97-04-017	Opinions		
new varieties	PREP	97-05-067	city elective offices, residency requirements (1997, No. 3)	MISC	97-12-007
spectrophotometric analysis of hops, fees	PERM	97-05-003	criminal history record, effect of completion of sentence conditions (1997, No. 1)	MISC	97-03-089
Lentil seed quarantine	PROP	97-04-090	health, department of		
	PROP	97-05-058	diet information records (1997, No. 2)	MISC	97-07-060
	PROP	97-05-059	state convention and trade center, bidding procedures (1996, No. 18)	MISC	97-01-052
Lentils			water system interties, water right permit modification (1996, No. 19)	MISC	97-01-119
assessments	PREP	97-08-083			
	PROP	97-11-085	BATES TECHNICAL COLLEGE		
Livestock identification program	PREP	97-08-088	Parking and traffic regulation	PREP	97-01-084
Metrology lab service fee	PREP	97-05-037		PROP	97-07-002
	PROP	97-09-103		PERM	97-12-038
	PERM	97-12-024	Student conduct code	PREP	97-01-083
Milk and milk products				PROP	97-07-003
raw milk	PREP	97-06-011	BELLEVUE COMMUNITY COLLEGE		
Noxious weed control board			Meetings	MISC	97-01-121
meetings	MISC	97-01-045			
noxious weed list	PROP	97-01-044			
	PERM	97-06-108			
	PREP	97-12-019			
schedule of penalties	PROP	97-01-044			
	PERM	97-06-108			
	PREP	97-12-019			
Organic food					
dairy products					
standards	PREP	97-04-065			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

BELLINGHAM TECHNICAL COLLEGE

Hazing policy PROP 97-03-071
PERM 97-11-014
Meetings MISC 97-01-006
MISC 97-03-012
MISC 97-03-019
MISC 97-05-005
MISC 97-06-017
MISC 97-09-006
MISC 97-10-058
MISC 97-12-013
MISC 97-13-014

BENTON COUNTY CLEAN AIR AUTHORITY

Meetings MISC 97-03-104

BIG BEND COMMUNITY COLLEGE

Meetings MISC 97-03-056

BUILDING CODE COUNCIL

Ammonia refrigerant discharge EMER 97-01-042
PERM 97-01-135
PROP 97-09-042
Building code 1997 edition PREP 97-05-065
Energy code personal wireless service facilities, insulation PERM 97-03-017
Fire code review and update PREP 97-05-065
PREP 97-05-064
Mechanical code 1997 edition PREP 97-05-065
Plumbing uniform plumbing code and plumbing code standards 1997 edition PREP 97-06-107
PREP 97-03-086
Refrigeration PREP 97-05-064
Ventilation and indoor air quality PREP 97-05-064

CASCADIA COMMUNITY COLLEGE

Meetings MISC 97-01-053

CENTRALIA COLLEGE

Meetings MISC 97-01-071

CLARK COLLEGE

Code of student conduct PREP 97-06-008
PROP 97-10-018
Meetings MISC 97-02-042

CLOVER PARK TECHNICAL COLLEGE

Rules coordinator MISC 97-01-038

CODE REVISER'S OFFICE

Quarterly reports 96-19 through 96-24 - See Issue 97-02 correction - see Issue 97-03
Rule-making requirements PROP 97-12-068

COLUMBIA BASIN COLLEGE

Meetings MISC 97-02-020

COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR

Adult education advisory council meetings MISC 97-11-029
TIAA/CREF retirement plan EMER 97-01-007
PREP 97-01-048
PROP 97-01-077
EMER 97-07-006
EMER 97-07-007
PERM 97-10-069

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF

Affordable housing advisory board public hearings MISC 97-05-077
Bond cap allocation PERM 97-02-093
Border area funding allocation PREP 97-12-073
Community economic revitalization board meetings MISC 97-04-027
MISC 97-09-052
MISC 97-11-007
Head Start funding PREP 97-12-072
Land use study commission public records, accessibility PERM 97-02-002
Low-income home energy assistance program hearing MISC 97-10-001
Public works board financial assistance, standards EMER 97-12-077
PREP 97-13-004
MISC 97-01-026
MISC 97-11-005
meetings

CONSERVATION COMMISSION

Meetings MISC 97-10-002

CONVENTION AND TRADE CENTER

Meetings MISC 97-01-040
MISC 97-03-057
MISC 97-05-034
MISC 97-06-089
MISC 97-07-038
MISC 97-08-049
MISC 97-09-034
MISC 97-11-026
MISC 97-13-008
MISC 97-13-012
MISC 97-13-033

CORRECTIONS, DEPARTMENT OF

Adult institutions MISC 97-03-041
contraband MISC 97-03-041
earned early release time MISC 97-03-041
infractions, penalties MISC 97-03-041
personal hygiene items, acquisition MISC 97-03-041
tobacco products MISC 97-03-041

COUNTY ROAD ADMINISTRATION BOARD

Meetings MISC 97-01-055
MISC 97-06-015
MISC 97-11-048
MISC 97-12-002
Project prioritization in southeast region PERM 97-06-006

CRIMINAL JUSTICE TRAINING COMMISSION

Meetings MISC 97-03-060
MISC 97-07-012

EASTERN WASHINGTON UNIVERSITY

Meetings MISC 97-01-008
MISC 97-03-107
MISC 97-06-009
MISC 97-09-003
MISC 97-11-047
Student conduct code EMER 97-01-041
PROP 97-01-078
PERM 97-06-095

ECOLOGY, DEPARTMENT OF

Agricultural burning PROP 97-01-132
Air quality environmental protection agency request to agency withdrawn MISC 97-08-022

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

gasoline vapor recovery	PERM	97-04-012	EDUCATION, STATE BOARD OF		
	PREP	97-09-018	Definitions		
grass field burning limitation	PERM	97-03-021	impact on student learning	PREP	97-10-006
new source review program for equipment changes	MISC	97-06-088	Early childhood education		
Thurston County maintenance plan	MISC	97-11-067	subject area endorsement	PREP	97-04-069
Dangerous waste			Educational staff associates		
designating dangerous waste			assignment	PREP	97-10-008
chemical test methods	MISC	97-05-032	certification standards	PREP	97-10-015
regulations update	PREP	97-04-062	Funding of schools		
Dangerous waste management facilities			accounting practices	PREP	97-09-115
policy statement	MISC	97-01-134	certificated staff requirements	PROP	97-01-103
Environmental performance partnership agreement			state support	PERM	97-04-083
Flood control	MISC	97-12-083	High school credit	PREP	97-01-014
assistance account program				PREP	97-01-010
hearings for grant awards	MISC	97-04-007		PROP	97-04-066
Forest practices to protect water quality	EMER	97-05-039	Literacy	PERM	97-08-020
rules and regulations	PREP	97-08-038	subject area endorsement	PREP	97-04-068
	EMER	97-13-036	School activities' driver's authorization	PROP	97-01-082
Model Toxics Control Act			School psychologists		
hazardous waste site cleanup	PREP	97-10-092	internship	PREP	97-10-007
regulations update	PREP	97-04-062	Schools for the twenty-first century	PREP	97-05-027
Permits				PROP	97-13-017
operating permit regulations, appeals	PROP	97-04-061	Small school plants		
	PERM	97-08-084	designation procedures	PREP	97-09-032
Resource damage assessment committee meetings				PROP	97-13-096
Shorelands and wetlands associated with shorelines, designation	MISC	97-01-133	Students		
	PROP	97-03-129	due process rights	PREP	97-01-046
	PERM	97-04-076		PROP	97-04-067
State Environmental Policy Act (SEPA)			suspensions	PERM	97-08-019
categorical exemptions	PREP	97-03-130	Teachers	PERM	97-01-047
comment period extended	MISC	97-09-048	certification		
rules revised	PROP	97-08-085	administrative policies and procedures	PROP	97-01-105
Total petroleum hydrocarbons			lapsed certificates	PERM	97-04-082
policy statement	MISC	97-05-031	limited certificates	PREP	97-10-025
Water			continuing education	PREP	97-10-009
clean water funds, uses and limitations	EMER	97-12-022		PROP	97-01-104
Columbia River instream resources				PERM	97-04-086
protection program	PREP	97-12-092	excellence in teacher preparation award	PREP	97-10-011
surface water pollution control			misconduct, investigation and		
comments accepted for lists	MISC	97-09-055	discipline orders	PROP	97-01-011
water quality standards	PROP	97-12-034		PERM	97-05-008
Water rights				PROP	97-05-043
application processing	EMER	97-10-091	performance-based preparation		
	PREP	97-10-094	programs, certification	PROP	97-01-100
	PREP	97-12-090		PROP	97-01-102
	PREP	97-12-091		PERM	97-04-084
Watersheds				PERM	97-04-088
planning grants	PREP	97-13-074	preparation programs	PROP	97-01-106
Wells				PERM	97-04-081
construction and maintenance standards	PREP	97-10-093	professional standards,	PREP	97-10-012
contractor and operator licensing	PREP	97-10-093	advisory councils	PREP	97-10-015
			standards	PREP	97-05-026
ECONOMIC DEVELOPMENT FINANCE			student teaching pilot projects	PROP	97-13-016
AUTHORITY			vocational certification	PROP	97-01-101
Meetings	MISC	97-03-103		PERM	97-04-085
EDMONDS COMMUNITY COLLEGE			vocational-technical certification	PREP	97-10-016
Meetings	MISC	97-01-005		PERM	97-04-087
	MISC	97-01-074			
	MISC	97-03-005	Vocational-technical institutes		
	MISC	97-03-059	modernization financing	PREP	97-09-116
	MISC	97-05-018			
	MISC	97-05-019	EMPLOYMENT SECURITY DEPARTMENT		
	MISC	97-07-004	Unemployment benefits		
	MISC	97-07-021	pregnant claimants	PREP	97-11-086
	MISC	97-07-022			
	MISC	97-07-045			
	MISC	97-09-014	ENGINEERS AND LAND SURVEYORS		
	MISC	97-09-026	(See DEPARTMENT OF LICENSING)		
	MISC	97-11-012			
	MISC	97-12-045			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Region six goat	PERM 97-06-041 PROP 97-06-120 PERM 97-12-053	Nonprofit/charitable organizations gambling operations Public disclosure Pull tabs progressive pull tabs	PREP 97-04-033 PREP 97-05-014
hunting hours and small game regulations	PERM 97-06-045 PREP 97-10-028 PROP 97-01-114 PERM 97-05-074 PROP 97-05-075 PREP 97-10-028 PREP 97-09-086	proposal withdrawn taxation	PROP 97-05-057 EMER 97-05-062 PROP 97-09-074 PROP 97-09-075 PROP 97-09-077 PROP 97-11-018 PERM 97-11-019
landowner damage hunts	PROP 97-10-028 PERM 97-06-039 PROP 97-01-116 PERM 97-06-037 PROP 97-06-126 PREP 97-10-028 PERM 97-12-059 PREP 97-01-111 PROP 97-06-119 PERM 97-12-052 PERM 97-06-052 PROP 97-01-117 PERM 97-06-038 PERM 97-06-051 PROP 97-06-121 PERM 97-12-054	Raffles	PROP 97-08-071 PREP 97-12-020 PROP 97-05-060 PERM 97-11-020 PROP 97-13-059 PREP 97-05-013
licenses migratory game birds moose	PROP 97-12-051 PERM 97-06-039 PROP 97-01-116 PERM 97-06-037 PROP 97-06-126 PREP 97-10-028 PERM 97-12-059 PREP 97-01-111 PROP 97-06-119 PERM 97-12-052 PERM 97-06-052 PROP 97-01-117 PERM 97-06-038 PERM 97-06-051 PROP 97-06-121 PERM 97-12-054	Sale of business Seizure of gambling devices hearing	PERM 97-03-095
permit hunts raffle permits	PREP 97-11-070 PREP 97-01-112 PROP 97-07-077 PERM 97-13-001 PROP 97-06-084 PREP 97-01-111 PROP 97-06-115 PERM 97-12-048	GENERAL ADMINISTRATION, DEPARTMENT OF Capitol campus design advisory committee meetings	MISC 97-03-030 MISC 97-08-070 MISC 97-08-087
regulations and boundaries sheep	PREP 97-11-070 PREP 97-01-112 PROP 97-07-077 PERM 97-13-001 PROP 97-06-084 PREP 97-01-111 PROP 97-06-115 PERM 97-12-048	Handguns purchase by Washington state patrol retirees	PERM 97-04-025
special closures special hunts	PREP 97-11-070 PREP 97-01-112 PROP 97-07-077 PERM 97-13-001 PROP 97-06-084 PREP 97-01-111 PROP 97-06-115 PERM 97-12-048	Monuments and memorials in capitol region design and approval process Skating activities on capitol campus	PREP 97-10-087 PERM 97-01-063
transport tags for black bear and cougar	PREP 97-11-070 PREP 97-01-112 PROP 97-07-077 PERM 97-13-001 PROP 97-06-084 PREP 97-01-111 PROP 97-06-115 PERM 97-12-048	GEOGRAPHIC NAMES, BOARD ON Determinations of geographic names	MISC 97-02-062
Noxious weed control	PREP 97-11-070 PREP 97-01-112 PROP 97-07-077 PERM 97-13-001 PROP 97-06-084 PREP 97-01-111 PROP 97-06-115 PERM 97-12-048	GOVERNOR, OFFICE OF THE Access to government electronic records for commercial purposes Affirmative action policy committee meetings Agency quality improvement Auto dealers association denial of appeal notice of appeal Clemency and pardons board meetings	MISC 97-03-091 MISC 97-01-028 MISC 97-10-061 MISC 97-06-067 MISC 97-04-034 MISC 97-04-032 MISC 97-10-078
Pelt sealing Protected species	PREP 97-11-070 PREP 97-01-112 PROP 97-07-077 PERM 97-13-001 PROP 97-06-084 PREP 97-01-111 PROP 97-06-115 PERM 97-12-048	Flood, snow, wind, power outages state of emergency declared	MISC 97-02-044 MISC 97-02-045 MISC 97-02-091 MISC 97-03-003 MISC 97-03-013 MISC 97-03-068 MISC 97-05-030 MISC 97-08-001 MISC 97-08-002 MISC 97-08-006 MISC 97-08-028
Wildlife dogs harassing deer or elk, custody or destruction	PREP 97-11-070 PREP 97-01-112 PROP 97-07-077 PERM 97-13-001 PROP 97-06-084 PREP 97-01-111 PROP 97-06-115 PERM 97-12-048	Klickitat County storm damage, state of emergency declared Pend Oreille County flooding, state of emergency declared Pend Oreille County storm damage, state of emergency declared Project labor agreements Regulatory improvement	MISC 97-01-110 MISC 97-12-008 MISC 97-01-009 MISC 97-01-025 MISC 97-08-027
FOREST PRACTICES BOARD Marbled murrelet critical wildlife habitat	EMER 97-01-033 EMER 97-02-016	GRAYS HARBOR COLLEGE Meetings	MISC 97-04-044
Meetings	EMER 97-02-087 PROP 97-08-077 PROP 97-09-041 EMER 97-10-005 PROP 97-11-074 MISC 97-05-073 MISC 97-11-073 PREP 97-05-033 EMER 97-07-054	GREEN RIVER COMMUNITY COLLEGE Meetings	MISC 97-03-011
Water quality Water typing system	EMER 97-02-087 PROP 97-08-077 PROP 97-09-041 EMER 97-10-005 PROP 97-11-074 MISC 97-05-073 MISC 97-11-073 PREP 97-05-033 EMER 97-07-054		
GAMBLING COMMISSION Amusement games operation	PROP 97-03-093 PERM 97-09-073 PERM 97-11-021		
Bingo equipment gift certificates	PERM 97-05-056 PROP 97-03-092 PERM 97-09-072 PERM 97-05-061 PROP 97-09-074 PROP 97-09-076		
keno bingo net income requirements	PROP 97-08-071 PREP 97-12-021 PREP 97-05-015 PROP 97-09-075 PROP 97-11-017 PROP 97-11-018 PERM 97-03-094		
operating standards proposal withdrawn Card games Manufacturers and distributors	PROP 97-08-071 PREP 97-12-021 PREP 97-05-015 PROP 97-09-075 PROP 97-11-017 PROP 97-11-018 PERM 97-03-094		
Meetings	PROP 97-08-071 PREP 97-12-021 PREP 97-05-015 PROP 97-09-075 PROP 97-11-017 PROP 97-11-018 PERM 97-03-094		

Subject/Agency Index

(Citation in bold type refer to material in this issue)

GROWTH MANAGEMENT HEARINGS BOARDS

Practice and procedure
 PROP 97-01-066
 PERM 97-04-008
 PROP 97-04-009

HEALTH CARE AUTHORITY

Basic health plan
 eligibility
 enrollment
 EMER 97-06-070
 EMER 97-06-069
 PERM 97-08-067

Public employees benefits board
 group coverage
 meetings
 EMER 97-06-071
 MISC 97-08-066

HEALTH CARE FACILITIES AUTHORITY

Policy statements
 MISC 97-02-099

HEALTH CARE POLICY BOARD

Meetings
 MISC 97-03-088
 MISC 97-07-039
 MISC 97-11-032

HEALTH, DEPARTMENT OF

Adjudicative clerk office
 changed from office of professional standards
 PROP 97-08-092
 PERM 97-12-089
 PERM **97-13-015**

Boarding homes
 licensing fees
 PREP **97-13-097**

Cellular telephone and pager use
 policy
 MISC 97-03-078

Child (day) care regulations
 PREP 97-09-054

Chiropractic quality assurance commission
 meetings
 MISC 97-08-026
 MISC 97-11-034

Counselors
 certification requirements
 PROP **97-13-099**

Dental quality assurance commission
 meetings
 MISC 97-05-017

Dispensing optician examining committee
 meetings
 MISC 97-12-066

Documents
 rules for location changes
 PROP 97-08-092
 PERM 97-12-089
 PERM **97-13-015**

Health care entities
 fees
 licenses
 PERM 97-06-019
 PERM 97-06-019

Health professions quality assurance
 adjudicative proceedings
 MISC 97-06-023
 MISC 97-06-024
 MISC 97-11-035
 MISC 97-10-032
 MISC 97-07-072
 MISC 97-07-071

investigative materials
 investigative mental and physical
 examinations
 meetings
 public disclosure
 MISC 97-06-020
 MISC 97-02-012
 MISC 97-06-021

Hearing and speech, board of
 hearing instrument fitters/dispensers
 apprenticeship program
 PROP 97-04-040
 PROP 97-12-086
 MISC 97-03-020
 MISC 97-04-015
 MISC 97-06-087
 MISC 97-11-062

meetings

speech-language pathologists
 certification standards
 MISC 97-04-037
 MISC 97-04-038
 MISC 97-04-039

education requirements
 PERM 97-04-042
 PERM 97-04-043
 PREP 97-08-024

examinations
 PROP 97-08-023

HIV
 spousal notification of test results
 Ryan White CARE Act
 PROP 97-06-110
 testing procedures
 PERM 97-04-041

Home health, home care, and hospice agencies
 licensing fees
 PROP 97-11-087
 Hospice care centers
 PERM 97-03-080

Hospitals
 nonprofit hospitals, sale
 Medical records
 fee for searching and duplicating
 PROP 97-12-084
 PROP 97-09-092
 PERM 97-12-087

Medical test sites
 interpretive guidelines
 licensure
 MISC 97-13-054
 PROP 97-11-039

Nursing care quality assurance commission
 advanced registered nurse practitioner
 specialties
 PROP 97-12-029
 chapters 246-838 and 246-839 WAC combined
 into chapter 246-840 WAC
 PROP 97-07-074
 PROP 97-09-061
 PROP 97-12-030
 PERM **97-13-100**

interpretive statement
 medication assistance
 interstate endorsement
 IV training
 licensure
 MISC 97-09-062
 PREP 97-03-067
 MISC 97-10-031
 PROP 97-08-093
 MISC 97-11-036
 PREP 97-03-066

school nurses, delegation of duties
 standards of practice
 PREP 97-03-066

Nursing home administrators, board of
 adjudicative proceedings
 MISC 97-10-030

continuing education deficiencies
 meetings
 MISC **97-13-053**
 MISC 97-01-109

Optometry, board of
 continuing education
 PROP 97-08-094
 PERM 97-12-088
 MISC 97-12-010

meetings
 Pharmacy, board of
 assistant to pharmacist ratio
 ephedrine
 MISC 97-06-022
 PREP 97-10-033

health care entities, licensing
 and regulation
 PERM 97-02-015
 MISC 97-04-036
 PREP 97-11-038
 MISC 97-09-063
 MISC 97-07-070

nursing home services
 remifentanyl
 tobacco free pharmacies
 MISC 97-11-038
 MISC 97-09-063
 MISC 97-07-070

Physicians and surgeons
 fees
 PROP 97-12-085

Professional standards, office of
 changed to adjudicative clerk office
 PROP 97-08-092
 PERM 97-12-089
 PERM **97-13-015**

Psychology, examining board of
 case disposition guidelines
 MISC 97-06-025

Radiation protection
 uranium and thorium milling
 PERM **97-13-055**

Radioactive materials
 licenses
 PROP 97-03-126
 PERM 97-08-095

Radioactive waste management
 disposal of low-level waste
 PERM 97-02-014

Security of employees
 office policy
 MISC 97-03-079

Shellfish programs
 certificate fees
 PROP 97-08-025
 PERM 97-12-031
 MISC 97-03-077

office policy
 Veterinary board of governors
 fees
 PREP 97-06-018

Water
 public water systems
 adequacy of supply
 violations and penalties
 MISC 97-11-037
 MISC 97-06-109

Subject/Agency Index
(Citation in **bold type** refer to material in this issue)

system plans			Practice and procedure for		
review and approval fees	PROP	97-07-073	contested matters	PROP	97-03-023
	PERM	97-12-032		PROP	97-03-120
Whistleblowers				PROP	97-08-091
health care insurance complaints	PERM	97-02-013		PROP	97-10-072
WIC program			INTEREST RATES		
administrative procedures	PROP	97-13-098	(See inside front cover)		
HIGHER EDUCATION COORDINATING BOARD			INVESTMENT BOARD		
Meetings	MISC	97-02-040	Meetings	MISC	97-02-019
Rules coordinator	MISC	97-13-032			
HIGHER EDUCATION, JOINT CENTER FOR			JUDICIAL CONDUCT, COMMISSION ON		
Meetings	MISC	97-01-073	Ethical standards	PROP	97-02-006
Riverpoint Higher Education Park campus				PROP	97-05-023
parking and traffic regulations	PROP	97-09-043		PROP	97-09-057
				PERM	97-13-075
HIGHLINE COMMUNITY COLLEGE			Judges		
Meetings	MISC	97-01-023	procedural rules	PROP	97-05-022
	MISC	97-09-056		PERM	97-13-069
			Meetings	MISC	97-01-021
HISPANIC AFFAIRS, COMMISSION ON			LABOR AND INDUSTRIES, DEPARTMENT OF		
Meetings	MISC	97-01-076	Agriculture workers' housing	EMER	97-06-040
	MISC	97-04-016	Boiler rules, board of		
	MISC	97-11-056	boilers and unfired pressure vessels	PREP	97-11-004
			Contractors		
HORSE RACING COMMISSION			registration	PREP	97-03-081
Association officials and employees	PROP	97-04-060	Electricians		
Jockeys			journeyman certification of		
apprentices and agents	PREP	97-04-059	competency	PREP	97-02-095
Parimutuel rules	PREP	97-04-058	Elevator advisory board		
			meetings	MISC	97-02-039
HOUSING FINANCE COMMISSION			Employment standards		
Bond financing programs	MISC	97-06-113	Factory-built housing	PROP	97-04-070
Commissioners and staff	PREP	97-06-112	Fees	PROP	97-03-132
	PROP	97-09-090		PERM	97-11-053
	PROP	97-09-091			
	PROP	97-10-060	Occupational health standards		
	PROP	97-11-064	asbestos exposure	PERM	97-01-079
	PROP	97-11-065	butadiene	PREP	97-05-047
Debarring or disqualifying participants	PREP	97-07-068		PROP	97-09-079
	PROP	97-11-063	methylene chloride	PREP	97-09-078
				PROP	97-13-063
Low-income housing tax			respiratory protection	PREP	97-06-101
credit program	MISC	97-06-114		PROP	97-09-079
			Park trailers	PREP	97-03-082
INSURANCE COMMISSIONER'S OFFICE				PROP	97-09-039
Alien insurance companies			Plumbers		
credit for reinsurance	PROP	97-01-131	journeyman certification of competency	PROP	97-03-084
	PERM	97-05-012		PERM	97-11-052
Automobile insurance			Policy and interpretive statements	MISC	97-02-089
personal injury protection (PIP)	PROP	97-01-059		MISC	97-04-021
	PROP	97-03-090		MISC	97-07-059
	PROP	97-08-045		MISC	97-11-042
	PROP	97-11-010	Recreational vehicles	PREP	97-03-082
	PERM	97-13-005		PROP	97-09-039
rating practices, hearing	MISC	97-02-028			
Health care services			Retail sales		
benefits, standards for determining when			overtime compensation for employees	PROP	97-03-073
reasonable in relation to amount charged	PROP	97-01-136	wearing apparel	PERM	97-01-124
	PROP	97-05-006	Safety and health standards		
	PROP	97-08-046	abrasive blasting, spray painting		
	PROP	97-11-001	and dip tanks	PROP	97-09-079
contract forms and rate schedules,				PROP	97-13-062
filing	PREP	97-13-072	pesticides, worker protection	EMER	97-06-040
				PROP	97-12-063
contractors			personal protective equipment	PROP	97-13-062
net worth	MISC	97-04-057	Safety standards		
maintenance organizations			agriculture	PROP	97-03-131
net worth	MISC	97-04-057		EMER	97-04-048
Life insurance				PERM	97-08-051A
tables for use of courts and appraisers	MISC	97-13-018		PROP	97-12-063
	MISC	97-13-031	chapter 296-306A WAC recodified		
			as chapter 296-307 WAC	MISC	97-09-013
Managed care plans			construction	PROP	97-03-085
health care coordination of benefits	PREP	97-04-074		PREP	97-10-095
rules	PROP	97-08-044			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

	PERM	97-11-054	PROP	97-07-032
	PERM	97-11-055	PROP	97-07-033
electrical installation	PREP	97-02-095	PROP	97-07-034
	PROP	97-03-083	PROP	97-07-035
	EMER	97-10-064	PROP	97-09-022
	PERM	97-12-016	PERM	97-10-026
grain handling facilities	PROP	97-09-079	PERM	97-10-046
logging operations	PREP	97-10-071	PERM	97-10-047
mechanical power-transmission apparatus	PREP	97-11-051	PERM	97-10-048
Workers' compensation			PERM	97-10-049
chiropractic services	PREP	97-02-096	PERM	97-10-050
classifications	PROP	97-01-122	PERM	97-10-051
	PERM	97-06-007	PERM	97-10-052
	PROP	97-08-051	PERM	97-10-053
	PERM	97-12-011	PERM	97-10-054
definitions	PERM	97-02-090	PROP	97-07-015
drywall			PERM	97-10-068
special rules	EMER	97-08-043	EMER	97-12-043
	PROP	97-08-051	PROP	97-12-044
	PERM	97-12-011		
hospital services payment	PERM	97-06-066	Motor vehicles	
impairment rating examinations	PROP	97-01-123	certificates	
	PERM	97-09-036		PERM 97-03-076
medical services payment system	PREP	97-02-096		PROP 97-09-002
	PREP	97-02-097	collectors' vehicles, licensing	PROP 97-13-009
	PROP	97-05-076		PROP 97-01-030
	PERM	97-10-017	confidential vehicle license plates	PERM 97-07-014
premium rates	EMER	97-02-026	destroyed	PREP 97-06-082
reporting	PROP	97-01-122		PROP 97-03-096
				PROP 97-08-005
				PERM 97-11-049
				PERM 97-02-001
LAKE WASHINGTON TECHNICAL COLLEGE				MISC 97-10-004
Meetings	MISC	97-01-022	disabled person parking	
			driver services division records	
			drivers' licenses	
			habitual traffic offenders	PREP 97-11-002
			fleet identifier codes	PROP 97-06-027
				PERM 97-10-003
			license plates	
			special plates	PREP 97-12-067
			veterans	PROP 97-03-028
				PERM 97-07-013
			odometer disclosure statements	PROP 97-06-028
				PROP 97-09-038
			records	
			owner information, availability	PREP 97-11-066
			Motor vehicle excise tax	PROP 97-07-069
				PERM 97-12-015
			Motor vehicle fuel tax	
			public hearing	MISC 97-06-094
			Parking companies, definition	PREP 97-11-066
			Private investigators	
			administrative procedures	PROP 97-13-080
			fees	PROP 97-13-080
			Real estate appraisers	
			examination and reexamination fees	PREP 97-09-082
				PROP 97-13-030
			licensing and certification	
			fees	PREP 97-09-083
				PREP 97-11-059
			requirements	PERM 97-02-004
			Real estate commission	
			agency representation disclosure	PERM 97-01-027
			meetings	MISC 97-02-003
				MISC 97-10-059
			Security guards	
			administrative procedures	PROP 97-13-081
			fees	PROP 97-13-081
			Title and registration	
			advisory commission	MISC 97-07-016
			Unlicensed practice	MISC 97-02-022
			Vessels	
			confidential vessel registration	PREP 97-06-081
			registration and certificate of title	PREP 97-12-026
			LIQUOR CONTROL BOARD	
			Operations and procedures	PREP 97-13-070
			Samples of spirituous liquor	PREP 97-13-071

Subject/Agency Index

(Citation in bold type refer to material in this issue)

LOTTERY COMMISSION

Affirmative action/equal employment opportunity MISC 97-03-106
 Cruise of your life retailer promotion MISC 97-03-106
 Ethics MISC 97-03-106
 Instant game number 184 - Instant Monopoly® PERM 97-02-038
 Instant game number 185 - Double Blackjack PERM 97-02-038
 Instant game number 186 - Lucky Bug PERM 97-02-038
 Instant game number 187 - \$2 Instant Quinto PROP 97-03-123
 PERM 97-07-063
 Instant game number 188 - Strike It Rich PROP 97-03-123
 PERM 97-07-063
 Instant game number 189 - Lucky 7s PROP 97-03-123
 PERM 97-07-063
 Instant game number 190 - Putt for Dough PROP 97-03-123
 PERM 97-07-063
 Instant game number 191 - Cut the Deck PROP 97-03-123
 PERM 97-07-063
 Instant game number 192 PROP 97-07-062
 PERM 97-11-003
 Instant game number 193 PROP 97-07-062
 PERM 97-11-003
 Instant game number 194 PROP 97-07-062
 PERM 97-11-003
 Instant game number 195 PROP 97-07-062
 PERM 97-11-003
 Instant game number 196 PROP 97-11-058
 Instant game number 197 PROP 97-11-058
 Instant game number 198 PROP 97-11-058
 Instant game number 199 PROP 97-11-058
 Instant game number 200 PROP 97-11-058
 Instant game number 201 PROP 97-11-058
 Instant game number 202 PROP 97-11-058
 Instant game number 203 PROP 97-11-058
 Instant game rules PREP 97-02-037
 PERM 97-04-047
 PROP 97-07-062
 Location services PREP 97-07-061
 Lotto PREP 97-11-057
 Nepotism MISC 97-03-106
 Outside employment/business MISC 97-03-106
 Personnel records access and retention MISC 97-03-106
 Policies and procedures MISC 97-09-004
 Reasonable accommodations for persons of disability MISC 97-03-106
 Retailer criminal history and credit criteria for applicants and licensees MISC 97-03-106
 Spokane regional office PREP 97-07-061

MARINE EMPLOYEES' COMMISSION

Meetings MISC 97-06-016

MARINE SAFETY, OFFICE OF

Bunkering operations PREP 97-07-066
 Fishing vessel industry standards MISC 97-07-067
 Vessel operations
 small tank barges, financial responsibility PROP 97-07-064
 PERM 97-10-096
 substantial risk standards PROP 97-07-065
 PERM 97-10-097
 300 gross tons and larger MISC 97-03-119

MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF

Annual goals PREP 97-09-093
PROP 97-13-067
 Costs of certification, distribution PROP 97-09-094

NATURAL RESOURCES, DEPARTMENT OF

Burning permits, written fees PROP 97-09-065
 PERM 97-12-033

rules PROP 97-09-065
 PERM 97-12-033
 Fire protection, King County PROP 97-02-029
 PERM 97-05-066
 Forest fire advisory board meetings MISC 97-05-050
 Land corner record form PERM 97-02-071
 Natural resources, board of meetings MISC 97-02-041
 MISC 97-12-001
 Natural heritage advisory council meetings MISC 97-03-114
 MISC 97-03-115
 MISC 97-03-116
 MISC 97-09-064

NORTHWEST AIR POLLUTION AUTHORITY

Regulation PROP 97-03-112
 PERM 97-07-055

OLYMPIC AIR POLLUTION CONTROL AUTHORITY

Potential to emit PROP 97-06-079
 Solid fuel burning devices PROP 97-09-101
PERM 97-13-078

OLYMPIC COLLEGE

Meetings MISC 97-01-024

OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR

Boating facilities PROP 97-04-006
 PERM 97-08-003
 PROP 97-04-006
 PERM 97-08-003
 Development costs, retroactivity PROP 97-04-006
 PERM 97-08-003
 Firearm and archery range recreation PROP 97-04-006
 PERM 97-08-003
 Land and water conservation fund PROP 97-04-006
 PERM 97-08-003
 Meetings MISC 97-03-069
 MISC 97-04-010
 MISC 97-04-064
 MISC 97-06-068
MISC 97-13-010
 Nonhighway and off-road vehicle activities PROP 97-04-006
 PERM 97-08-003
 Project agreement execution PREP 97-08-079
 PROP 97-12-027
 Rules coordinator MISC 97-03-070
 Washington wildlife and recreation PROP 97-04-006
 PERM 97-08-003

PARKS AND RECREATION COMMISSION

Meetings MISC 97-02-007
 Metal detecting PREP 97-06-063
 PROP 97-09-081
 PROP 97-09-113
 PROP 97-09-114
 PERM 97-12-042
 PREP 97-06-062
 Parking permits

PENINSULA COLLEGE

Meetings MISC 97-03-125

PERSONNEL RESOURCES BOARD AND PERSONNEL, DEPARTMENT OF

Administrative procedure PROP 97-08-089
 PROP 97-08-090
 PROP 97-10-088
 Appeals, procedures PROP 97-02-072
 PERM 97-06-012
 PROP 97-08-090
 PROP 97-10-088
 Broad band approach, application to classifications PROP 97-12-079

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Employee performance evaluation forms	PROP 97-08-090	Part-time public school attendance apportionment	PREP 97-09-010
	PROP 97-10-088	Revenue definitions	PREP 97-04-035
	PROP 97-10-089	School buses replacement and depreciation allocation	PREP 97-12-041
	PERM 97-13-045	Transitional bilingual instruction program	PROP 97-01-012
Labor relations	PROP 97-01-064		
	PERM 97-06-012		
	PERM 97-01-065		
Positions allocations and reallocations	PROP 97-08-089	PUBLIC WORKS BOARD	
	PROP 97-10-088	(See COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)	
Temporary appointment	EMER 97-09-028		
	PROP 97-10-090	PUGET SOUND AIR POLLUTION CONTROL AGENCY	
	PROP 97-13-044	Fire extinguisher training rules	PERM 97-07-046
		Meetings	MISC 97-01-061
		Sources fees	PERM 97-01-070
			PROP 97-04-075
		registration	PERM 97-01-070
			PROP 97-04-075
PIERCE COLLEGE			
Board of trustees bylaws	PROP 97-07-018	RENTON TECHNICAL COLLEGE	
	PERM 97-12-071	Meetings	MISC 97-02-088
code of ethics	PROP 97-07-017		
	PERM 97-12-070		
Meetings	MISC 97-03-110		
	MISC 97-13-052		
PILOTAGE COMMISSIONERS, BOARD OF		RETIREMENT SYSTEMS, DEPARTMENT OF	
Pilotage tariff rates		Deferred compensation program	PROP 97-02-027
Grays Harbor district	PROP 97-10-062		PERM 97-05-009
Puget Sound district	PROP 97-02-005	Employee retirement benefits board meetings	MISC 97-01-118
	PROP 97-08-041	Law enforcement officers' and fire fighters' retirement system basic salary, determination	PERM 97-01-016
	PERM 97-12-017	Service credit, establishment or reestablishment	PERM 97-01-014
Pilots duties	PROP 97-01-108	Teachers' retirement system community and technical college part-time employees service credit calculation	PROP 97-01-017
	PERM 97-06-106		PROP 97-05-010
license fee schedule	PROP 97-01-107		PERM 97-09-037
	PERM 97-06-105		PERM 97-03-016
new pilots	PREP 97-06-102		
	EMER 97-06-104	compensation earnable, determination plan III	PERM 97-01-013
	EMER 97-08-040	contribution rates	EMER 97-08-053
	PROP 97-10-084	self-directed investment options	PREP 97-09-047
Vessels	PROP 97-06-103		PROP 97-13-058
	EMER 97-06-104		PERM 97-01-015
	PERM 97-12-018		
WAC chapter recodification	MISC 97-08-042	return to work, effect	
POLLUTION LIABILITY INSURANCE AGENCY		REVENUE, DEPARTMENT OF	
Heating oil pollution liability insurance program	PROP 97-03-113	Business and occupation tax tax return filing, exemption	PERM 97-08-050
	PERM 97-06-080	Excise taxes financial institutions, apportionment of income	PERM 97-11-033
	EMER 97-07-049	Property tax agricultural land valuations forest land values	PERM 97-02-066
Residential heating oil tanks assistance to owners program	PREP 97-12-078		PROP 97-02-064
			EMER 97-02-065
PUBLIC DISCLOSURE COMMISSION			PROP 97-07-041
Contributions independent expenditures	PROP 97-03-117		PROP 97-11-060
	PERM 97-06-085		PERM 97-02-067
	PROP 97-06-086		PERM 97-02-068
	PERM 97-10-055		
Meetings	MISC 97-09-027		
PUBLIC EMPLOYEES BENEFITS BOARD			
Meetings	MISC 97-03-018	inflation rate	
	MISC 97-04-026	refunds, rate of interest	
	MISC 97-06-010	Real property appraisers accreditation	PERM 97-08-068
	MISC 97-07-001	Rules coordinator	MISC 97-02-030
	MISC 97-08-082	Sales tax motor carriers' purchases	PROP 97-07-079
			PERM 97-11-022
PUBLIC INSTRUCTION, SUPERINTENDENT OF			
Administrator internship program	PREP 97-04-022	wind and solar electric generating facilities	PERM 97-03-027
Funding basic education	PREP 97-09-010	Timber excise tax stumpage values	PERM 97-02-069
nonhigh participatory finance	PERM 97-03-044		PREP 97-06-111
Nonresident attendance	PREP 97-09-010		PROP 97-10-027

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

RULES COORDINATORS

(See Issue 97-01 for a complete list of rules coordinators designated as of 12/19/96)

Clover Park Technical College	MISC	97-01-038
Higher education coordinating board	MISC	97-13-032
Revenue, department of	MISC	97-02-030
Walla Walla Community College	MISC	97-06-032
Washington State Patrol	MISC	97-09-088
Washington State University	MISC	97-05-020

SALARIES FOR ELECTED OFFICIALS, CITIZENS COMMISSION

Meetings	MISC	97-05-016
	MISC	97-08-029

SEATTLE COMMUNITY COLLEGES

Meetings	MISC	97-01-019
	MISC	97-04-052
	MISC	97-06-033
	MISC	97-10-066
	MISC	97-12-014
	MISC	97-13-013

SECRETARY OF STATE

Corporations divisions		
charities	PREP	97-03-014
	PROP	97-08-076
commercial coventurer	PREP	97-08-075
	PROP	97-13-093
commercial fund raiser	PREP	97-03-014
	PROP	97-08-076
digital signatures	PREP	97-13-060
Elections		
absentee ballots, processing	EMER	97-13-003
mail ballots, processing	EMER	97-13-003
Initiative and referendum petitions		
signature verification	PREP	97-09-060
	PROP	97-13-094
Voter registration cards	PREP	97-06-091
	PROP	97-09-099
	EMER	97-12-039

SHORELINE COMMUNITY COLLEGE

Meetings	MISC	97-03-006
----------	------	-----------

SKAGIT VALLEY COLLEGE

Antihazing policy	PERM	97-01-049
Meetings	MISC	97-01-039
	MISC	97-02-043
	MISC	97-09-058
	MISC	97-10-019
	MISC	97-12-064

SOCIAL AND HEALTH SERVICES,

DEPARTMENT OF

Adoption support program	PREP	97-03-097
Adult day health	PREP	97-03-124
Adult family homes		
licensing, limited moratorium	PREP	97-12-047
Aging and adult services		
adult protective services	PROP	97-11-083
caregiver education and training	PREP	97-11-043
in-home care providers	PREP	97-08-072
	PROP	97-13-090
rates management, office	PREP	97-06-072
	PROP	97-12-082
Aid to families with dependent children (AFDC)		
eligibility	PREP	97-02-079
immigration and naturalization		
services reporting	PREP	97-02-077
work quarters, definition	PERM	97-01-043
unemployed parent program		
100-hour work rule	PROP	97-09-108

Alcohol and substance abuse, division of		
behavior management and temporary		
protective holding of patients	PERM	97-03-062
chemical dependency counselors	PROP	97-02-009
	PERM	97-08-073
	PERM	97-13-050
definitions	PROP	97-02-009
	PERM	97-08-073
	PERM	97-13-050
placement criteria	PROP	97-02-009
	PERM	97-08-073
	PERM	97-13-050
Aliens		
organ transplants	EMER	97-08-074
Asset management manual	MISC	97-08-009
Blood bank services		
billing	MISC	97-08-013
child care		
eligibility	MISC	97-02-050
Child protective services		
investigation notification	PREP	97-02-031
	PROP	97-09-106
	PERM	97-13-002
Child support, division of		
collection remedies	PROP	97-09-020
	PERM	97-13-092
confidentiality, address disclosure	PREP	97-09-110
	PROP	97-10-082
party status rights	PREP	97-09-109
	PROP	97-13-087
paternity acknowledgement	PREP	97-09-111
paternity tests	PROP	97-09-020
	PERM	97-13-092
wage assignment	PROP	97-09-020
	PERM	97-13-092
Children's services		
child protection teams	MISC	97-02-053
foster care	MISC	97-02-058
group care	MISC	97-02-057
inpatient mental health	MISC	97-02-052
policy manual	MISC	97-02-051
relatives of legally free	MISC	97-02-056
runaways	MISC	97-02-054
	MISC	97-02-055
Deaf and hard of hearing services		
communication access		
interpretive or policy statement	MISC	97-01-097
Developmental disabilities, division of		
family support program		
funds	EMER	97-03-033
	EMER	97-11-009
	PERM	97-13-051
rules	PREP	97-03-098
Domestic violence perpetrator program	PERM	97-02-035
Economic services		
financial responsibility	PROP	97-09-019
	PROP	97-10-083
lump sum payments	EMER	97-03-047
	PROP	97-03-051
	PERM	97-06-078
Employees		
foster care licensing and adoption		
certification	MISC	97-03-031
Federal poverty level revised	EMER	97-08-031
Food stamp program		
alien status requirements	PROP	97-09-107
	PERM	97-12-025
	PROP	97-06-098
	PERM	97-09-030
	PROP	97-13-089
definitions		
drug-related convicted felons		
denial of assistance	PROP	97-06-097
	PERM	97-09-031
employment and training programs		
requirements	PERM	97-03-035

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	EMER	97-05-052	school services		
	PROP	97-05-053	billing	MISC	97-04-031
	PERM	97-09-012	special situations	PREP	97-10-034
income eligibility	PROP	97-02-078	stop-loss criteria	PREP	97-11-076
	EMER	97-02-076	supplemental premiums		
	EMER	97-02-033	interpretive or policy statement	MISC	97-01-096
	PROP	97-02-034	Sexually violent predators		
	PERM	97-05-002	escorted leaves	PROP	97-11-044
	PERM	97-06-074	Supplemental security income (SSI)		
ineligible household members	EMER	97-02-073	cost of living adjustment (COLA)	EMER	97-02-074
	PROP	97-02-075	eligibility	PREP	97-08-035
	PERM	97-06-096	medical assistance	EMER	97-08-030
overpayments	PROP	97-13-088		PROP	97-12-081
	PROP	97-01-089	standards of assistance	PROP	97-10-035
	EMER	97-01-094		EMER	97-10-036
	PERM	97-04-024	Temporary assistance to needy families (TANF)		
violations and disqualification	PROP	97-01-088	child caretaker	PREP	97-02-083
	EMER	97-01-095		PREP	97-02-081
	PERM	97-04-023	child living with legal guardian	PREP	97-13-083
Income assistance			child support	PREP	97-02-082
need standards	PERM	97-01-001		PROP	97-05-071
Information technology				PERM	97-08-033
purchase of goods and services	MISC	97-08-008		PERM	97-10-042
Limited English clients			drug-related convicted felons		
language services	MISC	97-03-032	denial of assistance	PROP	97-05-069
	PREP	97-13-082		PERM	97-08-034
Medical assistance			eligibility	PERM	97-10-040
assignment of client rights	PROP	97-01-093		PREP	97-02-084
	PERM	97-04-005		PREP	97-02-085
categorically needy, eligibility	PERM	97-03-036		PREP	97-12-080
client grievances	PROP	97-01-092	eligibility review cycle	PREP	97-11-078
	PERM	97-04-004	fraud		
eligibility for programs	PREP	97-11-075	penalties	PROP	97-05-070
	PROP	97-12-081		PERM	97-10-038
home health services			fugitive felons and probation/parole violators		
billing	MISC	97-05-001	address of recipient	EMER	97-03-046
prior authorization requirement removed	MISC	97-08-012		PROP	97-03-053
hospital services	PROP	97-11-008		PERM	97-07-008
income eligibility	PROP	97-02-010	denial of assistance	EMER	97-03-049
	PERM	97-10-022		PROP	97-03-052
	PROP	97-13-057		EMER	97-04-050
institutionalized client				PROP	97-04-051
income eligibility	EMER	97-02-048		PERM	97-06-077
	EMER	97-02-049		PERM	97-07-024
	PROP	97-02-032	overpayments, waiver of retroactive		
	PERM	97-05-040	case overpayments	PREP	97-11-080
payments	PREP	97-12-023	grant payments	PREP	97-13-084
kidney centers, eligibility	PROP	97-12-062	personal property		
managed care	PREP	97-11-081	exemption	EMER	97-03-048
enrollment requirements				PROP	97-03-050
maternity care	PROP	97-10-073		PERM	97-06-075
billing	MISC	97-05-051	pregnant women	PREP	97-13-085
case management services	MISC	97-08-011	protective payee fees	PREP	97-06-132
needs special assistance clients	PERM	97-02-047		EMER	97-06-133
	PROP	97-02-063		PROP	97-10-039
newborn premiums	MISC	97-04-030		PREP	97-13-084
nondurable medical equipment and supplies				PERM	97-13-091
billing	MISC	97-09-105	resources, exemptions	PREP	97-11-077
nursing facility clients, eligibility	PREP	97-01-090		PREP	97-11-079
	PROP	97-11-082	temporary absence of child	PROP	97-05-068
outpatient claims	MISC	97-04-029		PERM	97-08-032
patients requiring regulation	PERM	97-03-038		PERM	97-10-041
pharmacy services			unemployed parent program		
reimbursement	PREP	97-06-131	100-hour work rule	PROP	97-09-108
prescription drugs	MISC	97-04-028	unmarried minor parents	PREP	97-02-080
	MISC	97-08-010		PROP	97-05-072
prior authorization				EMER	97-06-026
temporary removal of requirements	MISC	97-08-014		PROP	97-06-073
receipt of resources	PERM	97-03-037		PERM	97-09-029
resources, availability	PREP	97-01-091	high school diploma	EMER	97-03-054
	PROP	97-07-023		PROP	97-03-055
	PERM	97-09-112		EMER	97-04-050
resources, exemptions	PERM	97-03-034		PROP	97-04-051
				PERM	97-06-076
				PERM	97-07-024

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Translation and interpretation services	MISC	97-03-032	Contractors prequalification	PREP	97-01-087
	PREP	97-13-082		PROP	97-05-007
Vocational rehabilitation services	PREP	97-13-086		PERM	97-09-045
Washington Administrative Code rules, delegation of authority to sign	PREP	97-09-011	Ferries hazardous materials, transport	PREP	97-03-118
Welfare fraud payment denial	PREP	97-02-086		PROP	97-12-074
SOUTH PUGET SOUND COMMUNITY COLLEGE			Highway Advertising Control Act definitions, provisions, penalties	PREP	97-09-070
Meetings	MISC	97-06-001		PROP	97-13-028
	MISC	97-07-009	Public advisory elections	PREP	97-08-016
	MISC	97-13-068		PROP	97-11-040
SPOKANE, COMMUNITY COLLEGES OF			Regional transportation planning process	PROP	97-06-005
Meetings	MISC	97-04-019		PERM	97-09-046
	MISC	97-12-012	UNIVERSITY OF WASHINGTON		
SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY			Facilities use	PREP	97-10-077
Fees	PROP	97-05-046	Meetings	MISC	97-01-085
	PERM	97-09-016		MISC	97-03-007
Penalties	PROP	97-05-045		MISC	97-03-008
	PERM	97-09-015		MISC	97-03-009
Violations	PROP	97-05-045		MISC	97-03-024
	PERM	97-09-015		MISC	97-03-058
				MISC	97-03-105
SUPREME COURT				MISC	97-03-108
Amicus curiae briefs	MISC	97-13-023		MISC	97-03-109
Court exhibits, security	MISC	97-13-021		MISC	97-04-018
Court records, destruction and sealing	MISC	97-11-027		MISC	97-04-072
Dismissal of actions	MISC	97-13-020		MISC	97-04-073
Health care claims mediation procedure	MISC	97-05-024		MISC	97-06-029
Infraction cases	MISC	97-01-062		MISC	97-07-040
Juvenile court proceedings	MISC	97-13-019		MISC	97-09-050
Juvenile dependency and termination of parental rights	MISC	97-13-022		MISC	97-09-051
Pleas	MISC	97-07-011		MISC	97-09-059
Search and inspection procedures	MISC	97-13-020		MISC	97-09-087
Settlement guardian ad litem	MISC	97-07-010		MISC	97-10-020
State bar association, purposes	MISC	97-13-035		MISC	97-10-067
Suppression of evidence, procedure	MISC	97-01-029		PREP	97-05-049
TACOMA COMMUNITY COLLEGE			Parking and traffic regulations	PROP	97-09-071
Meetings	MISC	97-02-046		PROP	97-08-062
Personnel rules for classified staff	PROP	97-03-128	UTILITIES AND TRANSPORTATION COMMISSION		
	PERM	97-07-048	Alternate operator service providers	PREP	97-08-036
TAX APPEALS, BOARD OF			Meetings	MISC	97-01-020
Meetings	MISC	97-01-037		MISC	97-09-089
TRAFFIC SAFETY COMMISSION			Pay telephones	PREP	97-08-036
Meetings	MISC	97-07-020	Petroleum pipeline companies pipeline safety	PERM	97-07-042
TRANSPORTATION COMMISSION			Telephones choice of services and service providers	PROP	97-11-072
Meetings	MISC	97-01-036	prepaid calling card services, billing exemption	PREP	97-11-071
	PROP	97-01-069	subscriber rates, calling areas	PREP	97-09-023
	PERM	97-06-002	Transportation services nonprofit providers to person with special transportation needs	PERM	97-08-037
	MISC	97-06-030			
	MISC	97-09-021	VETERANS AFFAIRS, DEPARTMENT OF		
TRANSPORTATION IMPROVEMENT BOARD			State veterans homes transfer and discharge of resident	PERM	97-06-013
Meetings	MISC	97-03-015	VOLUNTEER FIRE FIGHTERS, BOARD FOR		
	MISC	97-09-017	Meetings	MISC	97-07-005
	MISC	97-13-025	WALLA WALLA COMMUNITY COLLEGE		
TRANSPORTATION, DEPARTMENT OF			Meetings	MISC	97-08-015
Air search and rescue management	PROP	97-01-075		MISC	97-12-040
	PERM	97-03-064		MISC	97-13-011
registration	PROP	97-01-075	Rules coordinator	MISC	97-06-032
	PERM	97-03-064	WASHINGTON STATE LIBRARY		
training	PROP	97-01-075	Library commission meetings	MISC	97-01-031
	PERM	97-03-064		MISC	97-03-004

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	MISC	97-05-004	WORKFORCE TRAINING AND EDUCATION		
	MISC	97-08-039	COORDINATING BOARD		
	MISC	97-09-049	Meetings	MISC	97-01-004
	MISC	97-10-085		MISC	97-03-025
	MISC	97-12-006		MISC	97-06-031
	MISC	97-12-065		MISC	97-06-090
	MISC	97-13-065		MISC	97-07-019
				MISC	97-11-006
				MISC	97-11-016
				MISC	97-12-046
WASHINGTON STATE PATROL					
Fire protection policy board meetings	MISC	97-04-002			
	MISC	97-04-003	YAKIMA VALLEY COMMUNITY COLLEGE		
Fireworks retail sales	PREP	97-05-028	Parking and traffic regulations	PREP	97-10-076
	EMER	97-11-023			
	EMER	97-11-041			
	PREP	97-13-073			
Identification section criminal history records	PROP	97-01-056			
	PERM	97-05-048			
Limousine carriers inspection, process and fees	PERM	97-03-127			
Meetings	MISC	97-03-026			
Motor vehicles antique motor-driven cycles, definition equipment on snow removal and highway maintenance vehicles	PERM	97-03-087			
	PROP	97-01-057			
	PERM	97-04-054			
fog light use	PREP	97-06-100			
	PERM	97-09-069			
	PERM	97-12-061			
seat belt exemptions	PREP	97-03-043			
	PROP	97-07-037			
	PERM	97-10-023			
street rods and kit vehicles body requirements	PROP	97-01-058			
	PERM	97-04-055			
wireless communications systems	PREP	97-03-042			
	PROP	97-07-036			
	PERM	97-10-024			
Public records copy charges	PERM	97-01-018			
Rules coordinator	MISC	97-09-088			
Towing businesses application for letters of appointment	PROP	97-04-053			
	EMER	97-04-056			
	PERM	97-08-021			
fees, calculation	EMER	97-04-056			
vehicle storage	PROP	97-04-053			
	EMER	97-04-056			
	PERM	97-08-021			
WASHINGTON STATE UNIVERSITY					
Martin stadium, spectator safety at events	PREP	97-05-021			
	PROP	97-10-086			
Meetings	MISC	97-10-057			
Rules coordinator	MISC	97-05-020			
WENATCHEE VALLEY COLLEGE					
Meetings	MISC	97-01-054			
WESTERN WASHINGTON UNIVERSITY					
Housing and dining	MISC	97-11-013			
Parking and traffic regulations	PREP	97-06-014			
	PROP	97-11-025			
WHATCOM COMMUNITY COLLEGE					
Hazing	PREP	97-03-102			
Meetings	MISC	97-03-010			
	MISC	97-09-053			
	MISC	97-12-005			





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